CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
SEPTEMBER 4, 2012, 7:00 P.M., COUNCIL CHAMBERS
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Councilman Danny Wells led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by Vice President Haskins at 7:08 p.m.

MEMBERS PRESENT: Martinbianco, Heffner, Smith, Wells, Ellenburg, O'Keefe and Haskins.
MEMBERS ABSENT: None.
OTHERS PRESENT: Mayor P. Zelenko, Atty. A. Doyle, Police Chief T. Osterholzer, Fire Chief D. Halstead and J. Adams, City Clerk.

Heffner moved and O'Keefe seconded the following motion:
Approve and authorize the minutes of the Regular Council Meeting on August 20, 2012 at 7:00 p.m., Special Council Meeting on August 27, 2012 at 5:45 p.m., and Special Council Meeting on August 27, 2012 at 6:00 p.m. Motion carried 6-0. (Mr. Martinbianco was not present)

ADMINISTRATIVE REPORT:

Mayor Zelenko stated she hoped everyone had a nice Labor Day. For agenda Item #2, Mr. Groulx from Parks & Recreation resigned due to employment conflicts. She appointed Jeanette Moore to fill his position and asks for Council's confirmation. Mayor Zelenko introduced Ms. Moore who was present in the audience.

Mayor Zelenko stated agenda Item #4 is extending the moratorium on the medical marijuana distribution facilities. Attorney Amanda Doyle will address it further with you. Item #5 requires Council to approve this updated version of our Support Emergency Operations Plan, in conjunction with Genesee County Emergency Management. The names changed so we have to update that. Chief Halstead is here to address this, as well as Item #6 on the Mutual Aid Box Alarm Systems.

Mayor Zelenko congratulated Councilman Smith on his 30th year running in the Crim. He has logged over 300 miles running the Crim. Mayor Zelenko expressed possibly taking a 5 minute break for everyone to see the new police cruiser in the lower level parking lot. Council's e-mail accounts are now ready and she hopes they had the opportunity to log in and set them up. Councilman Smith has done so and he sent her a test e-mail from the work station. She would like to set a goal date of around October 1st to start getting your City business e-mailing to you through that address rather than your personal home e-mails. She thinks Council should use their City e-mail for your City business and try to keep it separated.

Mr. Haskins inquired to Chief Osterholzer if he would be present for the entire meeting tonight. Chief Osterholzer acknowledged he would be. Mr. Haskins suggested everyone taking a look at the police cruiser at the end of the Council Meeting.

Mr. Haskins turned the gavel over to President Martinbianco.

COMMITTEE REPORTS: None.

AUDIENCE PARTICIPATION:

John Stapish, PO Box 190134, stated T & L Used Cars at the corner of Hemphill and Dort Hwy. seemed to be closed down for most of the summer but he sees they now have cars there again. Behind the building about 300 ft., there is a pile of broken cement blocks and dirt and 3 ft. behind that is another pile of dirt. It has been there for the last 10 years. They knocked a wall out in the back and put an overhead door there, and just left the pile there. Since it was closed all summer, it seems there should have been an inspection and they would have noticed that. The piles are 6 ft. in diameter and it wouldn't be much to scoop that up and level it someplace else on the property. It has never been done. Mr. Stapish expressed further, he faces inspections on his properties and tags are put on them as being unfit for human habitation and to keep out. He has to adhere to the rules and why can't these people, or is it selected enforcement?

COUNCIL DISCUSSION:

Mrs. Ellenburg said she received a letter from Mr. Austin regarding an ordinance on joyriding. She asked if the Chief could explain further on this ordinance. She would like to set a Legislative Committee Meeting before the next Council Meeting regarding it.

Mr. Martinbianco said he appreciates the fact the counselor has chosen that topic of serious germane business, but I think we are either grasping for straws about things to talk about or bill us about, unless there is an excessive amount of that happening. The Chief is here to talk about it.

Mrs. Ellenburg said the Chief brought it to Mr. Austin's attention because there is a problem and if it occurs, we want to be able to handle it in our City. Mrs. Ellenburg referred to Chief Osterholzer for further explanation.

