

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
APRIL 1, 2013, 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 President Tom Martinbianco at 7:15 p.m.

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

MEMBERS ABSENT: None.

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

Haskins moved and Heffner seconded the following motion:

Approve and authorize the minutes of the Special Council Meeting on March 18, 2013 at 5:45 p.m., Special Council Meeting on March 18, 2013 at 6:00 p.m., Special Council Meeting on March 18, 2013 at 6:15 p.m., Special Council Meeting on March 18, 2013 at 6:30 p.m., and the Regular Council Meeting on March 18, 2013 at 7:00 p.m. Motion carried 5-2, with Haskins and Wells voting no.

Mr. Haskins indicated he did not receive all of the Council Meeting minutes to be approved. Other Council members as well indicated they only received the Special Council Meeting of the Police Presentation. Mr. Martinbianco stated the minutes were sent out in e-mails. Ms. Adams said she will make sure copies are put in Council's mail boxes.

ADMINISTRATIVE REPORT:

Mayor Zelenko stated agenda Items #2 and #3 is for the Decamp paving. Mr. Kray is here to address any concerns you may have. She is presenting the new proposed budget. You will see it is a new format and is complete with the actual General Ledger numbers. This format came from our BS & A module. The asterisks on some of the items indicate there are notes. This allows the Controller with this module to put notes in for further explanation.

Mayor Zelenko covered some key issues in her letter addressed to Council in the Proposed Budget for the Fiscal Year of 2013-2014. She asked that Council seriously consider strategies for generating revenues, reducing level of services and/or a combination of the two. With declining revenues, we are reaching a critical point where we have to decide if we are going to service our citizens with the services we have, at the level we are and what services we may need to either eliminate or reduce. We need to have open discussions on that. Mayor Zelenko stated further that Burton continues to face decreasing revenues due to declining property values. Legislation has been passed to reduce our personal property tax revenues with a partial replacement over time. Our COPS grant funding is expected to be reduced or may even be eliminated as a result of the 2013 Federal Sequestration. Overall legacy and health care costs have increased. For the most part our employees accepted a 0% increase in wages for the next four years, however, we have 3 collective bargaining units still in arbitration.

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Mayor Zelenko stated in the past year, we have focused on restructuring our departmental manpower needs, daily work schedules, IT hardware and software upgrades, and streamlining our processes. While the City could ideally utilize four more police officers, four more firefighters and two more DPW employees, two areas that need immediate additional support and manpower is the Controller's Department and IT Department. In order to receive a portion of the old statutory revenue sharing (commonly known as EVIP), the State of Michigan mandates more documentation and reporting of consolidation and collaboration efforts, reductions of employee benefits and compensation, and various other information that demands extra man hours to produce and causes delays in other areas of our regular administrative duties. Grant applications and follow-up reporting has become much more detailed and in some cases the frequency of reporting increased. Both the Controller and IT Departments are instrumental in making certain the City can meet the requirements of such reporting, as well as the regularly upgrades to Kronos and BS&A systems.

Mayor Zelenko stated it is a priority of this Administration to address as many road and bridge repairs as we possibly can. Our external infrastructure is in great need of repair and she believes is a key factor in bringing new jobs to our areas. As of this date, the City is on track to receive funding to address some of those needs. The challenge will be spacing out the projects on a timeline that will allow the City to allocate the matching dollars and still meet the construction timeframes. She proposes hiring seasonal/temporary employees to help with those summertime duties, allowing our regular fulltime employees to focus on an aggressive prevention road maintenance schedule. Mayor Zelenko stated further these are challenging times that will continue to require a delicate balance of spending in the areas that make us more efficient, while reducing overall costs in order to deliver the services our citizens deserve. She looks forward to working with Council during the upcoming finance meetings and budget workshops.

COMMITTEE REPORTS:

Mr. Smith said the Finance Commission met earlier at 6:00 p.m. today. The purpose was to look at our roads. As everyone knows the roads are pretty rough around here. The question is what can we do about it. The Administration gave us reports of some projects that were designed to be done 2013 through 2017. The means of what projects was determined is based partly on funding and the timing of the money when it comes from the Feds or County, which is good. Matching funds are about 1 ½ million dollars between now and 2017. Where we run into some difficulty is we had a survey result last Fall where residents indicated what streets they felt were in most need to be worked on. Unfortunately, the timing of the money coming into us doesn't coincide with roads in most need of repair. We paid off our last road bonds from 1998 in February which freed up \$250,000 a year in interest. As a Finance Committee we want to work with Administration to set up focus groups of local residents to make sure what we are hearing is really what residents want. How best we should leverage the \$250,000 freed up in our budget to best fix the most roads with that money entails looking at should the focus group agree to bond again. There are a couple of reasons for that. The Federal government is looking at taking away the tax deduction from municipal bonds and if that happens, interest rates will go way up.

