CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 18, 2013, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.gov

Council President Tom Martinbianco led the Invocation and Pledge of Allegiance.

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

MEMBERS PRESENT: Martinbianco, Heffner, Smith, Wells, Ellenburg, O'Keefe and Haskins.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor P. Zelenko, Atty. R. Austin and J. Adams, City Clerk.

Haskins moved and O'Keefe seconded the following motion:
Approve and authorize the minutes of the following meetings: Special Council Meeting on February 4, 2013 at 6:30 p.m., Regular Council Meeting on February 4, 2013 at 7:00 p.m., Special Council Meeting on February 11, 2013 at 6:00 p.m., and Special Council Meeting on February 11, 2013 at 6:30 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Zelenko requested Council to add as agenda Item #12 the approval of a Delegate and Alternate to the National League of Cities Annual Conference in Washington, DC. Item #2 is the Planning Commission appointment of Jerry Kerr to fill the unexpired term of Les Bertram. Items #3 through #6 are second approvals on the sale of City owned properties. Items #7 through #10 are the first acceptance of bids on the sales of newly tax reverted properties. Item #11 is setting Public Hearings on the first set of demolitions, typically allowing 15 minutes per hearing. Council may set the hearings all in one day or over two days.

Mayor Zelenko stated the Next Michigan Development Corporation met February 12th and voted unanimously to accept the Renaissance application and submit to the Economic Development Corporation. As soon as we know the status from the State we will inform Council. We are still in negotiations with SEIU and in arbitration with the Police and Fire unions. There may be an update from Ms. Warren at the next Regular Council Meeting. The Police Department will give a presentation at 6:30 p.m. on March 18th regarding changes in police philosophy. Council received from Chief Osterholzer a detailed packet just before Christmas. She asks Council to please review it if they haven't already done so. Mayor Zelenko expressed thanks to everyone who participated in making the Hot Chocolate 5K Race a success this past Saturday.

COMMITTEE REPORTS:

Mrs. Ellenburg said the Legislative Committee met earlier today regarding amending Chapter 137 of the Marijuana Ordinance concerning the carrying of it in the vehicle and how it is handled. It was the Committee's recommendation to send it to Council's next meeting for approval.

AUDIENCE PARTICIPATION:

Atty. Bruce Leach, 4025 E. Hill Rd., Grand Blanc, MI, stated he represents Hemphill Wellness Center, a medical marijuana dispensary located within the City of Burton. He drafted a letter to Attorney Rick Austin and Council stating that it will no longer operate as a traditional retail dispensary given the recent Supreme Court Decision of McQueen and the Marijuana Act of 2008. We feel our new collective method of operation will be in full compliance with the law. He is here to represent their interest in the community, and to notify you that all times, we want to maintain an open channel of communication so we can protect the 8,000 plus residents in Genesee County who rely on this facility to maintain their medicine for one reason or another.

Misty Christopher, 3188 S. Term, expressed she is a single mother with four children ages 9 to 16. She was raised in Burton and the children attend Atherton School. She placed a bid for the property at 3333 Lockhead. She is involved with many school volunteer programs, the Community Garden and Burton Christmas celebrations. She is a self-employed child care provider. She recently was informed that the house she has been renting is being foreclosed and she must move out by May. She hopes Council takes her offer for the property under great consideration.

Jim Shustock, 1346 Howe Rd., said a lot of people are renting houses where the landlords are keeping the money and not paying the house payment to the bank. The homes then get foreclosed on.

Wayne Robinson 3243 S. Term, said he also put a bid on the 3333 Lockhead property. He feels for Ms. Christopher, but he is also in a similar situation. He lives with his grandmother and his three children. He needs the home as much as she does.

John Stapish, PO Box 190134, inquired regarding agenda Item #11. He asked who investigated these properties. He has several properties that have been tagged by DPW and demoed. The tenants at 2129 Bergin had not moved out yet and the water department was there and turned the house in. It was tagged before the tenants were out of there.

Mr. Martinbianco referenced Mr. Stapish's questions and spoke of the DPW code enforcement / building inspector.

Jim Shustock stated on behalf of the Friends of the Library, they raised some money from books sales for parking lot improvements and they are in the plans of other fundraising activities. He is hopeful Council will take this into consideration and help us out.