Chief Osterholzer said Don Schreiber is assigned to the Genesee Auto Investigative Networking. He is our GAIN Officer and in about the last year to 2 years, GAIN has taken a more active role in auto theft. This issue in Genesee County can be difficult getting the Prosecutor's Office to issue warrants for auto theft. A lot of these charges get dropped or written as joyriding and when it is done under State Law, it is done through the Circuit Court level. It is a misdemeanor and if we had a local ordinance, it would allow us to keep it within our own Court system. As Chief of Police it is huge for us because now we are dealing with Rick and his office and going to Court right behind the building instead of dealing with the issues when we have to go downtown to Circuit Court. It would make life easier. Chief Osterholzer stated further, it is not a drastic make or break ordinance, but it is definitely a tool in the toolbox that would be very useful to Mr. Austin.

Mrs. Doyle said she spoke about this ordinance with Mr. Austin. As the Chief said, it is another useful tool to keep it in the City so fines, costs and those sorts of things stay local; otherwise it goes to the State Prosecutor Office and those fines and costs area allocated there.

Chief Osterholzer stated further that it much easier to have an officer scheduled for Court at 8:15 a.m. with Mr. Austin and have it done by 8:20 a.m. and be out of there versus sometimes they go downtown and sit for hours and hours and we are paying them overtime for that, only to be adjourned and told to come back the following day and be told to come back the following week.

Mr. Martinbianco asked that it be emphasized it is a cost saving tool.
Chief Osterholzer said it would be cost savings but to give you an accurate picture of that, he would have to find out from Officer Schreiber how much we actually do. Perhaps we don't do enough fees to make it a cost savings, but then perhaps we are. He will do some research on it and get back with you.

Mr. Martinbianco expressed further to get a case history if it is going to be a cost savings, and as another tool as you suggested legislating that on a local level. Another thing that happens is it becomes yet another bargaining tool in case there are multiple charges filed under the same case violation. You can plead not guilty to this, but you have to plead guilty to that, at that point in time, did we do that just to offer another plea deal and maybe that shouldn't be there. I think that is what we really need to resolve.

Mrs. Ellenburg said she would like to set up a Legislative Meeting to discuss it and then it will be brought in front of Council for approval. We will have more information.

The Legislative Meeting is scheduled for September 17, 2012 at 6:30 p.m.

Mr. Smith said he would like to give accolades to Mark Udell. We now have new computers up and running, which will help our City save money by helping each employee work more efficiently. He would also like to commend the Administration as well as City Council. This is a big thing. We have been able to get our City up to speed technology wise. We now have e-mail addresses and this is another step of us being more efficient, doing more with less. He wants to give everyone accolades and thank Mr. Udell and Administration for doing an excellent job in working together.

Mr. Wells expressed to Mr. Martinbianco it was great the things he brought up regarding the Legislative Meeting and all the different facts. We miss a lot of that sometimes and jump the gun and get into things. I think we should do some leg work first. Mr. Wells stated further he received a call regarding a house at the corner of Kettering and Roberta. This place is a disaster and now that school has started a bus stop is there. It may turn into a safety issue now. He went out and took some pictures. He said it is one of the worst cases he has seen. The Land Bank said there are 2 times that they are going to mow, if it doesn't get mowed again till winter we are really going to have a problem. The Land Bank is in violation of our ordinance and we can't let them go on as well any more then we can a regular citizen or a landlord.

Mayor Zelenko stated the property is on the City's schedule.

Mr. Wells said Mr. Groulx's sister passed away Friday. Funeral arrangements are in the paper and on-line if anyone would like to express condolences. He was a good man and I appreciated what he did the little time he was here, and hopefully, we can get him back at some point.

In reference to Item #2, Mr. Wells said he is glad to see one of our young people in the community. He knows Ms. Moore will be a valuable asset.

Mr. Martinbianco asked Ms. Moore to stand so everyone could acknowledge her.

