CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 6, 2007, 6:00 P.M., COUNCIL CHAMBERS
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Councilman Jeff Major led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by Council President Gary Isham at 6:07 p.m.

MEMBERS PRESENT: Conley, Cross, Isham, LaDuke, Major, Tinnin and Wells.
MEMBERS ABSENT: None.
OTHERS PRESENT: G. Kray, DPW Director; Attorney R. Austin and G. Webster, City Clerk.

Cross moved and Tinnin seconded the following motion:

Approve and authorize the meeting minutes of the Special Council Meeting on July 16, 2007 at 6:00 p.m., and the Regular Council Meeting on July 16, 2007 at 7:00 p.m.
Motion carried 6-0, Conley was not present for this vote.

ADMINISTRATIVE REPORT:

Mr. Isham indicated that a written Administrative Report was provided.

Mr. Kray spoke on Item 4, regarding the GIS Pilot Project. He said there was only one source for this service. Genesee County Water and Waste has worked through this process and the company has already developed templates we would be using. This would keep the cost down.

Mr. Kray spoke on Items 11 and 12 regarding stop signs being added to the intersection of Atherton and Vassar roads. We will do what ever the warrants require.

COMMITTEE REPORTS:

None.

AUDIENCE PARTICIPATION:

Warren Nimcheski, 2429 N. Genesee Rd., spoke regarding Item 6. He wanted to know where the southeast relief trunk was located and if Davison was going to pay to dump their sewage into it.

Catherine Younger, 4315 Atherton Rd., spoke regarding the decreased property value of her home. She opposed the dramatic increase in her property taxes.

Debbie Walton, 1224 Carman, spoke regarding ongoing sewer smells between 1215 and 1221 Carman. She complained about a DPW employee harassing her. In addition, she wanted to know about a proposed stop sign, a no loitering sign and a DPW truck at the Senior Center.

Diane Jones, 1334 Amy, spoke regarding the need for a cat ordinance. She said there were 15 cats next to 1381 Kenneth. The cats are causing an odor and a nuisance to the area.

Lisa Williams, 1196 Carman, spoke regarding the ongoing sewer smell, cat control problems and the need for a street light on Carman. In addition, she said children have been damaging playground equipment at the church school and the police did not do anything.

Robert Hughes, 1121 Arapaho, spoke regarding the denial on his tax appeal. He wanted to know the basis of his denial.

Raymond Williams, P.O. Box 320329, Flint, spoke in reference to his home that was demolished. He would like his Ford tractor and DR trimmer that were on the property returned to him.

Candice Sandborn, 2128 Connell St., complained that two women DPW employees were rude, used profanity and wouldn't help her.

Pauline Dargel, 6119 Hugh St., indicated that the ADA posting still reflected Mr. Abbey as the coordinator. She said there was still a problem with the lift. She spoke regarding the voluntary compliance letter signed by the Mayor. She wanted to know why the City did not have all of the ADA written complaints and responses on file. She wanted a written response from the current coordinator stating these items could not be located.

John Stapish, P.O. Box 190134, spoke regarding his complaints relating to the hostile attitude of city employees. He said nothing has been done.

COUNCIL DISCUSSION:

Mr. Wells indicated that Oak Landscaping on Atherton Rd had a $140,000 piece of machinery vandalized. They cannot construct a pole barn without a site plan review, due to regulations in the sidewalk ordinance. A text change will allow this type of building to be added to an existing site.

Mr. Wells moved and Mr. LaDuke seconded the motion to add to the agenda to: Approve and authorize the Introduction of an Ordinance, amending Ordinance No. 19, Section 5.37, sidewalk provisions.

Mr. LaDuke referred to a letter from Genesee County and Waste indicating that the sewer charges were going to be increased. A resident had questions concerning this issue.

Mr. LaDuke spoke on the increased workload in the Controller's Office due to the implementation of a line item budget. He sent a letter to the Mayor's Office hoping to work out this problem. The letter asked the Mayor to rescind the controller's raise. The Attorney has indicated the raise was a violation of the Charter and the budget act. The Controller would have to pay back money she received from the raise. The Attorney indicated that any money expended prior to approval would have to be paid back. All future upgrades will need to come before the Council for their blessing because wages have been set through union contracts. The Mayor would have to agree to follow the intentions of the Council's budget. By the Mayor agreeing to these terms, the Council would consider the need for eliminating a line item budget, which in turn would reduce the workload of the Controller's Office. Mr. LaDuke has had no response from the Mayor on this issue.
After reviewing the Attorney's opinion on this issue, Mr. LaDuke was ready to sent it to Circuit Court to stop this raise. In addition, he said any one involved with the raise, including the

Controller and any one that signed those checks were in violation of the Charter. Employees cannot be told to do something that would break the law.

