CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 2, 1998, 7:30 P.M., COUNCIL CHAMBERS

Invocation and Pledge of Allegiance was led by Councilman Bob Centilli.

The Regular Meeting was called to order by Ted Hammon, Council President, at 7:40 P.M.

MEMBERS PRESENT: Centilli, Cox, Cross, Hammon, Martinbianco, Walls and Zelenko.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor Charles Smiley; C. Abbey, Personnel Director; J. Major, DPW Director; B. Becker, Treasurer/Controller; D. Lowthian, Assessor and G. Webster, Clerk.

Zelenko moved and Cross seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of January 19, 1998 at 7:00 P.M. Special Meeting of January 19, 1998 at 7:15 P.M. and Regular Meeting of January 19, 1998 at 7:30 P.M.
Motion carried 7-0.

Mr. Cox , Mr. Martinbianco and Mr. Cross expressed concerns with the minutes. Mr. Cox will address this issue later in the meeting.

ADMINISTRATIVE REPORT:

Mayor Smiley spoke to residents on the Graffiti Ordinance. He would like to know when this might be addressed.

Mr. Cross said it would be addressed at the next Legislative Committee meeting.

Mayor Smiley asked for the Finance Committee to review and address Chief Benthall's request to purchase a Law Enforcement Information Network (LEIN) and the Black Creek account balance.

He asked for an executive session to be held after Council Discussion and before Council Action in regards to the COAM labor negotiations.

COMMITTEE REPORTS:

Mr. Cross reported that the Legislative Committee met January 29, 1998. He gave an update on the Committee's Master List. (The Master List is attached to the minutes.) He said the Reading of the Cost Recovery Ordinance was on tonight's agenda. A list of new fees had been submitted by the Fire Chief in reference Sec.3 on Page 3.

Mr. Cox said a Finance Meeting was held January 21, 1998 to discuss the Veteran's Memorial transfer of funds. The Committee recommended to full Council to transfer $26,000 from Drains at Large to the Capital Improvement fund to cover cost incurred by the memorial.

Mrs. Zelenko said the Parks and Recreation Commission met January 28, 1998 to work on the Master Plan. She hopes to have the final copy ready next week for Council review. She would like the Council's blessing and approval on the plan at the next meeting.

AUDIENCE PARTICIPATION:

Bernard Meader, 4033 Woodrow, said the gravel roads were in disrepair. He spoke in reference to the sewer drains not being level with the new street paving. He spoke in opposition to Item #3 The Cost Recovery Ordinance that will bill homeowners for fires.

Robert Mackey, 3365 Associates Dr., spoke on Item #8 in reference to Main Manufacturing moving out of Burton. He said the company has been part of Burton for a long time and it has basically been a good relationship. They need more space to expand their company.

Don Sanderlin, 4460 Killarney Pk., spoke in opposition to the new Cost Recovery Ordinance.

Mr. Cross said the insurance company would be billed for a portion of the fees. There will be a committee set up to review the billing process. We're not going to make anyone pay that can't afford it. The ordinance can always be revisited and revised at a later date. We can put a cap on it.

Robert McCullough, 2028 McLean, spoke in opposition to the Cost Recovery Ordinance. He complained of difficulty with the Fire Department in regards to his wood burning stove.

Dwayne DeFreese, 2071 Fenton Rd., spoke in favor of approving the Cost Recovery Ordinance. He thinks the department needs to raise funds to help pay for new fire equipment.

Kevin Burge, 1415 S. Geniveve, spoke in favor of the Cost Recovery Ordinance.

John Stapish, 5160 Atherton Rd., spoke against the Cost Recovery Ordinance. He said if any changes are made, they should be done at a public hearing. He spoke on Item #12 in reference to the Salary Commission and on Burton Neighborhood Housing.

Mr. Hamilton said this is a police power ordinance. Changes can be made at any time prior to the adoption of the Ordinance by City Council.

Mr. Abbey said the Mayor would get a $2,000 raise and Council members would receive a $250.00 raise.

Mr. Hammon said we are still waiting on the audit for BNH.