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Mr. Smith stated further we want to conduct more public forums to see what the residents want. This is their City. How do you want us to spend our diminishing resources? Do you want the roads, police, fire, waste? We are doing more with less and less. Property taxes so far have dropped 40% in the City of Burton. According to the Assessor between this year and next year, property taxes are supposed to drop another 14%, that is 54% decline over a 7 to 9 year period. It is creating difficult decisions. We are representing the citizens. What do you want to focus on, where do you want to put your money. The best way to do that is to ask the residents. We are looking at focus groups. Some of the numbers given tonight are the best projections from the DPW and Administration relative to the information they have today. A portion of those funds they are looking at, they won't know for sure if we have those till sometime in April. The Finance Committee is asking for Administration to come back on May 6th at 6:00 p.m. to discuss the roads and see what we want to do as a community. That meeting will be right before the Regular Council Meeting.

Mr. Martinbianco said you talk about focus groups and broad-band connections or things we need to look at City-wide, yet the target of what your meeting was about is the roads. My opinion, with the travel session we did and identified some of the strongest problems we have out there, if we could limit it to just the roads on the meeting of the 6th time is paramount if we are going to go out and re-bond and pick those streets knowing we have x-amount of dollars to work with, we know how much we can pay a year, good budgeting practice, and be able to back-fill that with what the bond issue is. Because the parallel that municipal bonds and their taxability issue may have at the Federal level. I sent a letter to our distinguished representative indicating my support for continuance of that deductibility of municipal bonds. The people that have the money to loan it to you stand the most to benefit from that very deduction. You would like to think that is a positive thing that happens especially in small communities like our own. Having that meeting on May 6th is great and we can go forward. He would like a plan of action so we can get in just in case they try to put something through and take that deductibility away.

Mr. Martinbianco expressed further, it takes some time to put that bond issue through. My past experience, if we have the meeting on May 6th after we go through all the steps to issue and sell bonds, the earliest we will be in receipt of those funds will be sometime in September which will be too late to end up doing anything in this year, and perhaps working with the County we can end up getting something on the books and get ready to go, shovel-ready for next Spring.

Mr. Smith said we think we know this is what the residents want.

Mr. Martinbianco said there are so many elemental issues you discussed that we really do need some public participation in and some other forums, but we really need to dial in on the road situation both from an economic and safety standpoint.

Mr. Smith asked the Mayor for her comments.

Mayor Zelenko said her thought is to bring that to Bobbie Bendzinski's attention when she meets with him. She will call him on Thursday. The Mayor asked if it would be helpful to have Mr. Bendzinski at the May 6th meeting.

Mr. Martinbianco replied having him at that meeting would be crucial so he can advise us.

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Mr. Smith mentioned utilizing the website for information from residents on what they want, as 3,000 people visit it a month.

Mr. Heffner said do we really even have to ask what people feel about the roads. Why waste the time on a focus group. We know the roads are falling apart and it is time for action. We have to stop talking and figure out a way to do this. He thinks it is a waste of time to do a focus group. If it is on police protection or fire protection that is great. The roads we know are a major problem. I think at our next Finance Meeting we need to be talking about ways to pay for this. We have our list of priorities and we need to go with them. Council took that bus trip and we know what our bad roads are and we are not going to be able to fix them all at the same time. Pick our top 2 bad ones and work our way up from there.

Mr. Smith said where the money is coming in and where we are seeing what we need, unless we bond for it, it won't match very well.

Mr. Heffner said in the Finance Meeting, the more roads we fix the less we are going to spend on maintenance. We can put a good crack seal program together and once the roads are fixed, maintain them for years and years.

Mr. Martinbianco said Mrs. Ellenburg is a representative on the Metro Alliance and it is crucial for her to continue to talk about the collaboration component that works between the City of Flint. On Center Road we tie ends with City of Flint a very long way even though we get the Act 51 money for it as it stands now. The other variable we still don't know from a State standpoint is how it is going to impact our funding and if there is any other special contingencies or surprises that might impact how we receive that revenue. It is important to bring that to the table and say we are trying to follow the gendarme that the Governor has laid out and this is a great way to do it. You are talking about rebranding Flint and Genesee County and what a great way to help be proponents of that and it would be an economic boost to us as well.