Mr. LaDuke objected to the Mayor's letter insinuating Council would not give Mrs. Foster a raise because she was a woman. The Council said they were willing to look at an upgrade for this individual.

Mr. Cross moved and Mrs. Conley seconded the motion to add to the agenda as Item 13 to: Direct the City Attorney to take this issue to Circuit Court to immediately stop the pay raise.

Mr. Wells said the Mayor called a special council meeting on Thursday and Friday to discuss the pay raise issue. Both meetings were cancelled due to a lack of a quorum. Council members should have called the Mayor with their concerns. The Mayor has turned Mr. LaDuke's letter over to the prosecuting attorney, because he felt it was extortion on the part of the Council. He is not going to sign the letter. He has rescinded Mrs. Foster's raise. He is awaiting guidance from the Council on this issue. In addition, Mr. Wells indicated that Mrs. Beutler received a raise. However, no money has been expended, so no violations have been made. He said the Council has voted on a deficit budget, because money will need to be transferre d at the end of the year.

Mr. LaDuke would like to know who has received raises in the last two years.

Mr. Isham said the Mayor has not been communicating with the Council. He is not coming to the meetings. Therefore, we are not getting his input.

Mr. Wells said the Mayor was waiting for a plan from the Council.

Mrs. Tinnin wanted to know the status on Mrs. Foster's raise. She wanted to know if the raise was rescinded and if the money was being paid back. She wanted something in writing from the Mayor on this issue, before it goes to court.

Mrs. Conley would like an update on Paul Marrow. Five months after he retired, he still appeared on the payroll.

Mr. Major felt the motion only stopped the pay raise. It does not address the fact the Mayor over stepped his authority regarding the intent of the budget. He felt the Council should continue with other options outlined by the Attorney.

Mr. Austin would not represent any litigation with the Mayor or the Council. It would be necessary for the Council and the Mayor to hire other attorneys.

Mrs. Tinnin suggested Council review the June and July check register to determine who received pay increases. Then the Council would know where they stand before initiating litigation.
Mr. Cross withdrew his motion. He felt the Council should research this issue to determine if any expenditure of funds were violated before going to court. He felt this would save the City money in attorney bills.

Mr. Isham felt this was a blatant violation of the Charter and the budget act. He said we all have to be held responsible for our actions. The Mayor should admit his mistakes. However, he would be willing to sit down with the Mayor and resolve this issue without costing the taxpayers money.

Mr. Hughes should contact the Assessor tomorrow regarding his tax denial issue.

There was a brief discussion on implementing a cat ordinance.

Mr. Austin said the pros, cons and legality of such an ordinance has been discussed in the past. He did not know if we had that kind of authority to implement such an ordinance outside the nuisance abatement. He would be happy to discuss this issue with the legislative chairman.

Mrs. Tinnin wanted to know if the City had to adopt the Genesee County Water and Waste sewer rate increases.

Mr. Kray said we weren't required to adopt the new rates that go into effect October 1st. However, we should look into the possibility of structuring our sewer rates with the County.

A discussion was held in reference to Item 6, dealing with the southeast relief trunk sanitary sewer. Mr. Kray said this would provide relief for the Belsay Coates drain and the future development of Burton Estates. There are maps in DPW that show what areas these relief sewers will benefit. We currently owe Davison and Grand Blanc sewer units. Once those units are paid off, any units other municipalities want they will have to purchase.

Mrs. Tinnin opposed moving forward until the determination of funding was in place. She wanted to know how the existing sewer customers would benefit and if this would violate Bolt. She felt it would only benefit new development. She said developers should pay for their own infrastructure needs.

Mr. Kray said the specifics of the funding have not been discussed. This could be funded by bonding or from the $9.5 million surplus. We could do a combination of things.

Mr. Austin did not know if the current customers would benefit from the project or not. He would like to discuss this issue with Mr. Kray.

Mr. Major spoke in support of the relief sewer. If the infrastructure is in place, developers will seek out those areas where the capacity is in place. This will help with our tax base in the future. In addition, he said Bolt issues should be considered.

Mr. LaDuke felt the relief sewer helps everyone. It relieves capacity overflow and the potential for flooding or over capacity in basements of existing homes. He said vacant properties have paid the same millage as any other piece of property and don't have accessibility to sewers.
Mr. Cross asked the DPW to look into what was causing the sewer smell on Carman Street. Mr. Major would like a status report send to Council on this issue. Mr. Kray will have someone look into the problem this week.