Laurie Tinnin, 2340 Harmony Dr., spoke in opposition to Item #13 in regards to the transfer of funds for the Veteran's Memorial.

Mr. Cox said the dollars haven't been transferred yet. To help alleviate some of the concerns in the future the following suggestions were offered. Cost setting would be done in advance. If the costs exceed the allotted amount, it would come back to Council. A Council member would be assigned to these kind of projects. He would be glad to discuss this matter further with Mrs. Tinnin.

Pauline Dargel, 6119 Hugh St., spoke on Item #16 in reference to updating the master plan and Item #6 in reference to Attorney Hamilton's duties.

Mr. Major said there would be public hearings and surveys conducted in the updating process.

Mr. Hamilton said there has been a modification in the State Liquor Control statue. He is now eligible for all code enforcement duties. He will not handle cases that are related to liquor control, due to the interest in his business. The State has dropped all charges in relation to his case.

Terry Parker, 4360 Sunnymead, opposed Items #14 and #15 in relation to the COAM contract. He thinks there should be more negotiations because the City cannot afford this contract.

Mr. Hammon said we just met with our auditors and they did not indicate any problem with the adoption of the contract.

Larry Petrella, 1081 Howe Rd., spoke in reference to Item #13, in regards to the Veteran's Memorial, Item #16 in regards to the Master Plan update, Rowe Engineers involvement in the Parks and Recreation Plan and Item #11 in regards to the replacement of Computer Equipment.

Mayor Smiley said most of the bills have been paid. There are still a few things we want to add to the memorial. Money will be allocated for future items through the budget process.

Mrs. Zelenko would like to see all City Parks needs grouped in the Parks and Recreation Fund. She said John Matonich is the Rowe representative in charge of the Parks and Recreation Plan.

Mr. Major said Mr. Matonich would also be in charge of the Master Plan update.

Doug Piggott, 6211 Taylor Drive, Project Manager of Rowe Engineering, was available to answer any questions on the projects.

Mayor Smiley said his computer was worn out and it hasn't worked since the power outage. There was a power surge protector on the computer.

Dave Gibson, 2126 Morris Ave., spoke in opposition to the Cost Recovery Ordinance.

Jane Liebman, 4147 Leith St., spoke in opposition to the Cost Recovery Ordinance.

COUNCIL DISCUSSION:

Mr. Hamilton said there was misunderstandings in regards to the Cost Recovery Ordinance. He said the ordinance referred to public safety emergency responses associated with such things as excess request for fire emergency equipment and illegal fires, not for unintentional ones. This ordinance would not bill for every fire call. He suggested people read the definitions in the ordinance.

Cross moved, Centilli seconded to remove the Cost Recovery Ordinance from the agenda and send it back to the Legislative Committee for further review. The motion carried 7-0. Mr. Cross would be available to accept feedback on this Ordinance.

Moved by Zelenko, seconded by Walls to go into Executive Session under the Open Meeting Act as it relates to labor contracts, immediately after Council Discussion, prior to Council Action. Motion carried 7-0.

Mr. Cox had a concern with the Regular Council minutes from January 19,1998 as it relates to the motion to reconsider the COAM agreement. He said to the best of his knowledge there was no reconsider motion brought before Council.

Mr. Hammon said according to Parliamentary procedure, the prior minutes have been approved. The corrections should have been made prior to the acceptance of the minutes of January 19th . The minutes stand as accepted.

Mr. Martinbianco voiced his concerns prior to the acceptance of the minutes. He, along with the Finance chair, had reservations during adoption of the minutes.

Mr. Hamilton asked if the reconsideration motion by Mrs. Walls or the acceptance of the 1-19-98 minutes was the issue at hand. The Chair has ruled procedurally that Mrs. Walls motion to reconsider was properly laid.

Mrs. Webster said her minutes reflect that the motion was read with the word reconsideration. She referred to the attorney for further confirmation. He was sitting next to Mrs. Walls when the motion was made.

Discussion continued on this issue.

Mr. Hamilton suggested that the acceptance of the minutes could be addressed through a majority vote.