Mrs. Ellenburg said she did meet with Mr. Kray and he gave me all the figures for the roads and we are ready for Mr. Bradshaw when we go down there on the 16th. If anyone wants to also come to the meeting, it is an open meeting.

Mr. Martinbianco said for those folks that don't really understand the Metropolitan Alliance, our transportation planning source here in the County. They do County-wide evaluations, whether or not Burton fits into that mix or what pressure some township supervisor or County Commissioner puts on board so that is where it becomes important that we have a substantial voice in indicating you guys can have all the plans in the world out there, but we are the urban source, you are trying to source Flint and Genesee County and we are the logical participant to be there.

Mr. Smith read aloud the following roads: Center Rd. - Atherton to Bristol, Belsay Rd. – I-69 to Davison Rd., Center Rd. - Bristol to Maple, Atherton Rd. – Dort to Center, Bristol Rd. – Industrial Park, Lapeer Rd. – Belsay to Vassar, Lapeer Heights Neighborhood – Bristol Rd. to Vassar, Thread Creek Neighborhood, Holiday Villa Neighborhood, Crago Gardens Neighborhood. He stated if we were to fix all of those it would be over 22 million dollars.

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Mr. Smith stated further we are trying to prioritize where we can leverage our money to have the greatest impact. Unfortunately, we don't get all this information from one source. It comes from various sources at different times. It sounds like we can scratch the survey, more information we can have for the May 6th meeting, all the bonding, so we can see what we can do.

Mr. O'Keefe referenced Mr. Smith's earlier comments on the 54% reduction in one's cost of living in the City of Burton. At some point in time something has to break and we are about there. Mayor Zelenko mentioned the need for 4 more police officers, people in DPW, the Controller's office. These are the things we cut back so far and now we are paying for it and we have to replacement them. I am a proponent of looking at a bonding issue but repayment of the bond issue is going to be difficult. I think you put a little different twist on that survey. I think everybody wants the roads fixed but are you willing to help pay for it. We have to get the buy-in from the residents. They have taken 54% decrease in their property taxes over the last 5 or 6 years. We are at the point we are doing magic tricks with money – putting it here and putting it there, trying to make everything work.

Mr. O'Keefe stated further, it is going to be very difficult to do this. You save a ¼ of a million dollars this year on a bonding issue, but it was a very small bonding issue in 1998. You are going to have to go 3 to 4 times as much money. So it isn't going to be a ¼ of a million dollars of debt service, it will probably be more like 1 million dollars. All these projects, I was a little concerned with the dates on these of 2014 to 2018. We have identified the top ones to be fixed right now, 2014 is even going to be tough but if it is the year 2018, that is going to be off the charts. The Mayor said she will know probably within about a month what the actual dates will be committed to these projects that have some money to them. In going back to the survey, he thinks it should be worded in such a way as what kind of support financially would the residents want to do.

Mr. Smith said by per month if they would be willing to pay.

Mr. O'Keefe said however you want to do it, but he can't see any other way even if you bond this thing out, you still have to have the debt service money and it is not going to be there. The only way is if the residents say I took a 54% decrease in my property taxes in the last 5 or 6 years. The City of Burton is one of the cheapest cities in the entire State to live in. We definitely don't over tax our residents. That is the kinds of things I would like to hear from our public, what their feelings would be. The Finance Committee started out focusing on the roads, but it is a bigger problem too with police, the MERS pension and things like that. We don't have the traditional way to talk to people through newspaper anymore so it is difficult to get the word out. That is where we came up with focus groups, involving residents so they can hear it first hand, come in and say what is on their mind.

Mr. Wells said this conversation is very well thought out and they are touching on some great subjects. Mr. Heffner is correct that we can't waste any more time on this, we need to move forward. Mr. O'Keefe brings up everything. The way this discussion is going right now, instead of another Finance Committee Meeting, he thinks it should be a meeting of the Council as a Whole. We sit down, put together our items, put something together similar to what Parks & Recreation did when Steve sent out that flyer for Parks & Recreation and asked what are your priorities here.

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Mr. Wells expressed further, sit down and talk about roads. Here is what we need for roads; here is what we need to keep you safe with police and fire. Set our priorities and see what kind of feedback we get from that. I think sooner the better especially going through our budget right now would be a perfect time to do it. It may bring some more people into our meetings with ideas. We hear it all the time in here and beat it to death and we are not making progress and are spinning our wheels. I would prefer to make this a meeting of the Council as a Whole and then take that idea and let the Finance Committee figure how many fires we are going to put out and how we are going to word this thing and shoot it out to the public and get their feedback.

