CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
MARCH 19, 2007, 7:00 P.M., COUNCIL CHAMBERS
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Councilman Ralph LaDuke led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by President Gary Isham at 7:00 P.M.

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

MEMBERS ABSENT: Wells.

OTHERS PRESENT: G. Kray, Deputy DPW Director; Attorney R. Austin and G. Webster, City Clerk.

Tinnin moved and LaDuke seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on March 7, 2007 at 7:00 p.m. and the Special Council Meeting on March 9, 2007 at 5:00 p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mr. Kray acknowledged the written administrative report. He spoke on Item 4 regarding the increases in the street sweeping bids. He recommended throwing out the current bids and eliciting a two-year contract in order to lower the overall price of the contract.

COMMITTEE REPORTS:

None.

AUDIENCE PARTICIPATION:

Jamie Curtis, County Commissioner, 1101 Beach St., spoke on the new 911 record management software and paperless tickets. He said the County needs a commitment on this project by the end of April. He commented on Old Genesee Road. If the City follows through with his option, they could get the land for a dollar. In addition, he spoke regarding the senior center grant allocations. The first allocation would be $150,000. Hopefully, next year this would increase to $225,000.

Discussion continued on the maintenance of the senior center grant allocations. Local governments are required to maintain previous funding. Any money spent on capital improvements would come off of the maintenance of efforts. Burton would decide how to spend these dollars. There are no restrictions for using the money for administrative purposes.

County directories should be available for the public in the near future.

Mary Down, 3467 E. Scottwood, spoke in favor of the Genesee District Library millage renewal. She said $5,000 was deposited in the library fund at the City. The Burton Memorial Library needs a community room and additional parking.

Pauline Dargel, 6119 Hugh St., was concerned with the violation of the Open's Meeting Act. She said a number of items were added to the agenda after public participation. She spoke regarding item 5 and the Jackson easement. She felt special consideration had been given to this area. She felt there should not be personal attacks amongst board members.

Warren Nimcheski, 2429 N. Genesee Rd, asked for clarification on the Dortch Drive easement fees.

Rebecca Hoeft, 3521 Fern, said she was the woman that Mayor Smiley helped with her utility bill. She was very grateful that he was able to provide heat for her children in the winter months. He did not asked for any favors in return. She thanked him for his kindness.

Arthur Jankowski, 4108 Leith St., was concerned about the DPW throwing asphalt in the holes with out packing it down. He said the loose tar was blowing on the vehicles and didn't stay on the roads.

Jennifer Morquecho, 2246 Red Arrow Rd, opposed an issue before the Zoning Board regarding the concrete crushing plant on Dort Hwy. The huge mountains of concrete continue to grow and are becoming an eye sore to the City. The noise level at the plant is very loud and annoying, disturbing the neighbors in the area. She requested the noise ordinance be revised to indicate a reasonable decimal noise level. She was concerned that the plant was contaminating well water in the area. She would like Council to speak to the Zoning Board on behalf of the residents.

Morris Abbot, 2489 N. Eugene St., spoke in favor of the Genesee County District Library millage renewal.

COUNCIL DISCUSSION:

Mr. Cross planned to get a new updated list from the pastoral association.

Mr. Cross indicated Mr. Hatch was not aware of the bid deadline. He would like to participate in this process. Mr. Cross was in favor of tabling the street sweeping contract and putting it out for bids once again.

Mr. Cross wanted to know if Mr. Kray had purchased a flexible microphone for the podium. Mr. Kray said the current microphone worked and he didn't plan to purchase any new equipment in this fiscal year. Mr. Cross planned to transfer the payment for the flexible microphone.

Mr. Cross commended the Council for only spending $125.00 on the last attorney billing.

Mr. Cross said Bubba O'Malley's had cars parked everywhere. They must have been in violation of the seating capacity. He said they should apply for a function permit. They should not be allowed to park all over or have that many people there.

Mr. LaDuke spoke regarding the letter from the Teamsters. He wanted to go into Closed Session to discuss issues relating to the contract.

Mr. LaDuke moved and Mr. Major seconded the motion to: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending contractual negotiations of Teamsters Local 214, under Section 8, (c) of the Open Meetings Act, following agenda items. The motion carried 6-0.

A discussion was held on the Dortch Drive easement. Mr. Austin said the City was paying the same customary cost per square foot as the County pays for acquisition of easements. He indicated the payment was a negotiated amount arrived at by Mr. Wingbald and Mr. Jackson. This would alleviate the necessity to go to Circuit Court for condemnation. Agenda Item 5 was amended to include a not to exceed amount and Item 3 was deleted from the agreement.

Mrs. Conley would like graffiti removed from the Butcher's Gym on Davison Rd.

Mrs. Conley spoke regarding Mr. Hatch and the street sweeping contract.

Mrs. Conley said that she had not received the monthly budget report. Mr. Isham said he would provide her with the information. Mr. Cross requested that all council members receive a copy of the budget information.

Mrs. Conley suggested a special meeting to address Mr. Porrett's issues with his property.