Martinbianco moved, seconded by Cross to rescind the authorization of the following meetings: Special Meeting of January 19,1998 at 7:00 P.M., Special Meeting of January 19, 1998 at 7:15 P. M. and Regular Meeting of January 19, 1998 at 7:30 P.M. Motion carried 4-3 with Centilli, Hammon and Walls voting no.

Martinbianco moved, Zelenko seconded to approve the Special Meeting of January 19, 1998 at 7:00 P.M. and Special Meeting of January 19, 1998 at 7:15 P.M. Motion carried 7-0.

Mr. Hamilton said at this time the Special Minutes have been approved and the regular minutes are under consideration by the board.

Mr. Martinbianco agreed the Cost Recovery Ordinance should be reviewed further by the Legislative Committee. He said our gravel roads are in desperate need of remedial action.

Mr. Major said the crews will begin grading in the south end of the City and continue as long as the weather holds out.

Mr. Martinbianco was disappointed to see Main Manufacturing, a long time taxpayer, leave the City.

Mr. Mackey said they were leaving the City so they could expand their business. He said they would probably sell the existing building. He said the business in Burton has been very profitable with good relationships on both sides.

In regards to Item #5, updating the Master Plan, Mr. Martinbianco said this proposal is certainly in the range of the budget.

Mr. Major said Rowe will be taking bids on the plan, and he will give Council an update on that amount.

Mr. Martinbianco recently attended a Master Plan Workshop in Lansing. He reviewed some of the information covered that day.

Mr. Piggot, 6211 Taylor Dr., Principal Planner for Rowe Engineering, was available to answer questions in regards to the Master Plan. He said ordinances will need to be updated , along with implementation of the plan.

Mr. Hammon would be voting no on #16, because he would like to compare different companies to see what they had to offer, before a selection was made.

In regards to Item #9, Mr. Centilli asked about the dance and entertainment permit associated with Puzzler's liquor license request.

Mr. Hamilton said this was a Class C liquor license and the dance permit was separate. There won't be any dressing rooms aloud on the premise to discourage any topless or nude dancing.

Chief John Benthall agreed with Mr. Hamilton. There would be no nude or topless dancing aloud on the premises.

In reference to Items #14 and #15, Mr. Cox voiced his concerns with the January 19th meeting. He thought there was not a motion to reconsider. The Clerk has captured minutes. However, the minutes are incorrect according to my recollection. What ever action occurred, it was postponed. If there was no reconsideration, then there was no postponement. The original motion should stand on the agreement. He asked the attorney if the previous motions were proper to be added to agenda.

Mr. Hamilton reviewed the actions to this point from January 5th. The motion on the COAM agreement was defeated on a 4-3 vote. On January 19th, the next regular Council meeting, Mrs. Walls made the motion to reconsider. I took that motion to be a reconsideration motion which was in order because she voted in the affirmative on a motion when it appeared on the agenda at that previous meeting. The vote was passed by a simple plurality to reconsider. That same motion was added to the agenda as Item #9 on the agenda. It was later postponed during Council action. As a result, it is appearing on tonight's agenda as Item #14. That being the scenario, then it is proper to be on the agenda.

Mrs. Walls said what are you trying to do, nullify this action that we took at the last meeting.

Mr. Hamilton said the present status is that the Council has voted 4-3 against the COAM contract. The motion to reconsider that has passed. The motion was clearly an intent to reconsider the prior vote. It was a proper motion, by the proper party and it was passed by a simple majority to reconsider. As it stands, the contract has been rejected by the City Council and there has been a successful motion to reconsider the issue. Prior action stands at this time. The issue could be postponed, tabled or voted on. He said the reconsideration motion must be made at the next regular meeting. The reconsideration motion is in order and appropriate. He the motion is now on the table presently before Council.

Mr. Cox asked Mrs. Webster if she was in agreement with Mr. Hamilton's comments.

Mrs. Webster agreed with Mr. Hamilton's comments. There is a motion on the table to be addressed.

Mr. Hammon read the parliamentary definition of a reconsideration motion. He agreed with the Counselor that it was a correct motion.

Mr. Cox said if the reconsideration wasn't in order, then the postponement wasn't in order. However, if the reconsideration was in order then the postponement was in order.