Mr. Cross would like to know if a streetlight is warranted at 1196 Carman. Then it could be added to the next agenda. Mr. Kray would like Mrs. Williams to contact him in reference to this issue.

Mr. Cross wanted to know if Mr. Williams could reclaim his property from his demolished home.

Mr. Austin said the Center Rd. property has been in litigation for many years. The owner had ample time to retrieve his personal belongings. The case is closed and demolition has been ordered. He felt it was too late for Mr. Williams to retrieve his equipment. It is now the property of the contractor. Mr. Austin volunteered to speak with the contractor about items of personal property left in the building, if he was instructed by the Council to do so. Mr. Cross suggested Mr. Williams contact the Attorney regarding this issue.

Mr. Cross told Ms. Sandborn to contact Mr. Kray regarding DPW employees.

In reference to Item 7, Mr. Cross wanted to know when construction would start on the Lapeer and Vassar intersection. Mr. Kray said work should begin in about two weeks. Consumers Energy still has some work to do in that area.

With consensus of the Council, Mr. LaDuke wanted an attorney opinion concerning possible Charter violations for two unfunded positions from the 2006-2007 Budget and for a current unfunded position in the 2007-2008 Budget. The intent of the Council was clear. The funding for those positions was eliminated.

Mr. LaDuke would like the legislative chair to develop an ordinance that would prohibit smoking on City property. He wanted smoking eliminated on city property and in buildings and vehicles. He wanted a penalty attached to the violation. Mr. Wells will set a legislative meeting at a later date.

Mr. Major asked for a status report on the proposed stop sign for Houston and Carman. Mr. Kray said this issue was being considered by DPW. Mr. Major would like a written response on all Mrs. Walton's issues.

In response to Mrs. Dargel's, Mr. Austin said members of the staff have searched Mr. Abbey's records. We have not found the information she requested. We have been timely with our reports to the Department of Justice. The representative was pleased with the overall performance of the City of Burton in regards to the agreement. She would like the City to purchase a Braille machine. The Senior Center and Police Department renovations will be done within six months. At that time, we will have completed all parts of our agreement.

Mr. Wells suggested Mrs. Younger take her tax bill to the Assessor's office and have them explain the charges. He said several millages have been passed, which contribute to our bills.
The Council requested the attorney to write an opinion regarding the ongoing positions where funding had been eliminated.

Residents should contact the police department, if cats represent a health or safety issue. Mr. Kray planned to contact the police department on the Kenneth St. cat problems tomorrow.

Mrs. Tinnin wanted to know if Item 6 contained a transfer of funds. Mr. Major said if Council authorizes this project, it would be paid for out of the Unappropriated Surplus. It was determined that Item 6 needed five votes for approval.

Mr. Isham referenced a correspondence regarding a manmade berm on Arrowhead Dr. He will forward this information to Mr. Kray.

Mr. Isham spoke regarding a letter from County Commissioner Jamie Curtis dated July 20, 2007 concerning the collection of delinquent personal property taxes.

Mr. Isham was out of town on business for one of the special meetings. He left a message on the Mayor's voice mail indicating that there would not be a quorum present.

In reference to Item 4, Mr. Cross said he would be voting no because no bids were taken. Mr. LaDuke said DPW checked and found only one source for this particular software. This is an acceptable practice under these circumstances.

In reference to Item 6, Mrs. Tinnin was concerned that the Mayor had anticipated an operational sewer deficit of $182,000 this year. The Finance Committee decided to leave the sewer rates at the same level. She does not want to keep dipping into the Unappropriated Surplus. She felt the developers should make a commitment to put in the infrastructure. They are the ones causing the need for the relief sewers. She does not want to tell our sewer customers that we are going to raise rates to fund this infrastructure without any other commitment in place.

Mr. LaDuke spoke in support of the need for relief sewers. The sewers are over capacity now. He didn't think this would affect sewer rates, since there is an eight million dollar surplus.

Mr. Major spoke in support of the sewer relief project. He said originally these sewers were funded through EPA grants with state and federal funds. He felt these relief sewers would benefit everyone.

In reference to the First Reading of an Ordinance 19, Section 5.37, Mr. Austin gave a brief overview of the text change. This would allow certain improvement structures to be constructed, such as pole barns, gazeboes, shreds and pavilions, with out going through a full site plan approval. A site plan approval requires the addition of sidewalks. This would not affect new businesses.

COUNCIL DISCUSSION ACTION:

Moved by Wells, Seconded by LaDuke to add to the agenda: Approve and authorize the Introduction of an Ordinance, amending Ordinance No. 19, Section 5.37, sidewalk provisions. The motion carried 7-0.

