CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 7, 2011, 7:00 P.M., COUNCIL CHAMBERS
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Councilman Duane Haskins led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by President Steven Heffner at 7:10 p.m.

MEMBERS PRESENT: O'Keefe, Ellenburg, Martinbianco, Haskins, Wells, Heffner and Smith.
MEMBERS ABSENT: None.
OTHERS PRESENT: Mayor P. Zelenko, Atty. R. Austin, G. Kray, DPW Director and J. Adams, City Clerk.

Haskins moved and Martinbianco seconded the following motion:

Approve and authorize the minutes of the Regular Council Meeting on January 17, 2011 at 7:00 p.m., and Special Council Meeting on January 24, 2011 at 6:00 p.m. Motion carried 7-0.

Mr. Heffner congratulated Mayor Zelenko and the Administration on doing a fantastic job through the snow emergency. Setting up shelters and organizing key emergency people to get cars off the street was phenomenal. Mr. Heffner expressed that this is leadership.

ADMINISTRATIVE REPORT:

Mayor Zelenko said she commends the Fire, Police and DPW departments for assisting in the establishment of the severe weather plan. We are coming up with a written plan to cover winter, tornado, earthquake and other severe situations as well. A 24-hour command center was set up at our Police & Fire Headquarters and emergency centers were ready to open if we needed to house stranded motorists or those with power outages. She wants to go on record to thank Meijers, VG's and Angelo's for volunteering to donate food and water if needed. She thanked Faith Tabernacle Church, St. Nicolas Orthodox Church and Lockwood who were on-call if we needed their assistance for emergency shelters. The Hummer Club of America and the Ski's Snowmobile Club were ready on standby for emergency transportation as a lot of our police vehicles are not 4-wheel drive. The storm was not as bad as we anticipated and it was good to see a plan come together. She is proud of the Fire, Police, and DPW departments, and the citizens who removed their vehicles off the streets to expedite snow removal and create clearance for emergency vehicles.

Mayor Zelenko stated today kicked off the Senior Olympic Winter Games at the Burton Senior Center. She personally took first place in the pie-eating contest. January 26th was our Audit Workshop. It appears we will see another reduction in State Shared Revenues and we are continuing to see declining property tax values. So our property tax revenues will also be declining. Providing essential city services with less revenue is going to be a big challenge for us. Several employees have already stepped up with some ideas and they are doing research to try and put together some proposals. They are engaged in helping us step up to the plate and see what we can do to work smarter and make cut backs where we can, and still provide the essential city services.

Mayor Zelenko indicated Item #3 on the agenda is the appointment of Michael Gordon to the Board of Review. He fills the vacancy created when Mr. O'Keefe resigned to become Councilman. She congratulated and welcomed Mr. O'Keefe. Item #5 is a standard procedure removing Charles Smiley and Gayle Webster from the banking accounts and replacing with Julie Adams and myself. Item #6 should also be referenced by Project #06-001-W as it is in Item #7. Item #8 is appointing me to the vacancy created by the resignation of former Mayor Charles Smiley.

Mr. Heffner introduced Mr. O'Keefe as the City's new Councilperson.

COMMITTEE REPORTS:

Mr. Haskins reminded everyone of the Parks & Recreation Commission Meeting scheduled for this Wednesday, February 9th at 5:00 p.m.

Jim Craig, 6295 Hidden Trails, stated Gus Macker meetings would be held every Thursday starting at 5:30 p.m. in the Community Room. Everyone is welcome to attend and be involved. Mrs. Ellenburg, Mr. Heffner and Mr. Haskins are on the committee. Mr. Smith is Chairman of the promotions committee and Mr. Wells is Chairman of the sponsor committee. At-the-Macker is a National Meeting to be held in South Haven on Friday February 25th.

Mr. Heffner indicated he would have more details on this Gus Macker meeting as information comes in.

Mr. Craig said a few of us will be attending and hopefully we will get some good partnerships and ideas from other Mackers. The Gus Macker date was moved to June 25th and 26th. We have an e-mail address of www.burtonmacker@comcast.net, and a Facebook group Burton Gus Macker. We will provide updates as well as through the Parks & Recreation Facebook page. Hopefully, we will have exciting things to announce in the next couple of weeks after some meetings are held.

Mr. Heffner welcomed Mrs. Ellenburg back.

Mrs. Ellenburg said the Burton Memorial Library is having an open house on February 26th from 1:00 p.m. to 4:00 p.m. GCL is putting that on with the help of Friends of the Library. Refreshments will be provided.