Mr. Smith said he doesn't have a problem with that. We can make it a Council of the Whole May 6th at 6:00 p.m. Mr. Smith asked if anything could be sent in the water bills informing residents of the meeting.

Mayor Zelenko said not everyone gets their water bills at the same time.

Mr. Wells inquired regarding costs to mail a letter to residents.

Mrs. Ellenburg suggested a robo call.

Mayor Zelenko stated a household mailer to residents would cost between \$10,000 to \$12,000 when you do the printing and postage.

Mr. Wells said it would be a cost well spent. They would have it in their hand and in reading it most would say they didn't know or realize we needed this much money. It would awaken the community.

Mr. Haskins suggested advertising in the newspapers and website.

Mayor Zelenko said it would be more cost efficient to put it in the newspaper and put it in for several additions for a fraction of the cost.

Mr. Wells said it is something to discuss at that meeting and he really feels it is best to have a Council of the Whole Meeting and sending it back to Finance and let them take it from there.

AUDIENCE PARTICIPATION:

John Stapish, PO Box 190134, spoke regarding Item #2, contract with Rowe Engineering for Decamp Street. He inquired concerning parking on the street. He said the City cut off drain lines and this caused flooding in his basement all winter long. The City denied doing this.

Mr. Martinbianco asked Mr. Stapish for clarification if he is asking if there will be curb and gutters or open ditch.

Mr. Stapish replied yes.

Mr. Martinbianco said they will look into his question.

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Jim Craig, 6295 Hidden Trails, spoke in reference to municipal bonds and stated with new laws and all the fiscal issues they are talking about making those things non-exempt. It is not like you are going to wake up Monday and they are going to be one rate, and you are going to wake up Tuesday and it is going to jump up. Look at double A bonds nationally. Just in the past week the rates have gone up from 10 bases points to 15 bases points. So this is going to be a gradual kind of thing. Some of the points I heard being said, the bond rates are already going up so that is going to be more of a cost for bond payments later on. I guess you go to a thing nobody wants to talk about - raising taxes. I for one hate paying higher tax rates, especially Federal, it gets thrown away wherever. But locally, our tax rates here are pretty low. I moved here in 1991 on the west side of Vassar just for that reason. I was paying \$2,600-\$2,700 a year for taxes and now I don't pay \$1,700 for the whole year. I would rather pay even if it is half to where I was before to get more police, fire and roads. I know people don't want to pay taxes and the whole County is bad, but if you are paying local taxes it is staying here, it is not going to Washington.

Debra Walton, PO Box 190273, said she would rather go back to gravel then cut any more officers or cut our fire. The roads are bad and we almost have gravel now on Carman Street. She thanks 3 of the Council members that brought out about the audit; they are looking out for the City. She thinks Mr. Smith should have just said there are problems with the audit instead of stating you should call me. This made it sound worst. Our Charter is old but we should still follow it. Mrs. Walton spoke further about Council communicating with one another and moving forward. She inquired about 1241 Carman St. She said the house did not get inspected nor was a stop work order put on it. There is someone at 1225 Carman. She asked that DPW makes sure people get the proper permits from the City. She said reporting things to DPW goes nowhere. We need someone that cares and does their job. Mrs. Walton asked who does the plumbing and wiring inspection. Our City doesn't know and sent her to Flint and Flint told her they don't take care of Burton.

Mr. Martinbianco expressed to Mrs. Walton that he can't believe someone from the DPW would have told her that. She needs to call the State of Michigan for both plumbing and wiring inspection. We do not have a qualified electrical and plumbing inspector.

COUNCIL DISCUSSION:

Mr. Smith asked he would like to hear again if Council would like to have a Council of the Whole Meeting to discuss our roads, among other things, at 6:00 p.m. on May 6, 2013. All Council members acknowledged agreement with the date and time.

Mr. Martinbianco said for the proper posting, we are going to only dial in on roads.

Mr. Smith said Mr. O'Keefe had a good idea doing a survey on would the residents be willing to pay so much more per month, or something where it can be broke down.

