CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 5, 2007, 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 Council President Gary Isham at 7:00 P.M.

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

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley; C. Abbey, DPW Director; Attorney R. Austin and G. Webster, City Clerk.

Wells moved and Major seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on January 16, 2007 at 6:00 p.m., Special Council Meeting on January 16, 2007 at 6:30 p.m., and the Regular Council Meeting on January 16, 2007 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley requested that a Legislative and Finance Meeting be held. In addition, he would like to appoint two individuals to the Planning Commission. They were both good candidates and understood the importance of the Master Plan.

COMMITTEE REPORTS:

The Legislative Meeting would address the opportunity for the City to receive County Home Dollars. A Burton subdivision would partnership with the Flint Housing Commission of Genesee County Planning Commission to help promote home ownership.

The Finance Meeting would address future infrastructure needs, including the Fenton Road watermain. Mr. LaDuke will discuss this issue with the administration and make a determination who should be present at the meeting.

AUDIENCE PARTICIPATION:

Mr. Isham acknowledged State Representative Ted Hammon and County Commissioner Jamie Curtis.

Roberta Compton, 5347 Lapeer Rd., spoke regarding her disappointment with the recent council appointments and the attorney.

Warren Nimcheski, 2429 N. Genesee Rd., spoke regarding the disrepair of the railroad tracks on Genesee Rd.

Jan Bolen, 1169 Howe Rd., opposed Mr. LaDuke's appointment to the Council. In addition, she spoke regarding the lack of maintenance at Kelly Lake Park.

Don Crawford, 6203 Briggs, spoke in reference to the lack of maintenance at Kelly Lake Park.

Pauline Dargel, 6119 Hugh St., spoke regarding the attorney charges for Mallard Pond, the Mayor's appointments and the proposed Amy Street light.

Steve Dunk, 4239 Keene, spoke regarding Mr. LaDuke's lack of respect for Council members.

Mary Crawford, 6203 Briggs, indicated that the Park Commissioners were available to answer questions. She commented on the lack of maintenance at Kelly Lake Park.

Jennifer Morquecho, 2246 Red Arrow Rd., spoke in reference to cleaning up the S. Saginaw St. area. She would like someone to promote business in this area of the City.

COUNCIL DISCUSSION:

Mr. Major would like the maintenance issues addressed at Kelly Lake Park.

The Mayor indicated that Kelly Lake Park was in relatively good shape. Many residents are enjoying the park on a daily basis. He admitted that there were some ongoing maintenance issues, which were being addressed.

Mr. Abbey suggested that more money be allocated for the upkeep of the park.

Discussion continued in reference to Kelly Lake Park regarding cleaning the toilets, mowing the weeds, replacing the skylights in the restroom, daily police patrols, locking the park up at night and potential revenue sources to help maintain parks.

Mrs. Tinnin asked for clarification on the proposed Amy Street light.

Discussion was held in reference to the placement of the proposed Amy Street light.

Moved by Conley, seconded by Cross to add as Item 16 to: Approve and authorize the resolution to submit a proposed amendment for Section 4.8 of the Burton City Charter and to have such amendment be placed on the November 6, 2007 General Election.

Mr. Wells opposed the Charter amendment that would eliminate the separation of powers in government. Council members still wouldn't be able to give orders to employees. He felt the founding fathers put this in place for a specific reason.

Mr. LaDuke felt a Charter Commission should review the whole document and not just change one section for political reasons. A simple phone call allows Council members to talk to the administration.

Mrs. Tinnin said her constitutional rights were being violated, if she could not speak to employees. She supported the amendment to Section 4.8. She thought it would be too political to open the whole Charter in an election year.

Mrs. Tinnin called the question to cease the debate on adding Item 16 to the agenda. The motion carried by a 5-2 vote.

Mr. Isham said the Charter has worked well for 35 years. If we are going to look at this section, we should open up the whole Charter and correct it.

A vote was taken to add Item 16 to the agenda. The motion carried 5-2.