AUDIENCE PARTICIPATION:

John Stapish, PO Box 190134, inquired regarding agenda Item #2 concerning the Kellar Thoma billing, and a newspaper article on the Burton Fire Stations concerning a PLA and union workers.

COUNCIL DISCUSSION:

Mayor Zelenko explained that a PLA is a project labor agreement. Many companies and facilities such as Mott College have entered into project labor agreements with the labor unions. The basis is to prevent work stoppage, prevent them from striking and give them access to certified payroll so they can examine them to make sure the workers are being paid prevailing wage. Specifically our project was already bid out so a project labor agreement is normally in place before the project is bid out in order to cover all of those costs. We are trying in our attempts at a project labor agreement to prevent work stoppages and strikes, to ensure there is a safe working environment and quality work for the work that is being done. Also to make sure the labor unions is a trade council we have the agreement with, can look at the certified payrolls to ensure they are being paid prevailing wage. Some of the groups doing the work will be non-union and some are union, but they are all going to be paid as the project was bid out on the prevailing wage scale.

Mayor Zelenko noted the City uses the Kellar Thoma firm for grievances and labor disputes.

Mr. Martinbianco inquired regarding items on the Attorney Billing that mentioned the Council vacancy, review of proposed project labor agreement, fire station construction, and the sale of a Trail Ridge lot.

Mr. Austin responded that Attorney Mike Joliat reviewed the project labor agreement in anticipation of the meeting that he attended with the Mayor. He spoke with the Mayor about that meeting and reviewed Mr. Joliat's notes concerning that. Council authorized a sale of a lot in Trail Ridge several months ago. We have worked diligently to get a title commitment from Greco Title. He received an e-mail from Greco Title on Saturday with that title commitment. He wrote a letter today to the prospective purchaser that we have the title commitment and are ready to close. We have made many attempts over the last several weeks to contact them. They have a place up north and we thought they might be in Florida. We are now in the process of contacting them to arrange for a closing date for the Trail Ridge lot; $30,000 is the purchase price that has been approved and we are ready to close. I was in Florida for that period of time and Mr. Joliat was in contact with Greco Title in my absence.

Mr. Martinbianco asked if there is still an interest in purchasing the lot
Mr. Austin stated they signed a purchase agreement prior to the time Council approved it. We hope they are still interested in it. They signed a lawful document agreeing to purchase it subject to your approval.

Mr. Martinbianco made reference concerning a gentleman present at the last Council meeting that indicated we weren't prepared in the Treasurer's Office to take care of the affidavit of non-responsibility.

Mr. Austin replied that he had communication with Iris Piske and the gentleman has been taken care of.

Mr. Smith questioned the difference between agenda Item #6 and Item #7.

Mr. Kray responded there is a 15% amount we authorize on top of any engineering firm we authorize to do work. We transfer an additional 15% to cover our staff to review their work and for administrative fees incurred by us during those reviews.
Mr. Smith inquired concerning Item #8, the streetlight at 3436 Griffith Court. He seen that there are 2 vacant homes and wondered if this was for security.

Mr. Kray stated the owner of one of those residences requested the streetlight be put up and is willing to pay the Consumers charge.

Mr. Smith asked what the cost would be for a year.
Mayor Zelenko said they called and got the formula for calculating it. It runs approximately $54.00 a year. Mr. Kray explained it is the wattage of the bulb times 4200 hours per year, divided by 1,000 to put it into kilowatt-hours and add about 8 ½ cents per kilowatt-hour. A 150-watt bulb would run $54.00 a year.

Mr. Martinbianco referenced Item #4 and stated he thanks Mr. Welch for leading the Zoning Board. They are making judgments amongst neighbors and it is a tough position to be in. He appreciates his efforts and going forward. He looks forward to his reappointment.

Mr. Wells expressed thanks to Mr. Welch for his commitment to the City and coming to the Council meetings to see what is going on here so he can take it back to his Board. In my 3 terms as Councilman that is unprecedented for one of the Board Chairman to come in here. I think it is a great thing for our City.

Mr. Martinbianco referenced Item #6 and stated we are still dealing with a connection that was made on S. Saginaw Street, a bank of note that made an illegal connection. We are talking about committing CD dollars again. He asked what has been done to attempt to recoup our costs with the bank at Saginaw and Maple?

Mr. Kray responded that this has been going on since before he started working at the City. There were meetings with the bank, and he believes Attorney Dick Hamilton was involved. The bank didn't agree to pay for anything. The way we look at it now is the DEQ is holding the City responsible, period. We are told we must correct the situation. That is the only thing I have to go by. To get out from a potential violation from the DEQ, the City needs to fix it.

