CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 18, 2008, 7:00 P.M., COUNCIL CHAMBERS
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Councilwoman Laurie Tinnin led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by Council President Tom Martinbianco at 7:00 p.m.

MEMBERS PRESENT: Conley, Ellenburg, Haskins, Heffner, Martinbianco, Tinnin and Wells.

MEMBERS ABSENT: None.

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

Haskins moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on February 4, 2008 at 6:30 p.m., and the Regular Council Meeting on February 4, 2008 at 7:00 p.m.
Motion carried 7-0.

ADMINISTRATIVE REPORT:

Peggy Green, Bishop Construction, 3374 Center Rd., gave a report on the Gus Macker Tournament. Topics included: the availability and price of rooms, media interests, website links, school contacts, sponsors and what participants should expect. She predicted the event would bring 9,000-11,000 people to the area. The event will be held at the old Showcase Cinema. Insurance details are still being worked out.

The Mayor recognized the road crews for doing such a good job with snow removal. Due to a salt shortage, Mr. Kray has been working hard to obtain salt from numerous companies. He said the crews are working hard to keep the roads as clear as possible.

The Mayor said that “Love for a Cause” was held a City Hall on Valentines Day. He thanked the sponsors and photographer. Employees helped with decorating, food and as ushers.

On February 7, 2008 the Rotary recognized Al Hardy as Fireman of the Year and Officer Drigget as Policeman of the Year.

The Mayor and Mr. Austin requested a Closed Session to discuss the Cernet litigation.

Moved by Wells, Seconded by Ellenburg to: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending litigation with Cernet, under Section 8, (e) of the Open Meetings Act. Motion carried 7-0.

COMMITTEE REPORTS:

Mr. Wells reported on the Finance Committee that was held February 6, 2008. He made the following motions.

Moved by Wells, Seconded by Heffner to add as Item 5 to: Approve and authorize a transfer of $25,035 from various fund salary line items to fund the personnel director’s position for the remainder of the 07/08 fiscal year. Motion carried 6-1, with Tinnin voting no.

Moved by Wells, Seconded by Heffner to add as Item 6 to: Approve and authorize a transfer of $6,725 from various fund contingencies to various fund fringe benefit line items to fund the personnel director’s position for the remainder of the 07/08 fiscal year. Motion carried 6-1, with Tinnin voting no.

Moved by Wells, Seconded by Heffner to add as a First Reading of an Ordinance, Item 3 to: Approve and authorize Ordinance 6C-R, amending Ordinance 6C, Section 1B-1, to read the connection charge shall be $1,000 per unit for the first 50 units, and $750 per unit thereafter. Motion carried 7-0.

Mrs. Tinnin reported that the Planning Commission approved Mr. Sekrenes to move forward with a 20-unit assist living community at Mallard Ponds. She felt this would be a nice viable community for the area.

AUDIENCE PARTICIPATION:

Don Brown, 1424 Connel, wanted to know if there was any property tax relief for low-income households. He was told to contact the Assessor’s Office for details regarding hardship tax relief.

John Stapish, P.O. Box 190134, said the Council should repeal the burning ordinance that designates people cannot burn within 50 feet of a building. He said this discriminates against south end residents with small lots. He did not feel people should be forced to clean off their sidewalks.

Jennifer Morquecho, 2246 Red Arrow Rd., indicated that the DPW has done a good job keeping the roads clear. She presented Council members with a packet of information regarding Cernet. She asked them to please review the information.

Jan Bolen, 1169 Howe Rd., wanted to know when the fence was going to be repaired at Kelly Lake. She wanted to know how every dollar of the bond money would be spent. She said all City jobs should be posted so qualified residents could apply.

Bill Maloney, 1160 Arrowhead, spoke in opposition to the sidewalk ordinance. He didn’t feel older citizens or people in poor health should have to clean their sidewalks. He said the City should find a better solution.

COUNCIL DISCUSSION:

Mr. Wells suggested the Legislative Committee review the sidewalk ordinance. He hoped the City could help residents with snow removal problems.

Mr. Martinbianco said the Davison Rd residents did not ask for the sidewalks to be installed. Not all areas received sidewalks. He felt this was a forced environment. He said some people are unable to maintain the sidewalks. The government should not be threatening these individuals with fines or jail. If we incorporate sidewalks into future projects, we should include maintenance.