In response to Mrs. Compton's remarks, Mr. LaDuke indicated that he applied for both Council appointments. He withdrew his name the first time due to surgery and later resubmitted for the position. He came to the meeting prepared to be interviewed. The Council chose not to conduct the interviews. Mr. Cross explained the process of the appointment. He said it took three votes for the appointment. Mr. LaDuke did not create the process. The vote was taken and Mr. LaDuke was asked by Mr. Cross to go up to the podium and be sworn in. He did everything that he was asked to do. He didn't ask for any special favors. He followed the procedures outlined by the Council.

Mr. LaDuke did not say that he disrespected any Councilperson. However, he was not respectful of the people that repeatedly make the same negative comments year after year.

Mr. Cross asked for clarification on Bristol/ Belsay Rd church sidewalk issue. He said the Council could not override the Zoning Board of Appeal's decision on this mater. However, the ZBA could issue a variance.

Mr. Austin said this litigation would probably be in Circuit Court for quite awhile. He agreed that the City Council had no authority to overrule the Zoning Board of Appeals.

Mr. LaDuke suggested the sidewalk ordinance be revised to accommodate some of these problem areas. There are no other sidewalks in that area.

Mr. Major said in the past, the City had the ability to work out these types of situations without going to court. The Planning Commission and/or Council must have pulled out the latitude provisions allowing this to be approved for sidewalks and then have it set aside. When sidewalks were to be connected between streets, they would be added at a later date. This provision would apply in this case.

Mr. Wells set a Legislative Meeting for February 15, 2007 at 5:00 p.m. for the purpose of reviewing the sidewalk ordinance and County Home Dollar allocations.

Mr. Cross opposed the Council addressing the sidewalk ordinance while the City was involved with litigation.

The Attorney felt the Council should be careful when discussing and addressing this issue. He said there have not been any requests for money damages. The church is just asking that the Zoning Board of Appeal's decision be overturned.

Mr. Wells said most of the accusations about Kelly Lake were exaggerated. He said the same people complaining now are the same people who complained when the park was established. He would like everyone to work together in a positive way to resolve park issues.

Mr. Austin reviewed the Court of Appeal decision on the William's case. He was hopeful that we would finally be able to demolish the old Center Rd property.

Mr. Austin asked that his billing be reduced by $25.00 due to The Journal reporter entry.

Mrs. Tinnin wanted to know if Mallard Pond was involved in litigation.

Mr. Austin said we were not involved with any litigation with Mallard Pond. This is in reference to them reimbursing us for an overpayment.

Mrs. Tinnin would like a status report on the subdivision street paving projects. She wanted to know what subdivisions were invoiced and the amount due by the next council meeting.

Mr. Austin said if the subdivisions did not pay the paving bill, the charges would be placed on their summer tax bill.

Mr. Abbey will provide the Council with a report detailing the subdivisions that were invoiced and the amount due.

Mr. Major referenced a letter from the Police Department retirees dated January 15, 2007. The retirees have requested some type of relief on their health care costs. He asked for direction on this issue. He felt Council should give some type of response.

The Mayor had no recommendation on this issue.

Several Council members felt the retirees should be discussing this issue with their bargaining unit.

Mr. Isham said the Council would give the Police retirees a response.

In response to Ms. Morquecho's comments, Mr. Wells agreed we should be promoting business on S. Saginaw St.

Mr. Cross said it was the job of the Downtown Development Authority to promote and clean up the S. Saginaw area. He suggested sending a letter stating our concerns. They should address the graffiti immediately and help promote the businesses in the area. In addition, a letter could be sent to the Chamber of Commerce so they could promote the business in that area. Mr. Cross asked Mr. Isham to provide Council with a copy of these letters.

In reference to Mr. Nimcheski's comments, a brief discussion was held in reference to the disrepair of the railroad tracks on Genesee Road.

Mr. Major suggested posting a rough grade railroad crossing sign in the area.