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Mr. Martinbianco said I think you are talking about levying a millage, probably in August which is our next regular election cycle. We shouldn't make that determination if we have a number, but you can't get a number and put it out to hard working folks unless you say here is our plan of action, here is how much we need, it is a mil, 2 mils. We don't know what they are doing in Lansing, what we are going to get out of them other than what we normally have going on, and that we can positively tell you this is our game plan. That is where the County people are going to come in and really put the pedal to the metal, and put these streets that are conjunctive streets like Center Rd. and even the stretch of Belsay Rd. between the expressways because it is an interchange, they have to get that moved up in action. I don't know what it will take to get that moved up on the County level that will provide Federal funding at that level. It is going to have to be an incremental thing to get done before we can do anything else and ask our good friends out here for one more nickel to what they expect our tax dollars to do. The craziness to talk about doubling registration fees and that type of thing will die a quick death I think at the legislative level. They are going to have to come up with another proposal. I am looking forward next week for the Governor to explain to municipal officials, how his plan is going to do anything other than support State funded highways. All the Ms and all the Interstates that they are going to leverage Federal money for, that is not going to do a thing. If you can't get them out of a driveway, get them onto a collector street to get them on those highways, it is going to be all for naught.

Mr. Smith said the question becomes on May 6th, do we ask for what we can cover as a bond and then ask the people.

Mr. O'Keefe said he agrees with Mr. Martinbianco. First of all we are given a report tonight at the Finance Committee and it was some good news, however, this good news might not happen for 5 years and all these roads need to be fixed yesterday. If Mrs. Ellenburg can help us at the County to try and expedite some of these to get on a shorter time span, I think it would be great. It is tough to walk away from money that is going to be approved – but if it is approved in 5 years those will be gravel roads by then and will really be in poor shape. Mr. O'Keefe stated further, we had one resident stand up tonight and give a good testimonial about living in the City. I like the slant of not spending Federal taxes where they can all get lost and you can see where this money goes. The Mayor talked about in the Finance Committee Meeting about having some meetings and more information to the public and let them know what is happening and what we are trying to do and get done. I just read in the Wall Street Journal about the COPS grant. It is probably going away. That is 2 officers and we need 4 more, so that is 6. How are we going to pay for this is the bottom line? I think everyone here on the 6th and trying to get information on bonding and also where these projects end up on a timeline so we can make some good decisions that night. The Mayor brought up they want to be more pro-active on the preservation of roads. We have some good roads out there but if we don't do anything with them, in 3 years we are going to be digging them up and putting new roads down. It is a vicious cycle. These targeted roads really need to be fixed.

Mr. Smith said it sounds like we still meet at 6:00 p.m., and whatever information we can get on bonding and also whatever Mrs. Ellenburg can lock in with information she receives would be helpful to us.

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Mr. Martinbianco said you might call our County Commissioner who also hails from Burton and the Mayor, and stressing to our friends at the County level that this is a real serious problem and if they can expedite it. I have seen things at the County level expedited. One good incidence was the people on Genesee Road from Richfield Rd. north to Stanley Rd., we had a real serious problem some years ago and Mr. Daly was able somehow, some way to finagle that kind of funding. It is that same kind of spirit that is really going to have to take hold to help us out.

Mr. Smith said we are facing extraordinary challenges in the City and we do have to continue with the Open Meetings Act. He asked Mr. Austin how he would recommend for us to best communicate all this and stay in compliance with the law.

Mr. Martinbianco said he wants to stay within the confines of the Open Meetings Act but round-robinning and discussing preferential ideas amongst the Council people. This is where the Open Meetings Act just doesn't get it.

Mr. Austin said he knows Mr. Smith's motivation is pure but he simply just can't do it. To have any discussion with matters that affect the public and public funds and such things, those discussions have to be out in the public. There cannot be private discussions.

Mr. Wells said as part of that meeting, Mr. Heffner did a good thing with the survey put together for Parks & Recreation asking for priorities. He would like to discuss our priorities and put them in that survey whether we put it in the paper, on our website or water bills to get the community involved and let them know where we are at with their roads, safety, sewer and water and what we are up against here. It would take away the shock value if anything else and maybe get some people involved. During that meeting if we can make that an item for us to come in with some ideas and put the survey together. I am sure Mr. Heffner already has a good idea from Parks & Recreation and we could probably copy something off of his, just fill in the blanks with transportation, local streets, safety and so on down the line, and how our taxpayers rank them as a priority to them. We can come up with a cost factor to let them know this is about where we are at right now. For public safety, we are going to have to spend this much to come up to a certain level. Is this your priority? You are going to have to pay for it. Let's be frank with them – the money is going to come out of your pocket. That needs to be on the agenda for that night

Mr. Martinbianco stated he agrees, those other issues need to be addressed but because it has already been precluded that it is going to be a transportation/oriented discussion, I would really like to try to keep it focused. Not minimizing what you are talking about, because those other type of focus group issues that tell us what it is you want. We will be able through the budget process that we are going to go through, we are going to be able to do those priorities given what our known values we have to work with and anything else we are able to accrue and be able to work with, but anything else over and above that, we are going to be able to take that information in as you suggest, and do some other meetings and hearings with folks and then say okay we have assimilated all your information you have given us, here is the price tag, here is what it breaks down per mil.