Sadonna Myers, 1459 Alberta, said Jim Shustock has been checking on the parking lot and with Courtland Mall on setting up a little book store there. They were very excited about having a book store but we are sort of treading water as there are liability issues and can't do anything until that is taken care of. We are trying to get it so we can remove books from the DPW storage area and out of Morris' garage.

COUNCIL DISCUSSION:

Mr. Wells inquired regarding the budget audit.

Mayor Zelenko expressed there have been accounting issues during all the transfers and changes to the BS & A program and IT upgrades. We fell a little behind on some of the bank reconciliations and we brought in a temp to help. Until we get those finished, the audit can't be completed. We hope to get that done in the next couple of weeks.

Mr. Smith said the Friends of the Library are looking at liability issues with a location at Courtland Center. Would there be any opportunity for the City's liability insurance to have an umbrella to cover that at Courtland Center.

Mayor Zelenko said we wanted to talk with the Genesee District Library. We own the building for the Burton Memorial Library but not the operation, Genesee District Library does. She does not believe trying to move a part of their operation to Courtland falls underneath our liability. We can check into it but we need to hear from the District Library first. Mary Downs, Sadonna and Ellen Ellenburg are working with that.

Mr. Austin addressed the Marijuana Ordinance. He said the Michigan Supreme Court came out with an opinion which prompted a letter that went out from his office to the distribution facilities currently operating within Burton.

Mr. Martinbianco asked Mr. Austin what made him feel obligatory to sending those institutions a letter from his office indicating this is what the Supreme Court said. We had one voluntary closure and why didn't everyone else pick that up? He feels it should not have taken a letter from his office to do it. He doesn't doubt his intention and informing them there could be an issue but it wasn't his obligation.

Mr. Austin explained this was done in conjunction with Administration and the Police Chief. We didn't want one option for the police to shut a legitimate business down or a business that had been operating legitimately within the City for some period of time and just go in and shut them down. We thought it was best to give them the courtesy of a letter and through the City Attorney's Office. The letter was short and to the point that the Supreme Court came out with a ruling on a number of things that could no longer take place. Mr. Leach came forward with a brand new business model for these dispensaries and I asked him to come before you tonight and explain it for your and my consideration. We are studying it now and I wanted to give you that report.

Mr. Martinbianco said if someone was operating a business not in compliance, you would give them that same difference an opportunity. He referenced a business shut down at Fenton and Maple and expressed concerns of picking and choosing some industries without caution to someone else that may be trying something legitimate in their own mind, but not brought to the table.

Mr. Martinbianco stated further that the business at Fenton and Maple came to mind, and whether they were legitimate or against the law irrespective, we did not offer the same discretion by sending them something out of your office saying you better look at it because we got something from the State, something from the Prosecutor's Office, saying we are going to shut you down.

Mr. Austin asked if the City closed a business at Fenton and Maple without giving them notification.

Mr. Martinbianco responded he doesn't know if we gave them notification. You indicated giving notification to operators here and I don't know that you gave the same indicator to somebody else that was in a similar situation.

Mr. Austin said before we close down any legitimately operated business, we take every effort to give them a written notice; at least that I am involved in. I am not aware of what you are referring to.

Mr. Martinbianco said if we are going to indicate to people through the Attorney's Office a fore-notice, we have to do it to everybody and not just to this select group that may or may not have anything to do with dealings with the City.

Mayor Zelenko said we only have 4 medical marijuana facilities and we did all four. These are the only ones affected by this ruling.

Mr. Martinbianco asked if we do this in every case where something happens at a State or County level that impacts individuals where they should be noticed as these folks were.

Mayor Zelenko stated to her knowledge, this is the only situation that has been reoccurring with the Attorney, we are trying to stay on top of. The sweepstakes was closed down by the State Gaming Commission and we had nothing to do with that.

Mr. Martinbianco asked what law from the State is indicative of shutting down the marijuana places.

Mayor Zelenko responded it was the Michigan Supreme Court ruling.

Mr. Martinbianco said the State of Michigan closed down the other operations but we didn't give them notice saying we are going to close you down if you don't voluntary do it.

Mayor Zelenko said this is different because of the public health code which reverts back to the local governments.

Mr. Martinbianco said everybody finds a loophole to say we can characterize what we are going to do to this group of people, or that group. I always thought you treat everybody fairly and evenly.

