

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
NOVEMBER 18, 1996, 7:30 P.M., COUNCIL CHAMBERS

Invocation and Pledge of Allegiance was led by Council President TED HAMMON.

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

Members Present: Abbey, Cross, Hammon and Martinbianco.

Members Absent: Cox, Walls and Zelenko.

Others Present: K. McArdle, Personnel Director; J. Major, DPW Director; R. Hamilton, Attorney; D. Halstead and G. Webster, City Clerk.

Cross moved and Martinbianco seconded the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of November 4, 1996 at 7:30 P.M. and Special Meeting of November 11, 1996 at 7:00 P.M., as printed. Motion carried 4-0.

ADMINISTRATIVE REPORT:

None.

COMMITTEE REPORTS:

Mr. Martinbianco reported on a PROTEC Meeting he attended in Troy. The meeting focused on legislation, utilization and dollar value costs pertaining to right-of-ways.

Mr. Martinbianco set a Legislative Meeting for Monday, November 25, 1996 at 9:00 A.M. Topics to be covered will deal with the Right-Of-Way Ordinance and the Telecommunication Ordinance.

Mr. Hammon announced facilitators, Mr. William Halvaty and Mr. James Merrell, would make a presentation to the City of Burton for their contributions on behalf of the tragic airplane accident of Flight 800 in July of this year. As a result of the contributions, a scholarship fund will be established in honor of the deceased French Club students of Montoursville Area School District.

AUDIENCE PARTICIPATION:

Mr. Halvaty, 1391 Audrey Ave., thanked the Police Department, Fire Department and community involvement for establishing a scholarship fund in memory of the members of the Montoursville, Pennsylvania, French Club who perished aboard TWA Flight 800. Mr. Halvaty presented to the Council two letters of recognition from Governor Engler and Montoursville School District Superintendent, David Black.

Mr. James Merrell, 1082 Carlson Dr., gave sincere thanks to everybody involved in this heartfelt project.

Mr. Hammon welcomed Atherton's Civics Class students to the Council Meeting.

Gary Kautz, 4062 Woodrow, commented on previous remarks made by a resident pertaining to Burton Neighborhood Housing Services. He thinks BHNS did many good things for the community, even if there are organizational problems. He said money is not available to do everything needed and suggested residents volunteer to help get this organization back on its feet.

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Pauline Dargel, 6119 Hugh, requested information on Zoning Case #219.

Mr. Major said the information would be available for Mrs. Dargel tomorrow.

Mrs. Dargel commented on a 1979 Ordinance that pertained to safety in the right-of-way, in reference to decorative brick mailboxes.

Mr. Major said the City nor the County Road Commission have ever required permits to install mailboxes in the right-of-way.

Discussion continued on regulations and safety of mailboxes.

Mr. Major asked Attorney Hamilton if any one has ever contacted the City in regards to an accident involving a mailbox.

Mr. Hamilton replied no one has complained about mailboxes.

COUNCIL DISCUSSION:

Mr. Martinbianco appreciated the letter Mr. Hammon and Mayor Smiley sent to CSX in regards to the rough railroad crossings. He hoped this would remedy the problem.

Mr. Martinbianco inquired about Zoning Case #219 and the postponement of the case until December 10th.

Mr. Hamilton said republication was not necessary if the case had been postponed to a specific date. However, publication is only required for Planning Meetings. Zoning Board Meetings only require residents within 300 feet to be notified.

Discussion continued in regards to who has the authority to govern the Zoning Board of Appeals.

Mr. Hamilton said the authority is established and resides in the state to govern Zoning Boards. City Council can act as a Zoning Board or appoint a Zoning Board as ultimate authority within their scope.

Mr. Martinbianco thanked Mr. Hamilton for his opinion on Laidlaw.

Mr. Martinbianco asked if the DPW had looked into the noise on Vineland.

Mr. Major said the noise is from a generator that will be running four hours a day. The phone company is installing a switching box at that location. There will be a steady low level noise that is expected to last two weeks.

Mr. Cross requested Mr. Hamilton's opinion on the Laidlaw issue be sent to all Zoning Board members.

Mr. Hammon asked the Clerk's office to send the Laidlaw Opinion to all Zoning Board Members.

In reference to agenda Item #2, Mr. Martinbianco clarified the total of the Attorney's bill to be \$880.00. A portion of the bill \$565.50 was on the last statement.

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In reference to agenda Item #4, Mr. Martinbianco commented on the memorandum from Patrick A. Miles, in regards to GenNet dated November 12, 1996. He wanted to know if this agreement just put the physical structure in place, allowing BRE to install the hardware and lines. The next step would be to determine the utilization of those lines.

Mr. Major said that was correct. He believes the GenNet agreement with municipalities will be determining the utilization of those lines.

Mr. Hamilton requested an addendum to Item #4, subject to the Attorney's review and approval. His concern was that we comply with Charter requirements in regards to franchise fees and utilization of the right-of-way.

Mr. Martinbianco said if the supporter of the motion agreed, he would add to the end of Item #4, subject to review by the City Attorney regarding the City Charter, City Ordinance and regulations relative to the placement of and utilization of the right-of-way. Mr. Abbey agreed to the addition.

The approval of Item #4 failed by a 2-2 vote by Council.

Mr. Major said he would need to report back to our Attorneys Varnum, Riddering, Schmidt and Howlett with a justification for denial. What should be done at this point? This denial will hold up other municipalities of the agreement.

Mr. Martinbianco suggested this be a topic of conversation at the Legislative Meeting Monday morning.

Mr. Hammon agreed the contract should be reviewed by the Legislative Committee.

Discussion continued on who should be in attendance at the meeting.

Mr. Hammon said the Legislative Chair will make the decision on attendance and then contact Mr. Major, so he would know who to invite.

COUNCIL ACTION:

Abbey moved and Cross seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from October 31, 1996 to November 13, 1996 in the amount of \$949.00.
- Motion carried 4-0.

Cross moved and Abbey seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from October

31, 1996 to November 13, 1996 in the amount of \$1,445.50.

Motion carried 4-0.

Abbey moved and Martinbianco seconded the following motion:

3. Approve and authorize the appointment of Doug Halstead as Fire Chief, effective December 2, 1996.

Motion carried 4-0.

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Martinbianco moved and Abbey seconded the following motion:

4. Approve and authorize the request for a telecommunication permit agreement

from BRE Communications, Inc. dba Phone Michigan of 4565 Wilson Ave., SW,

Grandville, MI 49418, pursuant to the formal agreement and letter explanation by Varnum, Riddering, Schmidt & Howlett/Patrick Miles, dated

November 6, 1996, subject to review by the City Charter, City Ordinance

and regulations relative to the placement of and utilization of the right-of-way.

Motion failed 2-2 with Mr. Hammon and Mr. Cross voting no.

Meeting Adjourned at 8:30 P.M.

Gayle Webster

Burton City Clerk

GW/cml