COUNCIL ACTION:

Major moved and LaDuke seconded the following motion:

Approve and authorize the Regular Council Consent Agenda items 1-3 and 7-12 for August 6, 2007. Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 11, 2007 through August 1, 2007 in the amount of $7,971.40.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

2. Approve and authorize the certification of Tim Troxell as the Employee Delegate and Police Chief Bruce Whitman as the Officer Delegate to the annual MERS meeting to be held on September 18 – 20, 2007.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

3. Approve and authorize Shawn Duncanson to purchase four (4) years and seven (7) months of MERS pension generic service time. The total cost of $32,786.00 will be at the employee's expense.

Motion carried 7-0.

LaDuke moved and Wells seconded the following motion:

4. Approve and authorize the "GIS Pilot Project" contract with Stantec Consulting Michigan, Inc., in the amount not to exceed $13,500.00. The purpose of the project is to develop drop-down menus and train field personnel in the gathering GIS database information on the water and sanitary sewer infrastructure. The City has GIS software that will capture the information for the mapping process that will be required by the E.P.A. and D.E.Q. as well as Genesee County Water and Waste. The cost will be split equally between the Water and Sewer contractual Budget line. Back up material and contract copy is included.

Motion carried 6-1, with Cross voting no.

LaDuke moved and Wells seconded the following motion:

5. Approve and authorize the City of Burton to enter into a contract with CHMP, Inc., 5198 Territorial Rd., Grand Blanc, MI 48439, for engineering services for the preparation of project Specifications for proposed sidewalks along the east side of Center Rd. from Atherton Rd. to Lippincott Blvd. These services will be performed at a fixed price of $2,650.00, to be paid from the 2007/08 Major Street Unappropriated Surplus budget.

Motion carried 6-1, with Cross voting no.
LaDuke moved and Major seconded the following motion:

6. Approve and authorize a contract with CHMP, Inc., 5198 Territorial Road, Grand Blanc, MI, 48439 for engineering services for the southeast relief trunk sanitary sewer at a not to exceed price of $16,290.00, to be paid from the 2007/08 Sanitary Sewer Unappropriated Surplus.

Motion carried 6-1, with Tinnin voting no.

Major moved and LaDuke seconded the following motion:

7. Approve and authorize the Mayor and City Clerk on behalf of the City of Burton and its City Council authority to execute a Construction Engineering Contract with Rowe, Inc. for the Reconstruction of Lapeer/Vassar intersection. (DPW Job #04-006-P, M-DOT Job #78219; 100358/ Project STP 0725 (039) (0447) in the amount of $16,183.00.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

8. Approve and authorize the City Controller to transfer $61,878.48 from the 2007/08 Major Street Budget Unappropriated Surplus to DPW Job #04-006-P.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

9. Approve and authorize the Mayor and City Clerk to execute a construction contract with the Michigan Department of Transportation for the widening, traffic signal work, milling, and paving of the Lapeer/Belsay intersection. DPW project number 06-011P. (MDOT CS STH 25609; STU 25402, Job Nos. 78224; 100077, Federal Project Nos. STP 0725 (061) (063), Federal Item Nos. RR 5802; HH 5065, CFDA No. 20.205, Contract No. 07-5409) at an estimated cost of $256,700 of which the City of Burton's share will be $51,000 contingent upon approval of the City Controller.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

10. Approve and authorize the City Controller to transfer $256,700.00 from the 2007/2008 Major Street Budget Unappropriated Surplus to DPW Job No. 06-011-P with an estimated actual cost to the City of $51,000.00.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

11. Approve and authorize the permanent traffic control order #07-047 for westbound Atherton Road traffic to stop at Vassar Road.

Motion carried 7-0.

Major moved and LaDuke seconded the following motion:

12. Approve and authorize the permanent traffic control order #07-048 for eastbound Atherton Road traffic to stop at Vassar Road.

Motion carried 7-0.

INTRODUCTION OF AN ORDINANCE:

Removed from the agenda and sent to the Finance Committee.

1. Approve and authorize the Introduction of an Ordinance No. 68-29 C, amending Ordinance No. 68 C, Compensation for Administrative Officers and Elective Officers of the City of Burton.

Cross moved and Wells seconded the following motion:

2. Approve and authorize the Introduction of an Ordinance, amending Ordinance No. 19, Section 5.37, sidewalk provisions.

Motion carried 7-0.

Meeting adjourned at 8:05 p.m.

Gayle Webster, CMC
City Clerk