Mr. Martinbianco asked why it is our problem that the DEQ foisted on us and we are made the responsible party?

Mr. Kray replied that the DEQ has been bearing down on us for years and has been kind enough not to put fines on us at this point.

Mr. Martinbianco said he is not happy how we have been dealt with and how they are going to be allowed to get away with this and we have no recourse. We have to abide by what they are demanding of us and putting us in a corner where we have to spend money that we could help other people with in the south end, and we can't do that because we have to satisfy the DEQ. He will vote for it, but doesn't want to. These people will at some point be held accountable. Mr.

Martinbianco stressed that as long as he is on Council, they will never touch one dollar of the City of Burton's money, not in any holding or account.

Mrs. Ellenburg asked if more money would be owed.

Mr. Kray replied this is for the engineering firm CHMP to make sure this contract is in full compliance with Community Block Grant requirements. There will still be a construction project to build the watermain extension. It will be put out for public bid.

In reference to Item #10, Mr. Martinbianco asked if there would be a PLA in effect on that project. Mayor Zelenko responded she did not believe so. It would go between the County and them.

Mr. Wells said after the fire station ordeal, maybe the Finance or Legislative Committee can meet and decide if that is the way we are going to go, that will be attached to the contract before it goes anywhere. After the fact, we see how this is dragging out and we are trying to do what is right. We kind of tied our hands on this one, but I won't do it in the future.

Mr. Martinbianco said he would think in some point in time we come up with a performa, PLA agreement with any construction project that involves the City. Irrespective of what it is, unless it is something we do in-house and define those areas that will do those things in-house, and be able to move forward from there. This has already cost us 6 months of the construction season just going through what we had done. We want it done right and done fair.

Mayor Zelenko stated that whether a PLA is in place or not in place, is not delaying this project at all. We are moving forward with this project regardless if we have a PLA or not in place. The Trades Council understands this as well. The project has already been bid out, contracts are already being made, we are going down for the sale of the bonds on the 14th of February and that whole process is moving along on the fire stations.

Mr. Martinbianco said he believes it may or may not impact the bond rating based on whatever happens. If there is some flex and the Mayor would know during her conversations with bond counsel and if they are comfortable where we are at. All we are trying to talk about tonight is setting a future framework and whatever we end up doing within the scope of the city, gets done within that framework and everybody understands what the ground rules are. They are our ground rules and nobody else's.

Mayor Zelenko stated because the project was already bid and all the finances are already in order, when we sell the bonds, when we know that we have the money, then we will sign the contracts for the fire station project and the renovations. The PLA in place is not going to stop that because I am holding firm that a PLA we put in place on this project will not add to the cost at all. We will have to come together with either a project labor agreement or some sort of labor agreement of understanding to help us through this project process, and then they will also help us put together a guideline for further projects so we can actually get a PLA out there before we bid so it is part of the bid process.

Mr. Martinbianco clarified they do not dictate to us what our terms of our agreements are, and everybody is free to bid as long as that is an understanding

Mr. Austin stressed that these PLA's are very intricate documents. We may not necessarily want to or be able to craft a cookie cutter document in advance to have on hand to be able to use for all future projects that would be agreeable to the city. If we don't have one on hand, it is not because the administration in any way is negligent. This administration has been extremely diligent. The Fenton Rd. Waterline has 3 different entities involved and with prevailing wage, he does not know what the County or Flint Township's thoughts are on prevailing wage.

Mr. Martinbianco asked if something happens where the County Drain Office suggests foisting a PLA on that project, are we going to be held liable for any cost overruns that may incur if they are successful? We are part of the contractual party with Flint Township and they could be held equally liable for any cost overruns if they have to enter into a PLA after the fact. We are entering into a contract with them from what I understand, and led to believe for a certain cost and I am not going to spend any more than that.

Mr. Austin responded the PLA discussion came late on the fire station projects. I think any PLA discussion on the waterline project would be late now. There has been no PLA discussion on the waterline projects that I am aware of.

Mr. Martinbianco said not that it has brought us as first person in, but with the Drain Office that may have happened. I just don't want to be party to something they are going to enter into later and expose us to additional costs.

Mr. Austin said he does not think the Legislative Committee or the Finance Committee should take up the issue of PLA agreements, prospectively because they are kind of a project-by-project issue. I don't think that there is anything that can be discussed in advance, or there is anything that can be done about projects that are not on the drawing board or at least in the thought process, in advance. The documents are too intricate to be drawn up ahead of time.

Mr. Martinbianco said there has to be a level floor under which you build any new contract. He took exception of the fact the prior administration took advantage of the situation to enter into a contractual agreement with a perspective architect to construct or give us a conceptual notion as to what a new fire station might look like and additions and renovations on existing fire stations.