Mr. Hamilton said that the motion was appropriate.

Mr. Cross thought the word reconsideration was not said.

Mrs. Webster said according to her minutes, the word reconsideration was spoken twice during the action. Once by Mrs. Walls when she made the motion and again by Mr. Hammon as he read the motion before the vote was taken.

Executive Session was called at 9:40 P.M. until 10:52 P.M.

Regular Council Meeting resumed at 10:55 P.M.

COUNCIL DISSCUSSION ON MOTIONS:

Mrs. Zelenko said since we had clarification from the City Attorney and the City Clerk, she would make the following motion.

Zelenko moved, Centilli seconded to accept the minutes of the following meeting: the Regular meeting of January 19, 1998 at 7:30 P.M. Motion was carried 4-3. With Cox, Cross, and Martinbianco voting no.

In regards to Item #3, Mr. Cox thanked Mr. Perez and Mr. Major for their input and all the time they have spent on PROTEC.

In regards to Item #6, Mr. Cross asked that this issue be sent to the Legislative Committee for further review and explanation.

Cross moved and Martinbianco seconded to postpone Item #6 to the next regular council meeting. Motion was carried 5-2, with Centilli and Walls voting no.

Mrs. Walls asked if that negated the motion that was previously made.

Mr. Hammon said yes, it does supersede the previous motion. It would postpone the motion.

In regards to Item #8, Mr. Cross said he was approached by the Administration to table the motion until February 16, 1998, until further review.

Cross made the motion to table agenda Item #8 until the Administration could look into this matter further. Motion died for lack of support.

Mr. Cross asked for the motion to be tabled until February 16, 1998, for the courtesy of the administration.

Cross moved, Cox seconded to table Item #8, until February 16, 1998, until the Administration could look into this matter further. Motion was denied 5-2, with Centilli, Hammon, Zelenko, Martinbianco and Walls voting no.

Mr. Cross said there are two abatements that are not used up on this property.

Mr. Lowthian said there are two abatements that are currently active on this property. The most recent one has an employment agreement attached to it. The issue you might want to address is the 1998 tax abatement, depending on when the company leaves, they will have received tax abatement benefits for 1998.

Mr. Martinbianco suggested adding an amendment to the motion indicating the termination of the abatement on a certain date.

Mr. Mackey agreed to null and void the tax abatements for 1998.

Moved by Martinbianco, seconded by Zelenko to add the following amendment to Item #8: This approval is contingent upon the City of Burton and Main Manufacturing entering into a mutual agreement that the two active tax abatements, currently held by Main manufacturing, will be considered null and void effective December 31, 1997. Motion carried 7-0.

In reference to Item # 9, Mr. Cox asked for clarification on the liquor license application.

Chief Benthall said the building would need to be brought up to code in order to receive the liquor license.

In regards to Item #10, Mr. Cross asked about the arrest record of this individual.

Chief Benthall said there was no serious arrest record involved with this issue.

In regards to Item #11, Mr. Martinbianco asked for clarification on the specs of the Mayor's new computer equipment.

Mr. Abbey said the Mayor was already looking into upgrading his computer equipment in December. The computer hasn't worked since the power outage. A scanner would be added to the original quote. The computers will be networked in order to make the offices run more efficiently.

Mr. Cross asked about the old computer equipment.

Mr. Abbey said it would go to the county auction; however, it is not worth anything.

In reference to Item #13, Mr. Cox reminded Council to look at the administration's recommendations to help alleviate future problems, when working on special projects.

In reference to Item #14, Mr. Cox said there has been a lot of discussion on this matter. He will vote on this item, given the attorney's advice that it is in fact here correctly.

In reference to Item #16, Mr. Martinbianco wanted to know if Council would be able to make recommendations on additional items once the project is underway.

Mr. Major said the Council and/or the Planning Commission will be able to address these issues. Also, we will need to address revisions in text items as the project unfolds. The Council will be fully informed as the plan develops.

COUNCIL DISCUSSION ACTION:

Cross moved, Centilli seconded to remove the Cost Recovery Ordinance from the agenda and send it back to the Legislative Committee for further review. Motion carried 7-0.