Mr. Abbey will send the railroad company a letter of concern in reference to this issue.

Mrs. Tinnin requested a priority maintenance report on the major roads in Burton.

The Mayor suggested Council hold a workshop to discuss these types of issues.

The Regular Council Meeting recessed at 9:00 p.m.

The Regular Council Meeting resumed at 9:10 p.m.

It was determined that Item 9 was a compound motion and should be divided into two motions. Item 9 would now read: Approve and authorize the Mayor and City Clerk to execute the authorization for: The installation of one (1) streetlight at 1512 Amy Street, with funds to be paid out of General Fund Public Services, Streetlights. The second portion of the motion will now be considered as Item 17. Item 17 would read as written: Approve and authorize this resolution that will also serve as the Blanket/Master resolution for all future changes in calendar year 2007.

Moved by LaDuke, Seconded by Tinnin to vote on Items 11, 12, 13, and 15 in a block. The motion carried 7-0.

Moved by Cross, Seconded by Major to: Table Item 14 for further investigation. The motion carried 4-3, with Isham, LaDuke and Wells voting no.

Moved by Cross, Seconded by LaDuke to: Table Item 16 until the next Regular Council Meeting of February 19, 2007. The motion carried 5-2, with Tinnin and Wells voting no.

COUNCIL DISCUSSION ACTION:

Moved by Conley, seconded by Cross to add as Item 16 to: Approve and authorize the resolution to submit a proposed amendment for Section 4.8 of the Burton City Charter and to have such amendment be placed on the November 6, 2007 General Election. Motion carried 5-2, with Wells and Isham voting no.

Mrs. Tinnin called the question to cease the debate on adding Item 16 to the agenda. A roll call vote was taken. The motion carried 5-2, with Wells and Isham voting no.

Moved by LaDuke, Seconded by Tinnin to vote on Items 11, 12, 13, and 15 in a block. The motion carried 7-0.

Moved by Cross, Seconded by Major to: Table Item 14 for further investigation.
(Approve and authorize the Resolution of Intent To Sell Real Estate to give tentative approval for the sale of the property described as Lot 493 Bendlecrest (Parcel No. 59-32-502-017) to Ronald D.

Kelly and Ettie P. Kelly, his wife, for the sum of $2,604.39, and place the Resolution on the Council agenda for March 5, 2007, for final adoption per City Charter Section 11.3(a)(1).) Motion carried 7-0.

Moved by Major, Seconded by LaDuke to: Table Item 16 until the next Regular Council Meeting of February 19, 2007. (Approve and authorize the resolution to submit a proposed amendment for Section 4.8 of the Burton City Charter and to have such amendment be placed on the November 6, 2007 General Election.) The motion carried 5-2, with Tinnin and Wells voting no.

COUNCIL ACTION:

Cross moved and Major seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 10, 2007 through January 31, 2007, in the amount of $8,092.00.

Motion carried 7-0.

Wells moved and LaDuke seconded the following motion:

2. Approve and authorize the Mayor's appointment of Robert Centilli, 4479 Lawnwood Ln., Burton, MI 48529, to the Burton Planning Commission. Term expiring February 2010.

Motion carried 4-3, with Conley, Cross and Tinnin voting no.

Wells moved and LaDuke seconded the following motion:

3. Approve and authorize the Mayor's appointment of Martha Williston, 12106 Blackberry Creek, Burton, MI 48519, to the Burton Planning Commission. Term expiring February 2010.

Motion failed 4-3, with Conley, Cross, Major and Tinnin voting no.

Cross moved and Wells seconded the following motion:

4. Approve and authorize the Mayor's re-appointment of Karen Foster, City Controller, to the Building Authority Board of Commissioners. Term expiring June 2009.

Motion carried 7-0.

Major moved and Wells seconded the following motion:

5. Approve and authorize the Mayor's re-appointment of Gayle Webster, City Clerk, to the Building Authority Board of Commissioners. Term expiring June 2009.