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Mr. Wells said he can have a Public Access Meeting. He has Mr. Heffner and the Finance Chairman Mr. Smith and the three of us can sit down and put something together and bring it to City Council. He will set up a date for a Public Access Committee Meeting.

Mr. Wells said Winding Creek on Center Rd. has 4 lanes that are open. People have been going back there and dumping junk and doing other things. This weekend we had a mud-bogging fest. There were 3 major incidents that lasted till midnight to 1:00 p.m. A couple of young men got hurt pretty bad. They were buried and they were out there at night trying to get their trucks out. Danny Webb and I helped them out and took them home. That road needs to be closed off. I think whoever owns that would want to come out and put wire rope or cable across that so there is no entrance to it – something they can unlock when they need to go back there. Someone is going to get hurt back there bad and they are going to be responsible for it.

Mayor Zelenko asked when this happened.

Mr. Wells said it was Friday night, Saturday night and early Sunday morning

Mayor Zelenko asked if the police were called.

Mr. Wells replied they didn't call the police, they tried to help them out. They were good kids, they weren't drinking. They were just being dumb kids.

Mayor Zelenko said they will get a hold of the Winding Creek property owners.

In reference to Item #1, Mrs. Ellenburg asked Mr. Austin to explain the marijuana facilities. Mr. Austin said he had a meeting with Amber Abbey, Attorney Steven Lazio and Mr. Joubran at his office regarding Mr. Joubran's marijuana distribution facility, which is now closed. At one point we had 4 distribution facilities open. Due to the McQueen Supreme Court decision, there is currently one distribution facility open. Mr. Joubran is interested in opening his distribution facility but he is not very anxious to open it based on the business plan presented by Atty. Leach, which I did approve. We met with Mrs. Abbey and Mr. Lazio to discuss whether or not there was any other business plans which he felt would allow him to conduct business at a profit and still comply with the McQueen decision. I don't know if he will be opening that business in the near future. They haven't presented a business plan as a result of that meeting and as far as I know, that business is still closed to this point. I am not adamant at all that the business remain closed, we have authorized one of those distribution facilities to open, it is just they have to open in compliance of the McQueen decision. We have to operate within that context. So far Mr. Joubran is not convinced that he can make a profit doing it in that fashion.

Mr. Haskins addressed Mr. Austin and said he understands he represents the City. I am pretty sure Mrs. Abbey is more than confident enough to handle the situation. The taxpayers are paying this bill to basically help out Mr. Joubran understand things that is law. He doesn't understand the justification in that part.

Mr. Austin responded that Mr. Joubran is represented by an Attorney who is ready, willing and able if he were to have to, to sue the City if he feels the City is being unduly restrictive with regard to not allowing his client to conduct business in the City. I think it is important to conduct business with his attorney and I think it is only appropriate we not have just Mrs. Abbey conduct those negotiations with Mr. Joubran's attorney.

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Mr. Haskins said every time an attorney calls and asks questions of the DPW, should you be involved in it.

Mr. Austin replied not necessarily, but in this context I thought it was appropriate.

Mr. Haskins said Mr. Martinbianco had conversations with you prior to this a few meetings ago. I think there is a fine line here we are starting to cross. I understand the complexity of the marijuana situation and everything going on with it. I think we have to be careful of who we are representing here and what we are doing. I understand you are representing the City but all because Mr. Joubran brings in Mr. Lazio, which is an attorney, you are involved. I have seen Mrs. Abbey take care of business and I am sure she understands this and gets it all down. If it ended up going any further than that, I think it is something we would have to deal with. In my opinion I think there is a fine line here and we are getting awful close to crossing it with taxpayers' money.

Mr. Wells asked what was talked about at the meeting.

Mr. Austin replied they presented different business plan models and alternatives how they might be able to conduct business in compliance with the McQueen decision other than a locker system Mr. Leach's client, The Hemphill Wellness distribution facility is currently conducting business under. He is not happy with that business plan and doesn't believe that business model will result in him being able to make a profit. He is a businessman and is in business to make a profit. He was putting forth different business models that he and his attorney thought might comply with the McQueen decision that would be less labor intensive for him and we discussed those business models and whether or not I believe those business models would comply with the McQueen decision. It was a discussion of the Supreme Court's opinion in large measure.

Mr. Wells said maybe he should be paying for your attorney fee for your opinion then.