Moved by Zelenko, seconded by Walls to go into Executive Session under the open meeting act as it relates to labor contracts, immediately after Council Discussion, prior to Council action. Motion carried 7-0.

Martinbianco moved, Cross seconded to rescind the authorization of the following meetings: Special Meeting of January 19,1998 at 7:00 P.M., Special Meeting of January 19, 1998 at 7:15 P. M. and Regular Meeting of January 19, 1998 at 7:30 P.M. Motion carried 4-3 with Centilli, Hammon and Walls voting no.

Martinbianco moved, Zelenko seconded to approve the Special Meeting of January 19, 1998 at 7:00 P.M. and Special Meeting of January 19, 1998 at 7:15 P.M. Motion carried 7-0.

Zelenko moved, Centilli seconded to accept the minutes of the Regular Meeting of January 19, 1998 at 7:30 P.M. Motion was carried 4-3. With Cox, Cross, and Martinbianco voting no.

Cross moved, Martinbianco seconded to postpone Item #6 to the next regular Council meeting. Motion carried 5-2 with Centilli and Walls voting no.

Cross made the motion to table agenda Item #8 until February 16, 1998, until the Administration could look into this matter further. Motion died for lack of support.

Cross moved, Cox seconded to table Item #8, until February 16, 1998, until the Administration could look into this matter further. Motion was denied 2-5, with Centilli, Hammon, Zelenko, Martinbianco and Walls voting no.

Moved by Martinbianco, seconded by Zelenko to add the following amendment to Item #8: This approval is contingent upon the City of Burton and Main Manufacturing entering into a mutual agreement that the two active tax abatements, currently held by Main Manufacturing, will be considered null and void effective December 31, 1997. Motion carried 7-0.

COUNCIL ACTION:

Centilli moved and Zelenko seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 14, 1998 to January 28, 1998 in the amount of $3,120.00.

Motion carried 7-0.

Centilli moved and Zelenko seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from January 14, 1998 to January 28, 1998 in the amount of $1,132.06.

Motion carried 7-0.

Centilli moved and Zelenko seconded the following motion:

3. Approve and authorize the Mayor and Clerk to execute a membership application on behalf of the City of Burton and the City Council for membership in PROTEC at an annual membership fee of $6,904.00 (six thousand nine hundred and four dollars) based on population. The City's Controller/Treasurer will make the appropriate transfer of funds and charge the appropriate accounts as necessary.

Motion carried 7-0.

Centilli moved and Zelenko seconded the following motion:

4. Approve and authorize the issuance of a permanent Traffic Control Order for northbound and southbound Term Street traffic to stop at Farley Street North.

Motion carried 7-0.

Centilli moved and Martinbianco seconded the following motion:

5. Approve and authorize the Mayor and City Clerk to execute a contract on behalf of the City of Burton and its City Council with the Genesee County Road Commission and Michigan Department of Transportation relative to the resurfacing of Fenton Road from Maple Avenue to Bristol Road (DPW Job #98-002-P);

subject to review by the City's Controller/Treasurer and City Attorney as to funding and form. (The maximum City contribution will be $29,500.00, the estimated cost to be $22,500.00 pending bids).
Motion carried 7-0.

Moved by Cross, seconded by Martinbianco to postpone Item #6 until February 16, 1998.
Motion carried 5-2 with Centilli and Walls voting no.

6. Approve and authorize the following resolution: RESOLVED, that Richard A. Hamilton, be and hereby is authorized to perform all duties and functions provided for the office of City Attorney in the City Charter of the City of Burton, however, he shall be prohibited from enforcing the State of Michigan Liquor Control Act, MCL 436.1 et al.

Centilli moved and Zelenko seconded the following motion:

7. Approve and authorize that the City Council of the City of Burton does hereby grant its approval for the transfer of employment by Bristol Steel, from the City of Burton to the Township of Richfield. This approval is given pursuant to the provisions of Public Act 338 of 1974, as amended.
Motion carried 7-0.