The cleaning of sidewalks pertains to Section 90.080 (Ordinance 65C) in the codified ordinances.
Letters were sent out on a complaint basis, just like any other ordinances violation. Not clearing sidewalks is a municipal civil infraction, not a misdemeanor. This is not a criminal ordinance and nobody was threatened with arrest. Mr. Austin suggested we distinguish between residential, commercial and industrial zoned districts when addressing sidewalk issues. Mrs. Tinnin set a Legislative Meeting for March 3, 2008 at 6:30 p.m. to discuss sidewalk snow removal.

Mrs. Tinnin spoke regarding the foreclosures in the Pebble Creek Subdivision. She wanted the Attorney to provide an update to City Council regarding the 71 properties that are in foreclosure. She requested a narrative based on a timeline. In addition, she wanted to know what impact this would have on the bond obligations and General Fund. Mr. Austin would be happy to provide a factual synopsis of the Pebble Creek situation.

She spoke in opposition to the $11 million bond resolution that was passed on February 4, 2008. Her concerns included: The Finance Committee didn't review the issue. The bond was too high. Specific projects and costs were not outlined. Water and Sewer Bonds were not separated from Fire Station improvements. There was not a guaranteed revenue source. Current water and sewer customers would pay the bond payments. Mr. Joilet gave an opinion dated March 31, 2007. He said increasing water and sewer rates and forcing current customers to pay for the expansion and maintenance of the system was a violation of the BOLT decision, because the expansion is of no benefit to the existing customers. She felt the City was opening itself up for liabilities. She said the water and sewer ordinances were so antiquated that they should go back to the Legislative Committee for review. She indicated that the people have a 45-day referendum period to initiate a petition to have this go to a vote of the people. That referendum period expires April 2, 2008. If people are interested in joining a committee to circulate petitions, they should contact her.

Mr. Martinbianco reminded Mrs. Tinnin that a meeting was held in early December outlining water, sewer and fire station needs. The DPW construction was not mentioned. The DPW put together a number that was $11.5 million. He predicted that number would be less. There are certain aspects to that plan that probably won't happen, while there are certain aspects that certainly need to happen.

Mrs. Tinnin felt that bordering communities and the mobile park owner should contribute to the water line projects. To her knowledge, no agreements have been drafted. She felt the bonds would be paid off the back of the users. She wanted to see a revenue source for these bonds.
Mr. Wells said the water system is one entity. It should not be broken into separate areas of the City. If a water line goes down in the City, everyone is going to pay for it at the same time. He

said if we don't take care of our infrastructure needs now, it will cost millions of dollars for repairs. He said this would benefit the health and safety of the residents. He indicated that Genesee County has the highest level of arsenic in the ground. We need to consider our future water needs. He didn't feel the bond payments would go on the water bills. The Finance Committee would review this issue and make the best possible decision for the City. It was hard for him to believe that a sitting Council member wanted to petition to stop something that the other six had voted to move forward.

Mr. Martinbianco said the focus of the discussion was who ultimately would pay for improvements to the system. As Mr. Wells indicated, the water system was whole and complete throughout the City. Everybody who was hooked up to the City water, whether it was voluntary or they paid their front foot fee, they are paying a monthly charge for the commodity that is used. They are ultimately going to pay for any other expansion to that system.

Mr. Heffner indicated that the gate at Kelly Lake Park was in need of repair. He suggested the Police Department make the responsible party pay for damages. Mr. Martinbianco asked DPW to repair the gate.

Mr. Martinbianco recognized County Commissioner Jamie Curtis and ZBA Chairman Mr. Welch.

The Regular Council Meeting recessed at 8:15 p.m. to go into Executive Session.
The Regular Council Meeting reconvened at 8:43 p.m. after Executive Session.

Mr. Austin said Council met in Executive Session to discuss pending litigation with Cernet. No decisions were made at that time.

Mrs. Tinnin asked for a status report on the County Sewer Ordinance. Mr. Austin said the County has insisted all municipal users adopt an ordinance identical to theirs, except for Article 5. He has made several amendments to that ordinance. Several municipalities are working together to form an identical ordinance before sending it back to the County.

In reference to Item 4, Mr. Kray indicated a new business moved into the old Delphi building. They required a 10-inch meter for their fire suppression system. We do not have a rate to cover this size meter. Therefore, he calculated a cost for this size meter.

In regards to Item 5, Mrs. Tinnin was concerned with approving fringes for a new director, if it was a retiree. Mr. Martinbianco indicated that several factors were included in the fringe benefit line item. He said these numbers were provided to Council by Mrs. Foster.