Mr. Martinbianco stated further, that is where this whole thing started and nobody got the idea that there are other complications involved and maybe we should look at the whole picture first.

Mr. Austin indicated there would not be those kinds of issues anymore.

Mr. Wells said all he wanted to do was sit down with Council as a whole and have discussion about PLA's.

Mr. Wells said he is glad the waterline is finally going in and Flint Township has decided to work with us on this project. He hopes this opens the door for other communities in this County to start working together on projects to save money. He would like to have discussion in the future about tap-in fees and using some of the infrastructure that we have now and are going to have in the future. How do we promote that and get people hooked up to it. They can get healthy water and the city can start being reimbursed for some of the money we have out there. Mr. Martinbianco said our new Governor spoke on the collaboration issue on attacking particular problems and using multiple municipalities to do it. I think between Flint Township and us, we are a model case for doing exactly what we need to be doing.

Mr. Wells said we have infrastructure all over the city that is not being used and we need to start retaining our investment.

Mr. Smith said he thinks we have been very blest by having a City Attorney who actually thinks outside the box. We voted on the motion, but the actual idea was Mr. Austin's. He gives him accolades.

Mrs. Ellenburg wished Mr. Heffner a belated happy birthday.

Mr. Heffner announced Committee appointments. Mr. Smith will move to the Finance Committee, Mr. O'Keefe to the Planning Commission and 911 Consortium, and Mrs.Ellenburg will Chair the Legislative Committee.

Please note Mr. Haskins was not present when Council Action was taken.

COUNCIL ACTION:

Ellenburg moved and Smith seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 12, 2011 through February 2, 2011, in the amount of $8,928.25.

Motion carried 6-0.

Martinbianco moved and Smith seconded the following motion:

2. Approve and authorize the Attorney Billing (Keller Thoma) 440 East Congress, 5th Floor, Detroit, MI 48226, for the month of December in the amount of $339.88.

Motion carried 6-0.

Ellenburg moved and Martinbianco seconded the following motion:

3. Approve and authorize the Mayor's appointment of Michael Gordon, 1307 Kra Nur Dr., Burton, MI 48509, to the Board of Review, filling Dennis O"Keefe's unexpired term of July 2012.

Motion carried 6-0.

Wells moved and Ellenburg seconded the following motion:

4. Approve and authorize Council's reappointment of Steve Welch, 5272 White Pines, Grand Blanc, MI 48439, to the Zoning Board of Appeals. Term expiring March 2014.

Motion carried 6-0.

Wells moved and Martinbianco seconded the following motion:

5. Approve and authorize Mayor Paula Zelenko, City Clerk Julie Adams, Treasurer Iris Piske as designated signatories for all bank accounts with the City of Burton.

Motion carried 6-0.

Ellenburg moved and Smith seconded the following motion:

6. Approve and authorize the Mayor and City Clerk to enter into a contract with CHMP, Inc. to provide engineering services as detailed on the attached CHMP, Inc. proposal dated July 29, 2010, for an amount not to exceed $5,900.00. (Project #06-001-W).

Motion carried 6-0.

Ellenburg moved and Smith seconded the following motion:

7. Approve and authorize the transfer of $6,785.00 from Water Unrestricted Net Assets to Project #06-001-W.

Motion carried 6-0.

Martinbianco moved and Ellenburg seconded the following motion:

8. Approve and authorize the Mayor and City Clerk to execute the authorization for:

    1) The installation of one (1) streetlight at 3436 Griffith Court, with funds to be paid by Robert Leff. This resolution will also serve as the Blanket/Master resolution for all Future changes in the calendar year of 2011.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

9. Approve and authorize the Mayor and City Clerk to enter into the Genesee County Water

Supply System (Fenton Road Watermain Project) Series 2011 Financing Contract with Flint Township and Genesee County.

Motion carried 6-0.

Wells moved and Ellenburg seconded the following motion:

10. Approve and authorize the Resolution Approving Act 342 Contract and Publication of Notice Thereof as it pertains to the Fenton Road Watermain Agreement 2011 with Flint Township and Genesee County.

Motion carried 6-0.

Ellenburg moved and Martinbianco seconded the following motion:

11. Approve and authorize the appointment of Mayor Paula Zelenko to the Genesee County Drain Commissioner's Water and Waste Services & Surface Water Management Advisory Committees, filling the vacancy created by former Mayor Charles Smiley.

Motion carried 6-0.

Meeting adjourned at 8:01 p.m.

Julie R. Adams, City Clerk