Centilli moved and Zelenko seconded the following motion:

8. Approve and authorize that the City Council of the City of Burton does hereby grant its consent, pursuant to Act 198 of 1974, as amended, for the transfer of employment by Main Manufacturing from the City of Burton to the Township of Grand Blanc. This approval is contingent upon the City of Burton and Main Manufacturing entering into a mutual agreement that the two active tax abatements, currently held by Main Manufacturing, will be considered null and void effective December 31, 1997.
Amended Motion carried 7-0.
Motion to tabled denied 2-5 with Centilli, Hammon, Martinbianco, Walls and Zelenko voting no.

Walls moved and Zelenko seconded the following motion:

9. Approve and authorize the request from Puzzlers Pub, Inc., to transfer ownership of 1997 Class C licensed business, located in escrow at G-3498 E. Bristol, Burton, MI 48529, Genesee County, from Kowloon Restaurant, Inc.; and request a new Dance-Entertainment Permit.
Motion carried 7-0.

Walls moved and Cross seconded the following motion:

10. Approve and authorize the request from Pachyderm, Ltd., to transfer ownership of 1997 Class C licensed business, located at G-1408 E. Hemphill, Burton, MI 48529, Genesee County, from Jerry M. Moore.
Motion carried 6-1, with Cross voting no.

Centilli moved and Martinbianco seconded the following motion:

11. Approve and authorize the transfer of $2,700.00 from General Fund for the purchase of computer equipment for the Mayor's Office.
Motion carried 7-0.

Walls moved and Centilli seconded the following motion:

12. Approve and authorize transfer of funds of $1,950.00 from General Fund-Contingency to various salaries and fringes for Salary Commission Determination.

Motion carried 7-0.

Centilli moved and Walls seconded the following motion:

13. Approve and authorize transfer of funds of $26,000.00 from General Fund-Public Service-Drains-at-Large to Capital Improvement-Veteran's Memorial Park.

Motion carried 7-0.

Centilli moved and Walls seconded the following motion:

14. Approve and authorize the Mayor and Clerk to enter into a three (3) year contract with COAM, effective July 1, 1997 through June 30, 2000.

Motion carried 4-3 with Cox, Cross and Martinbianco voting no.

Centilli moved and Walls seconded the following motion:

15. Approve and authorize transfer of funds of $24,050.00 from General Fund-Contingency to Police Fund-Sergeants and Lieutenants Salaries and fringe benefits for the COAM Labor Contract.

Motion failed 4-3 with Cox, Cross and Martinbianco voting no.

Zelenko moved and Martinbianco seconded the following motion:

16. Approve and authorize the Mayor and Clerk to enter into a contract with Rowe Engineering, Inc. on behalf of the City of Burton and its City Council for the updating of the master plan and zoning map in the amount of $26,544.00 which includes the standard master plan at $18,764.00 and the selected optional items totaling $7,780.00.

Motion carried 5-2 with Hammon and Walls voting no.

Cross moved and Martinbianco seconded the following motion:

17. Approve and authorize Zero Tolerance Resolution re: Alcohol & Drugs by anyone using City motorized vehicles, as recommended by the Legislative Committee.

Motion carried 7-0.

<u>SECOND READING OF ORDINANCES:</u>

Cross moved and Centilli seconded the following motion:

1. Approve and authorize the second reading of an Ordinance, being an Ordinance to regulate the possession and consumption of alcoholic beverages within the City of Burton and to provide penalties for the violation thereof.

Motion carried 7-0.

Cross moved and Martinbianco seconded the following motion:

2. Approve and authorize the second reading of an Ordinance amending Ordinance No. 67-C, being the Criminal Code Ordinance (Children and Tobacco).

Motion carried 7-0.

* Removed and sent to Legislative Committee.
3. Approve and authorize the second reading of an Ordinance to establish public safety, fire and public utility emergency response cost recovery within the City of Burton.

Cross moved and Centilli seconded the following motion:

4. Approve and authorize the second reading of an Ordinance, amending Ordinance No. 84-C, to regulate the location for the offer for sale of used motor vehicles, trailers, recreational vehicles, and watercraft within the City of Burton.

Motion carried 7-0.

Meeting Adjourned at 11:35 P.M.

Gayle Webster
City Clerk

GW/cml