Mr. Austin said ultimately the decision was going to be the City's whether or not he is going to comply. The City is going to have to make that determination. I agree that Mrs. Abbey is an extremely valuable employee, but these are legal determinations that ultimately I was going to have to make.

Mr. Wells said if you don't agree with them in the meeting, they probably are going to sue the City anyway.

Mr. Austin said hopefully, they are not going to sue the City. By having this meeting it will avert any litigation. We talked out our differences and I explained why the models they put forward, why I didn't think so far those models complied with the McQueen decision.

Mr. Wells expressed what the Supreme Court had said about compliance and he agrees with Mr. Haskins that he doesn't know why you are discussing it with them. They need to go to the Supreme Court and not the City of Burton. That is where their argument lies.

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Mr. Austin said they are just trying to find different business models they can operate under and still make a profit. They are still trying to work through it. So far in my opinion they haven't hit on one that both complies with the McQueen decision and in their opinion allows for them to make a profit.

Mr. Wells said they shouldn't be tying up our City Attorney to help them get an opinion.

Mr. Austin said I don't want them to sue the City - that is when it gets very expensive for the City.

Mr. Wells said we have a Supreme Court decision to back up our policies.

Mr. Austin said yes we do, but I don't want them to say here is our proposal. I want there to be a dialogue so they just don't sue the City. If there is a dialogue, I think there is far less likelihood they are just going to sue the City and be done with it. I think if there is dialogue between the attorney and I, there will be far less likelihood of their just suing the City.

Mr. Wells asked how many more of these dialogues do you suspect there might be.

Mr. Austin replied this is the only meeting that we had.

Mr. Martinbianco asked if they were one of the recipients of one of your communications you sent out.

Mr. Austin replied yes, it went to all 4 distribution facilities.

Mr. Martinbianco said kind of the problem with that is you are almost inviting them with that correspondence to come in, seek your counsel to help them develop their business plan. I agree with my friends, it was probably not the smartest thing. If they were going to sue us, they are going to have to sue us under something other than the Supreme Court Act we are hanging our hat on. I don't quite understand why they would go to that level. You invited them with that letter indicating what it is going to take to be in compliance. You already told them what our rules are.

Mr. Austin said I told them one successful business model was, the Leach model we will call it, The Hemphill Wellness Center was operating under now. This business model complies with the McQueen decision in my opinion.

Mr. Martinbianco said that should have been end of story and say we know that. If you want to bring forth another business plan and come before the Planning Commission or whatever it is going to take, the Zoning Board of Appeals, whatever their appellate rights would be, it is on their dime to be able to do that and produce the evidence as opposed to us counseling them to tell them what their story is.

Mr. Austin stated we can do that, I just don't want anybody suing the City.

Mr. Martinbianco said we are not covered under our insurance clause for protection under that because it is a State Act that we are hanging our hat on, so to me it would be our carrier's over and above what our customary deductible.

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Mr. Austin said it depends on whether they would sue us for money damages or just sue us for injunctive type relief, whether or not our insurance coverage would take over that defense of that litigation. If they sued us for money damages, we would probably turn it over and Audrey would defend us on that. If they sued us for injunctive relief, I would probably have to defend that action.

Mr. Haskins said there is a third one, for the Hemphill Wellness Distribution facility.

Mr. Martinbianco said this is getting really tedious and I don't know about the rest of Council, we are here tonight and talking about it, and the attorney is our attorney giving some instruction whether he may do, and before he does anything else I really think we need a public policy statement and understanding your professional opinion, I appreciate that, but I think we really need a public policy statement saying we are going to end up being able to say where we are at, the model seems to fit and works, if it is something else and we find fault with it, or the County Prosecutor finds fault with your operation, it is between you and him and not you and us.

Mr. Haskins said his clients wishing to seek our City's counsel they pay for it and not our taxpayers.

Mr. Heffner said I understand what my colleagues are saying. You are talking less than \$250.00. What would it cost you just to respond if we were sued? Probably a lot more than \$250.00.

Mr. Austin responded to file an answer to a Circuit Court Complaint would be in that neighborhood.

Mr. Heffner said this is fairly cheap insurance to make sure we don't end up in Court.

Mr. Haskins said this is one bill and has been going on for quite a few ledgers now. We talked about it before, this is not the first one.

Mr. Heffner said I am just glad we have a competent attorney looking out for us.

Mr. Martinbianco was in agreement and stated he is too, no doubt about that.

Mr. Martinbianco referenced Page 7, 3-26-13, a telephone conference with Jack Belzer relative to people vs.