Mr. Austin stated the City of Burton would not have had part of the shutting down of that operation. Whereas, the dispensaries would have been and may yet still possibly be, something we would be involved with the shutting down of those operations because of our ordinance.

Mr. Wells said everyone has a copy of the business plan from Mr. Leach. Not all of Council was privy to the information talked about in the Legislative Meeting. Mr. Austin went into more detail at that time. We are going back to read this information and see if we want to have another Legislative Meeting. At that time we will bring it back before Council. He thinks this is a good business with 8,000 people in Genesee County having medical marijuana cards. That is a little over 5% of the population. Mr. Wells asked Mr. Austin to pass out the Supreme Court ruling to all Councilmembers.

In reference to Item #1, Mr. Haskins inquired regarding three Attorney Billing items that referenced FOIA requests. Mr. Austin said it was regarding a pending Circuit Court lawsuit. The City Administrative staff handles 90% of FOIA requests without our involvement. Mr. Haskins questioned further a reimbursement item. Mr. Wells inquired regarding tax tribunal items. He said they see a lot of them on the billing but they rarely see the results. He asked if something could be given to Council to update them. Mr. Austin said he spoke to Mike Joliat, who handles all the tax tribunals. They settled 5 tax tribunals in the last week to 10 days. Mayor Zelenko said she will ask Stacey Bassi to do a report on where she is at with tribunals.

In reference to Item #7, Mr. Haskins inquired regarding the wording of "single man" in the resolution and if it makes a difference. Mr. Haskins questioned one of the applicant's being a married man and not single. An inquiry will be done by Brenda Moulton. Mr. Austin said that is how the deeds are made out. Mr. Heffner asked the Mayor to speak about the process to obtain a property. Mayor Zelenko deferred the question to Atty. Austin.

Mr. Austin explained that each property comes to the City from the tax reversion process; Council established by resolution a minimum price with the help of the City Assessor. It was done by resolution the beginning of the year in January. These properties have been put up for bid in conformance with the City Charter, these properties have to be approved twice and each of these properties receives sealed bids. Council is being asked to approve the highest bid on each property, and then Council will be asked on a second occasion to approve the same bid a month from now. It requires 2 approvals before it is effectuated.

In reference to Item #9, Mr. Haskins expressed that the City has a fair bidding process. It is not that we like one person over another. He hoped Ms. Christopher understands the whole process explained by Atty. Austin, and it is nothing personal in this matter. Mr. Martinbianco interjected this clearly illustrates another facet that you want in a neighborhood. He briefly spoke regarding neighborhood stabilization and possibly revisiting the City's procedures in the future.

Mr. Heffner mentioned Burton Neighborhood Housing.

Mr. Martinbianco said they were very reliant on Federal dollars. There has been talk about a Burton Housing Commission. Many of those have been doomed to failure from the beginning. They have found that their Federal dollars coming in being the one that is going to support from the beginning and then hoping that the banking system such as it was and is now, 2 different creations as they were 10 or 15 years ago, it would be problematic to have that happen.

In reference to Item #11, Mr. Heffner asked if these demolition hearings could be condensed down into 2 meetings instead of 3. Mr. O'Keefe suggested moving all of Tuesday, March 19th hearings to Wednesday, March 26th. Mr. Wells suggested 2126 McLean be moved to 5:15 p.m. on Monday, March 18th to give more of a buffer for the Police presentation. Mr. Wells asked the Mayor if she would have Stuart Worthing at the meetings, and a letter sent out to all of these homes. Mayor Zelenko acknowledged she would have Mr. Worthing in attendance and notifications are sent out.

Councilman Heffner and Vice President Duane Haskins amended the motion to Item #11 to move the public hearing for 2125 McLean to 5:15 p.m. on Monday, March 18, 2013, all the scheduled public hearings for Tuesday, March 19th are moved to Wednesday, March 20th and will begin after 6195 Roberta St. is heard at 6:30 p.m.

In reference to Item #12, discussion ensued regarding a Delegate and Alternate to the National League of Cities Annual Conference in Washington, DC, from March 9, 2013 through March 13, 2013. Mrs. Ellenburg said she would go to the conference. Mr. Heffner said he will make the motion for Mrs. Ellenburg to be the Delegate and Alternate.