In reference to Item #4, Mr. Haskins said he thought we were waiting for a huge ruling from the Attorney General. Atty. Doyle said we had hoped so. It has been several months and nothing has happened yet. We hoped for an Attorney General Opinion and there was an appeal from the Michigan Court of Appeals about one particular case declaring these dispensaries/facilities a public nuisance. That is a specific issue we are waiting on and that is why we issued a 6 month moratorium. At this point we don't know if it is going to be a week, 6 months or a year, no one can tell us.

Mr. Haskins stated even though we are putting this on for a year, we can go back and reverse this.
Mrs. Doyle acknowledged yes, at any time.

Mr. Haskins asked the Mayor if we had to turn any down or close any due to the moratorium in the last 6 months.

Mayor Zelenko stated she thinks we turned only one away. We may have one or two sights that could be eligible, but I think we turned away one since then.

Mr. Wells said several marijuana users and people in the caretaker business are keeping him abreast of what is happening in the State. I know these are still opening in the State. I voted no the last time because I don't think a couple of people should be able to operate business and we tell the rest of them no, it doesn't seem right to me. Someone has to push the Attorney General on this. He is going to vote no on the moratorium. If people come forward, put them in business at their own risk

In reference to Item #5, Mr. Martinbianco inquired regarding summarizing key notes on the Emergency Plan. Mayor Zelenko referred to Chief Halstead.

Chief Halstead stated the need of an updated emergency management plan. He said it is more of a mini-plan we have with Emergency Management in Genesee County which in turn, turns it over to the State. The only time Genesee County Emergency Management would get involved is if the Mayor declares a disaster here in Burton and asks for help from the County. At that point, Emergency Management would come in. If we had a tornado or something of that nature, the Mayor would declare a disaster and if it was large enough, we would ask for help from the County.

Chief Halstead expressed further, this Plan says this is how we are going to operate. We have a much more convoluted plan for operating just the City of Burton. We are going to update that one also. This one has to be turned into the County every 4 years, or at the change of the CEOs/Mayor.

Mr. Martinbianco inquired concerning relaying the same information and condensing it in the same form. He also made reference regarding the sirens and whistles during tornados. He stated they never went off until there was a tornado disaster, and how do we now have the residents be cognizant about looking out for their own well-being.

Chief Halstead responded, hopefully the publicity that was done when we turned off the sirens for fire runs was adequate for most of the City to understand the sirens are very important if they are dedicated to serious weather conditions or terrorist activity, anything along that line. They seem to know now. He went around to the people in the neighborhood at Station #2 prior to that and asked how they slept through the sirens and they said they never heard it, so they wouldn't also hear it if we had a tornado. We shut them down for all the fire runs because everyone has a pager. The public knows and reads it in the paper that the sirens are tested the first Saturday of the month at 1:00 p.m., and it seems to work okay.

Mr. Martinbianco expressed having highlights of the Plan and some of the techniques that are employed placed on our website.

Chief Halstead acknowledged we definitely should. The Plan we have for the City we also include the general public. We include retail stores because it is a good resource to obtain things in an emergency. Our main plan is like that and we could put parts of that on the website to let people know of what we expect of them. There is a citizen emergency response team the government sponsors and we also teach that class.

Mr. Martinbianco suggested putting on the website a County link.

Mr. Haskins mentioned he has had the fence for the library for over a month now. We are going into cold weather soon and he doesn't have a lot of storage room for it. It was indicated to him that they are waiting for DPW to get the other fence down.

Mayor Zelenko said she will find out about it first thing in the morning.

Mr. Heffner inquired regarding Rowe's report on the roads.

Mayor Zelenko replied we have some preliminary numbers on the priority of the roads, but not the dollars attached yet.

Mr. Heffner asked if the priority would be Center and Belsay roads.
Mayor Zelenko indicated she wasn't sure not having the information in front of her.
Mr. Heffner expressed having a special meeting after Council receives the information.