Mr. Joliat and Mrs. Heidenberger have been working on a tax appeal issue with Mr. Porrett.

Mr. Major said the City has had an ongoing conversation with this individual.

Mr. Holzer and Mr. Kray said the City has a good relationship with Mr. Porrett. His water has been hooked up. Mr. Kray will touch base with him again.

Mr. Austin gave an update on the codification process. Final notes are being reviewed and he would like to have one more meeting with Mr. Abbey on the issue.

In response to Mr. Jankowski's comments, Mr. Major said it was not customary to pack down the asphalt as the holes were being filled.

In reference to the cement factory, Mr. Major said it has received a couple planning commission approvals to expand or control that operation. The company was supposed to be working with the residents toward a consensus on heights, hours of operation and screening.
Discussion was held in reference to a ZBA alternate that has not been attending meetings. Mr. Major would like someone to get a hold of the individual to determine his status on the board.

In reference to Mrs. Dargel's comments, Mr. Austin said the Council was not in violation of the Open's Meetings Act regarding adding items to the agenda at the last meeting.

Discussion was held in reference to Item 2 regarding a Charter amendment.

Mr. LaDuke did not support changing one section of the Charter. He felt the whole Charter should be reviewed.

Mrs. Conley supported the Charter amendment. She felt a lot of research had been done and that the people should decide if this section should be amended.

Mr. Major did not support the Charter amendment. He has not had a problem getting information from staff.

Mrs. Tinnin supported the amendment. She had a problem getting information in the past, but not recently. She felt a lot of work went into the Charter revision and the residents should decide.

Mr. Isham would like the entire Charter to be reviewed due to conflicting language.

Mr. Cross supported the Charter amendment. He said only one section could be addressed at a time. He had a problem getting information from the Assessor during Board of Review. (Mrs. Centilli provided Mr. Cross with the requested information.)

Mrs. Webster said the Assessor has been very busy with Board of Review. She would provide the information as soon as her schedule allowed. The Mayor told all Administrators to provide information to the Council regarding agenda items. We will be glad to accommodate Council. However, non-agenda related requests need to go through the Mayor and will be provided as soon as possible, depending on our schedule and caseload.

In reference to Item 4, Mrs. Tinnin asked for clarification on the street sweeping bid. She wanted to know why Mr. Hatch wasn’t notified.

Mr. Kray provided more information on the bidding process. He was concerned with the increase of cost with the bids since last year. He said this was a pubic advertisement. Any company that wanted to participate could have submitted a bid. Mr. Austin clarified that a bid was simply an invitation to make an offer.

Item 4 failed by a 6-0 vote, with all members voting no. Mr. Kieth Kirby, Curbco Sweeping Inc., spoke strongly in support of his street sweeping bid. He felt the bid was justified due to the increase in diesel fuel, cost of the equipment, landfill fees and the number of miles to be covered.

After discussion on agenda Item 5, the motion was amended not to exceed $4,096.25 and Item 3 was deleted from the agreement.

Mr. Major moved and Mr. LaDuke seconded a motion to: Approve and authorize Council to reconsider action Item 4. The motion carried 6-0.

In reference to the street sweeping bid, Mr. Austin clarified that the City had only made an invitation to receive bid offers. This was done in the correct fashion. We reserve the right to reject any and all bids. He was comfortable from a legal standpoint in rejecting or accepting any of the bids that were submitted.

Mr. Major moved and Mr. LaDuke seconded a motion to: Approve and authorize Council to reconsider action Item 4. The motion carried 6-0.

Once again, the Council voted on Item 4. The motion passed 6-0.

The Regular Council Meeting recessed at 9:05 p.m. to go into Executive Session.
The Regular Council Meeting resumed at 10:04 p.m. after Executive Session.

Mr. Isham indicated that Council went into Closed Session to discuss the collective bargaining agreement of Teamsters Local 214. He asked if anyone would like to speak on this issue.

Mr. Austin said discussion was held in regards to the negotiations with Local 214 and no decisions were made in the Closed Session. Based on the discussion, there may now be motions made by the Council. These motions could be placed on the agenda and then opened up to public participation.

Mr. LaDuke moved and Mr. Cross seconded the motion to: Approve and authorize Council to suspend the regular order of business to address three motions at one time. Motion carried 6-0.

Mr. LaDuke moved and Mr. Cross seconded the motion to add the following items to the agenda with one vote:
Item 8: Approve and authorize Council to request a legal opinion as to whether of not the City Council has a legal right to be involved in the negotiations of the labor agreement with Local 214 and other such contracts involving the City of Burton.

Item 9: Approve and authorize Council to add to the agenda for the Special Council meeting now set for March 26, 2007 consideration and possible action of hiring legal counsel to represent the City with regards to the Unfair Labor Practice charge filed by the Teamsters Local 214 and/ or to assist in the negotiation of the contract with this union.

Item 10: Approve and authorize the City Attorney to respond to the letter received from Local 214 Unfair Labor Practice, by requesting an extension of time limit only.
Motion carried 6-0.