COUNCIL ACTION:
Haskins moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 29, 2013 through February 13, 2013, in the amount of $7,917.90.

Motion carried 7-0.

Heffner moved and Haskins seconded the following motion:

2. Approve and authorize the Mayor's appointment of Jerry Kerr, 2392 Meadowcroft Dr., Burton, MI 48519, to the Planning Commission, to fill Les Bertram's unexpired term of May 2015.

Motion carried 7-0.

Heffner moved and Ellenburg seconded the following motion:

3. Approve and authorize a Resolution Authorizing Sale of 1311 Decamp, Parcel #59-30-576-095, to give second and final approval for the sale of this improved parcel to Akeel Dakki, for the sum of $3,800.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

4. Approve and authorize a Resolution Authorizing Sale of 2140 E. Bristol Road, Parcel #59-32-502-059, to give second and final approval for the sale of this improved parcel to Akeel Dakki, for the sum of $3,000.00 cash or its equivalent and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

5. Approve and authorize a Resolution Authorizing Sale of 2130 Morris Avenue, Parcel #59-32-552-115, to give second and final approval for the sale of this improved parcel to Akeel Dakki, for the sum of $1,000.00 cash or its equivalent and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

6. Approve and authorize a Resolution Authorizing Sale of 4150 Lapeer Road, Parcel #59-15-552-042, to give second and final approval for the sale of this improved parcel to Ford H. Eddy, for the sum of $2,600.00 cash or its equivalent and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

7. Approve and authorize the acceptance of a bid for the property at 1225 Carman Street, Parcel #59-30-577-223, to give first (of two) approvals for the sale of this improved parcel to Jeffrey Maddock, a single man, for the sum of $2,100.00 cash or its equivalent.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

8. Approve and authorize the acceptance of a bid for the property at 3342 Leta Street, Parcel #59-28-528-069, to give first (of two) approvals for the sale of this parcel to Jeremy Iiams, a single man, for the sum of $2,020.00 cash or its equivalent.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

9. Approve and authorize the acceptance of a bid for the property at 3333 Lockhead, Parcel #59-28-528-120, to first (of two) approvals for the sale of this improved parcel to William C. Robison, II, for the sum of $9,000.00 cash or its equivalent.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

10. Approve and authorize the acceptance of a bid for the property at 4160 Springfield Street, Parcel #59-15-552-100, to give first (of two) approvals for the sale of this parcel to Akeel Dakki, a single man, for the sum of $1,000.00 cash or its equivalent.

Motion carried 7-0.

Heffner moved and Haskins seconded the following motion as amended:

11. Approve and authorize the acceptance of the Report to the Burton City Council on Investigation of Potential Nuisance or Hazardous Condition of Premises on the following properties located in the City of Burton and set a Public Hearing date and time to consider any objections and/or favorable comments relative to the referenced premises. This Public Hearing can be scheduled at various times below on Monday, March 18, 2013, Tuesday, March 19, 2013, and Wednesday, March 20, 2013, should the Council find this favorable or any other date and time Council prefers, allowing 20 days notice to property taxpayers for the scheduled hearings.

Monday, March 18, 2013

1) 2126 McLean at 5:15 p.m.
2) 1399 Bristol at 5:30 p.m.
3) 2032 Whittemore at 5:45 p.m.
4) 2089 Sandalwood at 6:00 p.m.
5) 2099 Bergin at 6:15 p.m.

Wednesday, March 20, 2013

1) 3379 McKinley at 5:30 p.m.
2) 3475 Loder at 5:45 p.m.
3) 4344 Bennett at 6:00 p.m.
4) 4431 Shubert at 6:15 p.m.
5) 6195 Roberta at 6:30 p.m.
6) 2162 Buder at 6:45 p.m.
7) 2284 Williamson at 7:00 p.m.
8) 3317 Dell at 7:15 p.m.
9) 3370 Ellis Park at 7:30 p.m.
10) 3376 Marion at 7:45 p.m.

Motion carried 7-0.

Heffner moved and Haskins seconded the following motion:

12. Approve and authorize Councilwoman Ellen Ellenburg as Delegate and Alternate to the National League of Cities Annual Conference in Washington, DC, from March 9, 2013 through March 13, 2013.

Motion carried 7-0.

Meeting adjourned at 8:15 p.m.

Julie Adams, City Clerk