CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
NOVEMBER 6, 2006, 6:30 P.M., COUNCIL CHAMBERS
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Councilman Gary Isham led the Invocation and the Pledge of Allegiance.
The Regular Meeting was called to order by Council President Charles Cross at 6:30 P.M.

MEMBERS PRESENT: Conley, Cross, Curtis, Isham, Major, Tinnin and Wells.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley and Gayle Webster, City Clerk.

City Clerk Gayle Webster swore in Jeff Major as a new councilman. Mr. Major thanked Council for the 6-1 vote confirming his appointment. He further pledged to bring honesty and dedication to the City Council and to the City itself.

Curtis moved and Isham seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on October 16, 2006 at 6:00 p.m., Special Council Meeting on October 16, 2006 at 6:30 p.m., and the Regular Council Meeting on October 16, 2006 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

The Mayor discussed the article written by Joe Lawlor in the Flint Journal with respect to Section 4.8 of the City Charter. He opposed the general interpretation of the article.

The Mayor indicated that he has not turned down any Council Member's request to speak to employees or department heads. There is a simple procedure in place to initiate this type of communication. He opposed changing the Charter to allow the Council to have full access to speak to city employees. He felt this issue should be sent to committee before sending it to the Attorney General.

There was reference to Ms. Conley's question to Martha Williston regarding the recall issue. Ms. Conley did not remember asking Ms. Williston that question.

The Mayor said that Mr. Wells was the only Council Member present at the Focus Session Meeting held on October 17, 2006. He provided the minutes of that meeting to Council. Mr. Hamilton is working on his synopsis of the meeting. The main topics focused on Harmony Image, Organize Recreation, Charter Review, School-City Coordination and Grant Writing.

The Mayor spoke regarding Ms. Tinnins' letters to Mr. Austin. He felt there should be a procedure in place that took a majority vote of the Council before instructing Mr. Austin to performing legal work.

The Mayor reported on the Bendle High School groundbreaking ceremony that took place on September 28, 2006. He felt that Mr. Engle did an outstanding job.

There will be a Veterans' Day celebration on 11/11/06 at 11:00 a.m. VFW is facilitating the service. Dinner will follow at the DAV.

The Mayor requested a Finance Committee Meeting to address the proposed water main on Fenton Road. Ms. Tinnin wanted to know who would be paying for the water line. She requested the names and addresses of the businesses and residents this project would service.

Mr. Cross felt the attorney bills were not out of line with the amount of work that has been done.

COMMITTEE REPORTS: None.

AUDIENCE PARTICIPATION:

Robert Sak, 3172 Eastgate, felt the Code Enforcement officer was not enforcing the laws. He didn't agree with the officer going out only when complaints were made.

Don Sanderlin, 4460 Killarney Park, supported the medical services being provided at the Senior Citizens Center. He felt the Senior Newsletter was very beneficial.

Mr. Cross requested that the Council be given the Senior Newsletter.

Pauline Dargel, 6119 Hugh Street, spoke regarding Item 6, Community Development funding and ADA issues. She would like Council to reconsider their action with respect to the Community Development money.

Candice Sanborn, 2128 Connell Street, submitted a petition opposing the paving of her street.

Mr. Cross gave the petition to Mrs. Webster to file and distribute to the appropriate departments.

John Stapish, PO Box 190134, reported paving flaws on Atherton Road and a huge pile of dirt at South Saginaw and Hemphill Rd. In addition, he commented on Items 8, 9, 10 and 11.

Robert Katrinick, 1339 Proper, supported the demolition on Proper.

Jim Douglas, 4111 Maplewood Meadows, spoke about the paving in Maplewood Meadows subdivision. He informed DPW that one section is not paved correctly. Also, he spoke about traffic issues on Bristol Road near 475.

Mr. Curtis said there was a traffic study underway regarding traffic problems on Bristol Road.