Mr. Austin said Bonnie probably couldn't read my handwriting. He apologized. He had a conversation with Mr. Belzer with regard to his client. He can find out the name of his client. Bonnie is now retired. His new assistant's name is Julie. She is very competent and was a Federal District Court Judge's secretary.

In reference to Item #2, Mr. Martinbianco asked Mr. Kray to give some details.

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Mr. Kray said it is a little early in the game until we get the existing plans and see what it is going to take to turn it into a paved street. At that point we will be able to answer it a little more.

Mr. Martinbianco said when you say existing plans that tells me probably there are already plans on the book way back in the day when a prior Council engaged in a City-wide cost estimate. Mr. Kray stated yes.

In reference to Item #3, Mr. Wells inquired regarding the \$8,165 to cover Item #2's amount of \$7,100. Mr. Kray explained that in the back-up it talks about an additional 15% to cover meetings and plan reviews by City personnel. Mr. Wells said typically they would put all that into the transfer.

Mayor Zelenko asked for clarification regarding conversation on the notice being put in the newspaper on the upcoming Council of the Whole Meeting on May 6th. Did you want us to do a little advertisement to generate public interest?

Mr. Smith asked the Mayor to explain to them what we are going to be discussing, the roads and ask for public input.

Mr. Haskins said his clarification about the newspaper was about the survey. You said it would cost \$10,000 to \$12,000 to do a City-wide mail out. I was saying for the survey advertise in the paper for people to go to the website.

Mr. Smith said we could use the Burton View as a need for people to come in. If they can't make it, they can go to the website. I would like to have them in to offer their comments.

Mr. Martinbianco said the May 6th Council of the Whole is strictly dedicated to transportation dollars. The Public Access Committee is going to meet on the rest of the priorities and if we need to have focus groups, and do that kind of thing if it happens.

Mr. Smith said the reason behind the ad is the urgency we talked about with the bonding. The problem with the View is it only comes out once a week. We have to get moving on it relatively quickly. I would probably run a small ad 2 or 3 times before the meeting so people understand we want their input and offer them that they can if there is a way we can do it on the website.

Mayor Zelenko said she can get it on the website. I wanted to be clear if you actually wanted me to move forward with putting an advertisement in the newspaper advertising this May 6th meeting to discuss the roads.

Mr. Smith acknowledged yes to Mayor Zelenko.

Mr. Martinbianco said the objective we are going to work up to, if Mr. Bendzinski is available that night to counsel us as to what our capability is in terms of bonding it, and given the disassurances or unassurances that we get from the State right now relative to Act 51 funding, any input that we are going to have on the 16th relative to the County bringing us forward to get Federal funding.

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Mr. Martinbianco stated further, with those components put in place, our ability to bring folks together to say this is what we already undertaken as priorities in the City, please tell us if there is anything any different you would like to see us pursue, then we put all the numbers together, take all their information and input together, and put together a pretty balanced plan with all those components in place, and then say here is what we can afford, here is where we want to go, if we need to ask for another mil that they have been so generous in giving us in the past for other priority items, they may feel compelled and say yes that is a good plan, why don't you follow that plan, don't deviate from it.

Mr. Smith said if they can't make it to the meeting that night, give them an option to do something on the website to give us some feedback.

Mayor Zelenko said she will do that. We can have them send an e-mail to Mr. Kray.

Mr. Heffner said if you call it a workshop, the residents can't speak.

Mr. Martinbianco said it will be a meeting of the Council of the Whole.

Mr. Wells said we have 2 young reporters sitting back in the room. Knowing the City's finance's they could give the City a freebie tonight and that will save us a little bit of money.

Mayor Zelenko said I am sure we will get earned media from this. I think you were going with wanting to see a couple of times in the paper. They can only run the same story so many times.

Mr. Heffner said he doesn't see any reason why we can't get this out every election year. We have no problem getting our message out. Something this important we need to spend the money and get the message out to people.

COUNCIL ACTION:

Ellenburg moved and O'Keefe seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from March 3, 2013 through March 27, 2013, in the amount of \$5,858.00.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

2. Approve and authorize the Mayor and City Clerk to enter into a contract with Rowe Professional Services Co. to provide engineering services for Project 13-006-P as detailed on the attached Rowe Professional Services Co. proposal dated January 23, 2013 for an amount not to exceed \$7,100.00.

Motion carried 7-0.

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Haskins moved and Heffner seconded the following motion:

3. Approve and authorize the transfer of \$8,165.00 from Local Street Unappropriated Surplus to Project 13-006-P.

Motion carried 7-0.

Meeting adjourned at 8:35 p.m.

Julie Adams, City Clerk