In regards to the 50-unit break down charge, Mr. Wells said the pricing designated a larger development from a smaller one. He felt we should take care of the infrastructure. He took the economy into consideration. We want to encourage businesses to come into Burton. He welcomed further discussion on this issue.
Mrs. Tinnin said this was an area where we could recoup the costs of the bonds. The developer should pay these costs. They are the ones that would receive the benefit. She said we obtained comparisons on tap-in fees from other municipalities. She felt these fees had been adjusted to a

fair and reasonable cost. She did not want to change the fees. She did not want new development to be paid for off the backs of the current users. Mr. Wells said we could change the ordinance or leave it the same. He would like to make it customer friendly. If a mobile home park tapped in, we could have up to 200 more water customers. This could drive prices down.

Mrs. Ellenburg suggested Mrs. Tinnin obtain information relating to foreclosures of Pebble Creek through the appropriate departments instead of the Attorney. Mr. Austin said this information was available through the Mayor, Controller, Treasurer or the Assessor.

COUNCIL DISCUSSION ACTION:

Moved by Wells, Seconded by Ellenburg to: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending litigation with Cernet, under Section 8, (e) of the Open Meetings Act. Motion carried 7-0.

Moved by Wells, Seconded by Heffner to add as Item 5 to: Approve and authorize a transfer of $25,035 from various fund salary line items to fund the personnel director's position for the remainder of the 07/08 fiscal year. Motion carried 6-1, with Tinnin voting no.

Moved by Wells, Seconded by Heffner to add as Item 6 to: Approve and authorize a transfer of $6,725 from various fund contingencies to various fund fringe benefit line items to fund the personnel director's position for the remainder of the 07/08 fiscal year. Motion carried 6-1, with Tinnin voting no.

Moved by Wells, Seconded by Heffner to add as the First Reading of an Ordinance, Item 3 to: Approve and authorize Ordinance 6C-R, amending Ordinance 6C, Section 1B-1, to read the connection charge shall be $1,000 per unit for the first 50 units, and $750 per unit thereafter. Motion carried 7-0.

COUNCIL ACTION:

Haskins moved and Tinnin seconded the following moton:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 30, 2008 through February 13, 2008 in the amount of $4,342.00.

Motion carried 7-0.

Wells moved and Conley seconded the following motion:

2. Approve and authorize a permanent Traffic Control Order for the placement of a stop sign on Euston at Carmen.

Motion carried 7-0.

Wells moved and Conley seconded the following motion:

3. Approve and authorize the Mayor to execute all necessary documents regarding an amendment to the existing lease agreement dated October 1, 1999, with Crown Castle

International for the lease of the Proper Street cellular tower property upon the terms and conditions as set forth in the Letter Agreement dated February 4, 2008.

Motion carried 7-0.

Haskins moved and Tinnin seconded the following motion:

4. Approve and authorize the establishment of a Ready to Serve Charge for a 10" water meter at $1523.81/month.

Motion carried 7-0.

Wells moved and Heffner seconded the following motion:

5. Approve and authorize a transfer of $25,035 from various fund salary line items to fund the personnel director's position for the remainder of the 07/08 fiscal year.

Moton carried 6-1, with Tinnin voting no.

Wells moved and Conley seconded the following motion:

6. Approve and authorize a transfer of $6,725 from various fund contingencies to various fund fringe benefit line items to fund the personnel director's position for the remainder of the 07/08 fiscal year.

Motion carried 6-1, with Tinnin voting no.

FIRST READING OF AN ORDINANCE:

Haskins moved and Wells seconded the following motion:

1. Approve and authorize an Ordinance 101-1C, to Repeal Ordinance 101(C) regarding the Establishment of a Collective Bargaining Authority.

Motion carried 7-0.

Haskins moved and Conley seconded the following motion:

2. Approve and authorize an Ordinance 105-1C, to Repeal Ordinance 105(C) regarding the Use of Tobacco Products in City Buildings and Vehicles and Upon City Owned Land.

Motion carried 6-1, with Tinnin voting no.

Wells moved and Heffner seconded the following motion:

3. Approve and authorize Ordinance 6C-R, amending Ordinance 6C, Section 1B-1, to read the connection charge shall be $1,000 per unit for the first 50 units, and $750 per unit thereafter.

Motion carried 5-2, with Conley and Tinnin voting no.

Meeting adjourned at 9:05 p.m.

Gayle Webster, CMC
City Clerk