Ron Moore, 2011 Howser Road, Holly, MI, spoke regarding the Jama's Community Center at the corner of Maple and Center. They have teen night and bands come in to play. They have been working on the building for the past five months. However, they do not have the money for a site plan, paving the parking lot or a sidewalk. He would like to request an occupancy permit without the site plan that requires the drainage and a land survey, which would cost them $1,000 just to obtain the site plan. He requested that the fee be waived or get a deferment of up to 3 years to develop the site plan.

COUNCIL DISCUSSION:

Discussion was held in reference to flyers that blew around the Court Street area. Mr. Curtis wanted the area cleaned up and the ordinance enforced.

Mr. Austin stated the officers on duty would have to see a misdemeanor committed in their presence. They only have limited authority to enforce the criminal ordinances that are committed in their presence. Just because a person's name happens to be on literature does not mean they are responsible for littering that area.

Mr. Curtis inquired about Mr. Austin's role in the ADA. Mr. Austin has been working with Mr. Abbey to prepare the ADA agreement response to the Department of Justice by the deadline. Mr. Austin further stated that his role is to gather information provided to him by the ADA coordinator with respect to all the properties in the City who are affected by the agreement.

Mr. Curtis stated a lot of legal money was spent on ADA. Mr. Austin stated that was necessary to comply with the agreement. Mr. Curtis wants to track the money for next year's budget. Mr. Austin stated next year's report should not be as big a project as this one.

Mr. Curtis requested an update on the schedule for the codification of ordinances.

Mr. Austin said the process has been delayed due to errors in the latest draft sent from American Legal. He is awaiting Mr. Strasser's final report.

The expiration dates listed in Items 2, 3, 4 and 5 were corrected to 2009.

Mrs. Tinnin wanted the Finance Committee Meeting to be two-fold. She contacted the Attorney in regards to the status of the budget as it relates to current salaries and fringes in each and every department. She wanted to know if the expenditures were within the appropriate range for the normal employees we pay out of those departments. What I mean is that would also exclude the positions of Mrs. Moulton's position and Mrs. Moss' position. The first issue to be discussed at the meeting would be rather we should partner with Flint Township on the water project on Fenton Road. The Vassar Rd water project would be included in this portion. The second issue on that would be to discuss where we currently are in our budget process with salaries and fringes in each and every department proportionately to the figures that we started out the budget year.

Ms. Tinnin set the Finance Meeting for November 20, 2006 at 6:00 p.m. Mr. Austin will be present if council wishes him to be there.

Ms. Tinnin responded to Mr. Sak's questions regarding code enforcement. She said the officer works on a complaint basis. Council does not have the authority to tell the code enforcement officer how to do his job. She felt there should be two officers during the summer months. The complainant's names should not be revealed.

Ms. Tinnin responded to Mrs. Dargel's request to reconsider action regarding Community Development funding.

Mr. Curtis stated the Council took preliminary action to meet the requirements. They are not committed to having those dollars per those line items at this time.

Ms. Tinnin said the Planning Commission felt Mr. Moore did not have an adequate site plan on file. She did not think the Council should bend the rules regarding sidewalks. This issue could be addressed through the Zoning Board of Appeal process. She suggested Mr. Moore find the money to do the parking lot, she believes that would not be waived.

Mr. Austin told Mr. Moore to contact the DPW to explore what options might be available for him.

Mr. Austin indicated to Mr. Moore that Council does have the authority to amend the ordinances, but it is not likely, until he goes through the administrative process and talks with Mr. Strasser.

Ms. Tinnin said Mr. Moore was instructed by Mr. Strasser to come back and show some compliance with the site plan requirement and the permit approval process prior to coming back to the planning commission.

Mr. Moore stated the next site plan review is on November 12, 2006. He hoped for an initiative from Council saying they could work on a deferment on the site plan. For him to get elevations it would require a land survey that costs $1,000 and they would rather put the money into fixing up the building. If they could have a deferment on the pavement, then they wouldn't need the elevations or land survey. The building has been in use since 1867 with the gravel parking lot.

Ms. Tinnin planned to discuss this issue with Mr. Strasser before the next Planning Commission Meeting.