Mr. Nimcheski, 2429 N. Genesee Rd., opposed the Teamsters Union 214. He felt the Council should hire an independent attorney to determine if these people, that are at will employee, could actually unionize under provisions of the Charter.

COUNCIL DISCUSSION ACTION:

Moved by LaDuke, Seconded by Major to: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending contractual negotiations of Teamsters Local 214, under Section 8, (c) of the Open Meetings Act, following council action.
Motion carried 6-0

The first vote was taken on Item 4. Moved by Cross, Seconded by LaDuke to: Approve and authorize the acceptance of the low bid and to allow the Mayor and Clerk to enter into a contract, contingent upon the approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton and it's City Council with Curbco Sweeping Inc., 3146 S. Dye Rd. Flint, MI 48507, for the 2007 street sweeping program, in the amount of $54,418.32 for a total of three city-wide sweepings of curbed streets, and the sweeping of all municipal parking lots. Motion failed 6-0, with all members voting no.

Moved by Major, seconded by LaDuke to: Approve and authorize Council to reconsider action Item 4. Motion carried 6-0.

Moved by LaDuke, Seconded by Cross to: Approve and authorize Council to suspend the regular order of business to add three agenda items. Motion carried 6-0.

Moved by LaDuke, Seconded by Cross to add the following items to the agenda with one vote:
Item 8: Approve and authorize Council to request a legal opinion as to whether of not the City Council has a legal right to be involved in the negotiations of the labor agreement with Local 214 and other such contracts involving the City of Burton.

Item 9: Approve and authorize Council to add to the agenda for the Special Council meeting now set for March 26, 2007 consideration and possible action of hiring legal counsel to represent the City with regards to the Unfair Labor Practice charge filed by the Teamsters Local 214 and/ or to assist in the negotiation of the contract with this union.

Item 10: Approve and authorize the City Attorney to respond to the letter received from Local 214 regarding the Unfair Labor Practice, by requesting an extension of time limit only.
Motion carried 6-0.

COUNCIL ACTION:

Cross moved and Conley seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from February 28, 2007 through March 14, 2007 in the amount of $3,073.00.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

2. 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 failed 3-3 with Isham, LaDuke and Major voting no.

Major moved and Tinnin seconded the following motion:

3. Approve and authorize the settlement of the case of the City of Burton vs. Wolverine Properties, Ltd. in exchange for the payment of the sum of $9,000 to the City of Burton, and to authorize the City Attorney, the Mayor and the Clerk to execute all necessary documents to effectuate this settlement.

Motion carried 6-0.

Major moved and Cross seconded the following motion:

Final vote taken after reconsideration.

4. Approve and authorize the acceptance of the low bid and to allow the Mayor and Clerk to enter into a contract, contingent upon the approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton and it's City Council with Curbco Sweeping Inc., 3146 S. Dye Rd. Flint, MI 48507, for the 2007 street sweeping program, in the amount of $54,418.32 for a total of three city-wide sweepings of curbed streets, and the sweeping of all municipal parking lots.

Motion carried 6-0.

Major moved and LaDuke seconded the following motion:

The motion was amended to read:

5. Approve and authorize the Mayor and City Clerk authority to sign, and the City Controller authority to issue a payment of not to exceed $4,096.25 for a partial compensation payment based on these documents, as modified by the deletion of Item 3, to Gary and Cheri Jackson, 5244 Dortch Dr. Burton, MI 48519 Parcel #59-23-100-033, for granting of a permanent easement across parcel #59-23-100-033 as part of DPW project #04-004-SS, the Belsay Road Coates Drain Sanitary Sewer Project.

Motion carried 6-0.

LaDuke moved and Major seconded the following motion:

6. Approve and authorize the City Controller to transfer $4,500.00 from 2006-07 Sanitary Sewer/Unappropriated Surplus to DPW Job #04-004-SS ($403.75 included for administrative fees).

Motion carried 6-0.

Cross moved and Major seconded the following motion:

7. Approve and authorize support for the Genesee County District Library Millage Renewal

Ballot Proposal for the May 8, 2007 Election.
Motion carried 6-0.

LaDuke moved and Major seconded the following motion:

8. Approve and authorize Council to request a legal opinion as to whether of not the City Council has a legal right to be involved in the negotiations of the labor agreement with Local 214 and/ or such other contracts involving the City of Burton.

Motion carried 6-0.

Cross moved and LaDuke seconded the following motion:

9. Approve and authorize Council to add to the agenda for the Special Council meeting now set for March 26, 2007 consideration and possible action of hiring legal counsel to represent the City with regards to the Unfair Labor Practice charge filed by the Teamsters Local 214 and/ or to assist in the negotiation of the contract with this union.

Motion carried 6-0.

Major moved and Cross seconded the following motion:

10. Approve and authorize the City Attorney to respond to the letter received from Local 214 regarding the Unfair Labor Practice, by requesting an extension of time limit only.

Motion carried 6-0.

Meeting adjourned at 10:18 P.M.

Gayle Webster, CMC
City Clerk