Mayor Zelenko stated the intention was that once they had the estimated dollar figures and the priority of the survey, we would have another workshop meeting and Rowe would bring it back to us.

Mr. Martinbianco said it is important because if we have any financing schemes in mind, it will parlay that in the next fiscal year budget. We have a final bond payment in 2013 that will conclude the 1998 activity. It will be important to parlay our revenue sources and our ability to pay as championing all the road improvements we have to do.

Mr. Wells said he agrees with Mr. Heffner's comments on the roads. Schools started today and he has already received calls from parents complaining about the kids riding on the school bus and getting bounced around. We have properties we need to sell. If we are going to have a special meeting we need to start talking about plans and ideas on how to get rid of these properties the City is on the hook for. Mr. O'Keefe has pushed the point about MERS. It should be right at the top of our list. Hopefully we can do that this winter before our budget.

Mr. Martinbianco said when we get into serious contract negotiations with the rest of the bargaining groups, that becomes forefront and how we address that issue in particular and resolve it in a timely fashion for all parties concerned. Those legacy costs that were identified by Plante & Moran, and what we have to look forward to coming in January with the evaluation of this year's budget, and take some strides in moving forward with future plans and that will include every bargaining unit we have left.

Mayor Zelenko said she spoke to Tadd Harburn from Plante & Moran last week and his plan was to try and put together a presentation to bring before you. He was hoping to do it this month before we get into October because they will be here on site doing their annual audit.

Mr. Haskins inquired regarding the Center Rd. project.
Mayor Zelenko responded we have a storm sewer for rain water. When PHO Genesys extended the water main across the road and bore under the road, they went into the middle of the storm sewer. In the last couple of years, it washed out under there. We are in talks with Genesys to get a hold of their engineering and contractor who is in contact with DPW, and we will also get legal advice. The manhole has been reconstructed and it has been taken care of under the ground. We were supposed to re-pave and resurface today, but with the weather it didn't happen.

Mr. Wells asked if it was our inspector on-site or the County's inspector on-site that allowed that to happen. It doesn't make sense to him that someone would bore through a sewer line.

Mayor Zelenko said it is our question as well. The inspectors back then that were on-site no long work here and are retired. We are in the process of doing that fact-finding. Genesys has been very understanding and willing to work with us.

Mr. Martinbianco congratulated Jeanette Moore on her appointment.

Mr. Martinbianco invited everyone to see the new police cruiser outside.

COUNCIL ACTION:

Haskins moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from August 15, 2012 through August 29, 2012, in the amount of $5,731.25.

Motion carried 7-0.

Heffner moved and Ellenburg seconded the following motion:

2. Approve and authorize the Mayor's appointment of Jeanette Moore, 3476 E. Atherton Rd., Burton, MI 48529, to the Parks & Recreation Commission, filling the unexpired term of Ron Groulx. Term to expire September 2013.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

3. Approve and authorize a Resolution Authorizing the Sale of Donovan Street/Vacant Land, Parcel #59-29-576-047, to give first of two approvals for the sale of this parcel to Cheryl Ann Taylor, for the sum of $550.00 cash or its equivalent.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

4. Approve and authorize Council to extend for an additional one (1) year, the Moratorium on the issuance of permits under the City of Burton Ordinance for medical marijuana distribution Facilities pursuant to the recent Michigan Court of Appeals Opinion No. 301951 (State of Michigan vs. Compassionate Apothecary, LLC), wherein it concluded that the joint cooperative cultivation, sale or sharing of marijuana is a public nuisance under the State of Michigan Health Code.

Motion carried 4-3, with Wells, Martinbianco and Heffner voting no.

Haskins moved and Heffner seconded the following motion:

5. Approve and authorize the August 10, 2012 Support Emergency Operations Plan; a support Plan to the Genesee County Emergency Operations Plan.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

6. Approve and authorize a Resolution for Approval of the City of Burton Fire Department to Participate in the Michigan Mutual Aid Box Alarm System Division.

Motion carried 7-0.

Meeting adjourned at 7:45 p.m.

Julie Adams, City Clerk