The Mayor said the Planning Commission couldn't supercede the ordinance. It is written in a way that he is required to put in the sidewalks.

Mr. Wells wanted to know if the last payment had been sent to American Legal. He suggested the City hold payment until the Codification process has been completed correctly.

The Mayor will look into this issue.

The Mayor was unaware of the problems with the Maplewood Meadows paving project. He will have Mark Eickoff look into the situation.

Mr. Major stated there would be a maintenance and guarantee bond on that once the final lift was applied.

Mr. Isham inquired about the Department of Justice annual report. Mr. Austin stated for the three years that agreement is in effect, they were required to do annual reports by the terms of the agreement. This was the second one and there will be one final report in approximately one year's time. Mr. Austin and Mr. Isham held further discussion on this matter.

Ms. Tinnin inquired about paving petitions. Mr. Austin said the residents could draft their own petitions. Mr. Austin stated the signatures on the petition would need to be checked out to make sure they are the owners of the property and both husband and wife have signed, but the language used is sufficient.

Mr. Major stated the petition circulation against a paving project takes place after the first public hearing. They need about 50% of the signatures to stop a project.

Mr. Curtis asked for a status report on the subdivision paving projects and will report back with this information.

Mr. Curtis inquired about the banners on the telephone polls. The Mayor stated the City tries to maintain the signs the best they can. The company who puts up the signs has not contacted him recently. If the City is not contacted soon, the signs will come down.

The Mayor suggested the Council come by his office to discuss some of these areas of concerns instead of waiting two weeks to discuss it at the meetings. The lack of summer help has prevented some projects from being done.

Ms. Tinnin requested that Karen Foster be present at the November 20, 2006 Finance Meeting. The Council will need figures from her with respect to water, salaries and fringes. The Mayor would like a prior written request with respect to what they needed from Mrs. Foster.

Ms. Tinnin stated they would need where they are at with the budget and salaries and fringes in every department. Basically she wanted to know if the budget was on target. In addition, she would like information regarding paybacks on water lines on Vassar Road and Fenton Road and Lapeer Heights.

Mr. Isham requested a DPW representative be presented at the next regular Council meeting to discuss the demolition at 3155 Hemphill Rd. He would like someone from DPW to present at the Finance Meeting to discuss the water projects.

Mr. Cross requested Mr. Major take over Mr. Bement's duties at ZBA and Parks and Recreation.

Mr. Cross stated that 1-6, 8, 9, 12, 13 and 15 would be part of the consent agenda.

In regards to Item 7, Hawkshire streetlighting, Mrs. Tinnin wanted to add with the sale and execution of the bond that the City would recapture the costs for the streetlights.

Mr. Austin said assuming that we get the proceeds from the bond, which they are now in the process of doing, that will not totally cover the cost of the paving, so there is no money left from that bond to pay for streetlights.

Mr. Major thought the City had more land value set aside with the lots that were liened. Mr. Austin stated that was true. Mr. Major wanted to know if it could be added to the lien. He would hate to see these people from Hawkshire go without streetlighting.

Ms. Tinnin wanted it added to Item 7 how the City will recapture the money to pay for the streetlights. Mr. Major stated that obviously the lots would not be released until they either pay for the street paving or the lots are sold to recover the money.

Mr. Austin stated he didn't know whether those liens were filed or not. Mr. Wingblad would be one to know that. Mr. Major believes the liens were on file to cover the paving projects.

Mr. Austin stated the City should take all available steps to recoup the cost of the streetlights.

Ms. Tinnin amended Item 7 to say the City to take all additional precautions to recapture the costs for the streetlighting.

In reference to Item 10 and 11 regarding the Charter revision, Mr. Wells strongly opposed giving the Council direct access to the administration without prior knowledge being given to the Mayor. If the Charter were to be opened, he thought it would be more beneficial for a committee to be selected to review the whole Charter. There has to be some kind of structure in any business, but especially in government and that is the sole reason there is an executive branch and a legislative branch. Otherwise, these people are going to have eight bosses with different ideas. He believes Items 10 and 11 just be taken off and not even vote on them. Have the legislative committee meet and select a blue ribbon panel to review the whole charter and make a determination on any revisions.