Motion carried 7-0.

Cross moved and Conley seconded the following motion:

6. Approve and authorize the Mayor's re-appointment of Joseph Stimac III, 6240 Greenview Dr.,

Burton, MI, to the Building Authority Board of Commissioners. Term expiring December 2009.

Motion carried 7-0.

Wells moved and LaDuke seconded the following motion:

7. Approve and authorize the Mayor's appointment of Kenneth Gould, 1160 Forest Ave., Burton, MI 48509, to the Building Authority Board of Commissioners. Term expiring April 2008.

Motion carried 7-0.

Wells moved and Tinnin seconded the following motion:

8. Approve and authorize the setting of an Audit Workshop to be held February 20, 2007 at 6:00 p.m. at the City Hall Community Room.

Motion carried 7-0.

Wells moved and Tinnin seconded the following motion:

9. Approve and authorize the Mayor and City Clerk to execute the authorization for: The installation of one (1) streetlight at 1512 Amy Street, with funds to be paid out of General Fund Public Services, Streetlights.

Motion failed 7-0, with all members voting no.

LaDuke moved and Conley seconded the following motion:

10. Approve and authorize the Mayor and City Clerk authority to sign, and the City Controller authority to issue a payment of $3,000.00 for a full compensation payment to Mr. Tim Hennagir of 6504 Lapeer Rd., Burton, MI 48509, for granting of a permanent Vassar Rd. Right-of-Way across Parcel #59-13-400-040 as part of DPW Project #04-006-P, the Lapeer/ Vassar Intersection Safety Project.

Motion carried 7-0.

Items 11, 12, 13 and 15 were voted on as a block.

LaDuke moved and Tinnin seconded the following motion:

11. Approve and authorize the City Controller to transfer $3,500.00 from 2006-07 Major Street Budget / Unappropriated Surplus to DPW Job #04-006-P ($500.00 included for administrative fees).

Motion carried 7-0.

LaDuke moved and Tinnin seconded the following motion:

12. Approve and authorize the Mayor and City Clerk authority to sign, and the City Controller authority to issue a payment of $4,000.00 for a full compensation payment to Mrs. Marilyn Duncan of 712 Collingwood Dr., Davison, MI 48423, for granting of a permanent Vassar Rd. Right-of-Way across Parcel #05-18-300-017 as part of DPW Project #04-006-P, the Lapeer / Vassar Intersection Safety Project.

Motion carried 7-0.

LaDuke moved and Tinnin seconded the following motion:

13. Approve and authorize the City Controller to transfer $4,500.00 from 2006-07 Major Street Budget / Unappropriated Surplus to DPW Job #04-006-P ($500.00 included for administrative fees).

Motion carried 7-0.

The motion was tabled for further investigation.

14. Approve and authorize the Resolution of Intent To Sell Real Estate to give tentative approval for the sale of the property described as Lot 493 Bendlecrest (Parcel No. 59-32-502-017) to Ronald D. Kelly and Ettie P. Kelly, his wife, for the sum of $2,604.39, and place the Resolution on the Council agenda for March 5, 2007, for final adoption per City Charter Section 11.3(a)(1).

LaDuke moved and Tinnin seconded the following motion:

15. Approve and authorize the acceptance of an Application for Industrial Facilities Exemption Certificate, filed by Trialon Corporation, and the setting of a Public Hearing on March 5, 2007 at 6:30 p.m., for consideration of the application.

Motion carried 7-0.

The motion was tabled until the next Regular Council Meeting of February 19, 2006.

16. Approve and authorize the resolution to submit a proposed amendment for Section 4.8 of the Burton City Charter and to have such amendment be placed on the November 6, 2007 General Election.

Cross moved and LaDuke seconded the following motion:

17. Approve and authorize this resolution that will also serve as the Blanket/Master resolution for all future changes in the calendar year 2007.

Motion carried 7-0.

Meeting adjourned at 10:30 P.M.

Gayle Webster, CMC
City Clerk