Mr. Curtis strongly supported the Charter revision. He felt Section 4.8 needed to be corrected. He wants access to the people who have the information. He doesn't believe Council members should have to go through the Mayor to talk to somebody to do their job. He further stated he's been kicked out of offices before stating he couldn't talk to employees

Mr. Isham supported the Charter amendment to Section 4.8. He stated it is a power struggle between the two branches of government. It is unfortunate. However, he felt Council needed to initiate this amendment, just so they could do their job without being impeded. He said if the Council, as well as the administrative branch and the employees, all practice common courtesy and act in a dignified and respective manner, they should be able to go and request information.

Mr. Wells said there is a procedure in place to discuss issues with the employees. They just need prior permission from the Mayor. This provides for a more orderly business environment.

Mr. Isham stated we have a strong Mayor form of government and don't think for a minute that the Mayor doesn't have some influence over his department heads.

Mr. Wells stated the Mayor should have influence over his department heads.

Mr. Curtis called the question on Item 10. A roll call vote was taken. The motion carried 6-1, with Mr. Wells voting no.

In regards to Item 14, Mr. Curtis requested this item be tabled for two weeks and request Mr. Abbey and Tim Troxell appear at the next meeting.

COUNCIL DISCUSSION ACTION:

Mr. Curtis called the question on Item 10. A roll call vote was taken. The motion carried 6-1, with Mr. Wells voting no.

Moved by Curtis, Seconded by Tinnin to: Table Item 14 until the next Regular Council Meeting scheduled November 20, 2006 and requested Tim Troxell and Charles Abbey be present at the meeting. The motion carried 7-0.

COUNCIL ACTION:

Curtis moved and Conley seconded the following motion:

Approve and authorize the Regular Council Consent Agenda items 1-6 and 8,9,12,13, and 15 for November 6, 2006. Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from October 11, 2006 through November 1, 2006 in the amount of $7,192.18.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

2. Approve and authorize the reappointment of Alta Walls, 1049 N. Genesee Rd., Burton, MI 48509, to the Planning Commission. Term expiring December 2009.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

3. Approve and authorize the reappointment of Tracy Parker, 4360 Sunnymead, Burton, MI 48519, to the Zoning Board of Appeals. Term expiring December 2009.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

4. Approve and authorize the reappointment of Scott Hynes, 4370 Sunnymead, Burton, MI 48519, as the Zoning Board of Appeals Alternate. Term expiring December 2009.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

5. Approve and authorize the reappointment of Steve Bennett, 2295 E. Judd Rd., Burton, MI 48529, as the Zoning Board of Appeals Alternate. Term expiring December 2009.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

6. Approve and authorize the transfer of $15,000.00 (Fifteen Thousand Dollars) from Major Street Surface Contractual to Major Street Drainage Contractual.

Motion carried 7-0.

Tinnin moved and Curtis seconded the following motion:

7. Approve and authorize the Mayor and City Clerk to execute the authorization for changes in the standard street lighting contract with Consumers Energy Company for Thirteen (13) streetlights in Hawkshire Subdivision Phase II, with the City taking all precautions to put an additional lean on the property to recapture the cost of the streetlighting.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

8. Approve and authorize the City of Burton to enter into an agreement with BS&A Software to purchase Fund Accounting, Utility Billing, and Tax Billing Software at a cost of $111,490 to be paid over 3 years at 0% interest.

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

9. Approve and authorize the transfer of funds in the amount of $37,164 from General Fund Unappropriated Surplus to the Information Technology Fund for the first annual payment to BS&A Software.

Motion carried 7-0.

Curtis moved and Tinnin seconded the following motion:

10. Approve and authorize ballot language for Section 4.8, as written, to be placed on the ballot for the November 6, 2007 General Election.

> "Shall Section 4.8 of the Official Charter of the City of Burton, Genesee County, Michigan, be amended to provide as follows:
>
> COUNCIL NOT TO GIVE ORDERS TO CITY EMPLOYEES
>
> Section 4.8. No member of the Council shall give orders, public or private, to any city employee. This prohibition shall not operate to outlaw discussion of city

business between Council members and city employees.

Motion carried 6-1, with Wells voting no.

Curtis moved and Conley seconded the following motion:

11. Approve and authorize the following language as the purpose of the proposed Charter amendment for submission to the State's Attorney General for approval to comply with the requirements of MCL 117.21(2) before being printed:

    The purpose of the proposed amendment to Section 4.8 of the Official Charter of the City of Burton is to eliminate the language now in Section 4.8 which provides that elected City Council members must deal with the City's administrative officers and employees solely through the Mayor. The elimination of this prohibition would then allow elected City Council members to have direct access with City administrative officers and employees.

Motion carried 6-1, with Wells voting no.

Curtis moved and Conley seconded the following motion:

12. Approve and authorize the acceptance of the low bid and allow the Mayor and Clerk to enter into a contract, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton with Efficient Demolition, Inc., 6319 E. Potter Rd., Davison, MI 48423, in the demolition amount of the following:

    1) 2255 Schumacher $4,550.00

Motion carried 7-0.

Curtis moved and Conley seconded the following motion:

13. Approve and authorize the acceptance of the low bid and allow the Mayor and Clerk to enter into a contract, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton with Dirtech Contracting, 3178 S. Dye Rd., Flint, MI 48532, in the demolition amount of the following:

    1) 1343 Proper $1,150.00

Motion carried 7-0.

Motion tabled until the next Regular Council Meeting scheduled for November 20, 2006.

14. Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises of 3155 Hemphill Rd. to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to:

    1. Immediate Demolition, with DPW given authorization to request sealed bids and the structure to be razed within the thirty (30) days of Burton City Council's acceptance of the low bid and the City Attorney's approval of the contract documents for execution of a

contract with the Mayor and Clerk.

2.*Alter by repair the structure to Burton City Code with a Building Permit within ______ days, or

3.*Abate (tear down) the structure to Burton City Code with a Demolition Permit within ____ days, or

4. Postpone any further action for _____________days, based on the following circumstances: ____.

The Burton City Council is to select one (1) of the above orders. The Department of Public Works recommends the Immediate demolition, contingent upon Burton City Council's acceptance of the low bid.

* The Department of Public Works is hereby given the authority to demolish the structure(s) upon failure to comply with the Building Permit or Demolition Permit.

Curtis moved and Conley seconded the following motion:

15. Approve and authorize Council to support the following projects to be applied for and funded as 2007-08 CMAQ projects.

    A. Bristol Rd. (Fenton Rd. to Dort Hwy.)
    B. Center Rd. (Davison Rd. to Atherton Rd.)
    C. Belsay Rd. (Lapeer Rd. to Davison Rd.)
    D. Center Rd. Sidewalks (Atherton Rd. to Lippincott Blvd.)

Motion carried 7-0.

INTRODUCTION OF AN ORDINANCE:

Curtis moved and Isham seconded the following motion:

1. Approve and authorize an Introduction of an Ordinance, being the Soil Erosion and Sedimentation Control Ordinance.

Motion carried 7-0.

SECOND READING OF AN ORDINANCE:

Isham moved and Curtis seconded the following motion:

1. Approve and authorize the Second Reading of an Ordinance, Zoning Case #301, 6149 Lapeer Rd., Bud's Trailer Sales, R-1B Residential to C-2 Commercial for the purpose of changing back to original zoning when purchased in 1964, and such other uses permitted by the proposed zoning district. (Harold Davidson, 1477 Hunters Ridge Ct., Davison, MI 48423).

Motion carried 7-0.

Meeting adjourned at 8:50 P.M.

Gayle Webster, CMC
Burton City Clerk