CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
APRIL 16, 2007, 7:00 P.M., COUNCIL CHAMBERS
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Council Member Tina Conley led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by Council President Gary Isham at 7:00 P.M.

MEMBERS PRESENT: Conley, Cross, Isham, LaDuke, Tinnin and Wells.
MEMBERS ABSENT: Major.
OTHERS PRESENT: G. Kray, Deputy DPW Director; Attorney R. Austin and G. Webster, City Clerk.

Cross moved and Wells seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on April 2, 2007 at 6:30 p.m., and the Regular Council Meeting of April 2, 2007 at 7:00 p.m.
Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mr. Kray asked for some direction on the Fifth 3rd Bank watermain extension project. The low bidder, Mr. Fick, indicated the prices on the pipes would expire tomorrow. He wanted to know if we were going to pursue this bid. The DEQ will force the City to complete this project. The attorney for the bank planned to contact the DEQ, but he did not. The ultimate responsibility lies with the City to complete the project.

Mr. Kray spoke regarding the bids for the Fern Street extension. He would like to meet with the Finance Committee to discuss the funding options and how to proceed with that project.

COMMITTEE REPORTS:

Mr. LaDuke reported on the last Planning Commission meeting. The Board recommended denial on a text change for a PUD revision.

Mr. Isham gave an update on the Unfair Labor Practice Charge that was filed by Teamsters Local 214. He met with Mr. Spender on Friday. Mr. Spender was unable to make contact with the president of that local. The Council's response was sent to the Teamsters, as well as the State. Mr. Isham will keep Council updated on this issue.

AUDIENCE PARTICIPATION:

Debra K. Walton, 1224 Carman St., spoke in reference to several problems on Carman, which included drug activity, parking issues, junk cars, replacing a yield sign, speeding and the disrepair of a home at 1241 Carman.

Mr. Isham suggested that residents log phone calls made to the Police Department and DPW. This will be helpful for Council members when researching complaints.

Robert Gazo, 2257 Fern, spoke on Annual Children Abuse Awareness Month. He thanked the Mayor and the City for allowing them to hold the event at City Hall. In addition, he asked Council to prohibit campaigning during council meetings.

Pauline Dargel, 6119 Hugh St., spoke in reference to the following issues: the written administrative report from April 2, 2007, a bid opening regarding renovations for the Police Department and the Library, the DOJ Agreement and a letter of resignation from Charles Abbey.

Mr. Isham was concerned that Mr. Abbey did not submit a written resignation and was using his sick and vacation days. He said if the City does owe Mr. Abbey for those days, the City should cut a check and be done with it.

Mr. Isham indicated that the bids for City renovations were rejected because Prevailing Wage was not included. They are going to re-bid the projects, so we don't lose Federal money.

Lisa Williams, 1196 Carman St., spoke in reference to several problems on Carman, which included parking issues, replacing a yield sign, speeding, drag racing, the lack of a street light, drug activity, break ins, flooding problems and cars leaking oil on the street. She thought Holy Redeemer should put up a net to catch the balls.

Warren Nimcheski, 2429 N. Genesee, spoke in opposition to the Water Rate Study and the justification for water rate increases. He wanted to know where there was a 33% water loss.

Jennifer Morquecho, 2246 Red Arrow Rd., thanked the Police Department for the quick recovery of their stolen motorbikes.

Wilson Carb, 2519 Covert Rd., spoke in opposition to paving Covert Rd. He would like more information on this project. He planned to submit a petition to prevent the road from being paved.

Mr. Isham indicated that there would be two public hearings on these special assessment districts. He said the public hearings would be noticed in the Flint Journal. To be fair to all residents, the Council planned to address some of the irregular streets.

Jan Bolen, 1169 Howe Rd., spoke regarding the water quality at Kelly Lake Park, the lack of a quorum at the Parks Commission Meeting and maintenance issues on her road. She would like to be a member of the Parks Commission.

Mr. Isham acknowledged the presence of County Commissioner Jaime Curtis.

COUNCIL DISCUSSION:

Mr. Cross would like the following items addressed: 1. A tagged house on the corner of Lapeer and Forest needed to be boarded up. He would like a status report on the home. 2. Stop signs need to be replaced on Vineland. 3. He would like a status report on adding a flexible microphone to the podium. 4. He wanted a home on Atherton Rd. east of Belsay cleaned up. 5. He would like portable toilets placed at Fire Station #2 Park.

Mr. Holzer said the Atherton Rd. property would be cleaned up tomorrow. The City waits 48 hours after an eviction before removing belongings.

Mr. LaDuke said portable toilets would prove to be a hindrance and health hazard.

Mrs. Tinnin wanted a written resignation from Mr. Abbey. She wanted the Mayor to provide a detailed written report on this issue. She wanted to know if he resigned, quit or was terminated. She wanted information on his date of release, salary, benefits and pension. This should be attached to his personnel file. The public deserved an explanation on this issue.

Mrs. Webster indicated that Mrs. Dargel's request regarding Mr. Abbey's resignation was completed in compliance with the Freedom of Information Act. To her knowledge, there was no written resignation. A status report would need to be provided by the Mayor's Office.

Mr. Isham requested that the administration provide a current in-depth status report on Mr. Abbey to Council within the next two weeks. If they don't have a response by then, they will take the necessary steps to acquire the information. If anything was entered into Mr. Abbey's personnel record on whether he resigned, or was discharged the Council wants to be made aware of it.

Mr. Cross said a person at the County was convicted of a felony, went to jail and was released. Because his resignation was never accepted, he ended up getting back pay and a pension.

Mrs. Tinnin spoke regarding ADA and DOJ requirements concerning renovation bids. She would like an update on this project. She wanted to know who was the ADA coordinator.

Mr. Isham was concerned that he couldn't even get information from the City on this project. He found out on another report. One of the reasons these bids were rejected was because Prevailing Wage was not included. He was notified of the bid opening, but was unable to attend.

Mr. Austin provided information on the Prevailing Wage resolution. He gave an update on the codified ordinance project. Revisions have been made to the document. Now, the City needs to meet with American Legal for further direction. He needed a replacement for Mr. Abbey before the project moves forward. In addition, the Mayor needs to appoint an ADA coordinator.

Mrs. Tinnin would like a written update on the Fifth 3rd Bank watermain project. She felt the City should not be financing this project with Unappropriated Surplus. If the bank wants water, they should pay for it.

Mr. LaDuke gave an update on this issue. In the beginning the bank said they would participate in the cost. Now, they do not want to participate. He said there was equal blame with the DPW and the bank in the construction of this line. The State required looping with this line. The line was prematurely taped. The bank tied in and there wasn't any loop. The State requires that the City loop the line because it would create a dead problem causing bacteria, etc. The bank should know that we are going to charge them to loop it or we will contribute to the cost.

Mr. LaDuke stated further that the issue needs to be resolved. He suggested they turn the line off. When the bank decides to discuss the issue, we will continue the project.

Mr. Austin gave an update on the Fifth 3rd Bank water situation. The bank acknowledges that they connected prior to obtaining a permit. They know all that is required is a permit to connect out to Maple Rd. This would close the line and alleviate the DEQ problems. There is still a water line built at the City's expense. However, it would alleviate some of the issues involved. He will look into this situation and report back to Council.

Mr. Holzer said if the 2-inch private service were provided, the DEQ would not be a part of it. Basically, the other portion would be abandoned. He indicated that the City needed to comply with the DEQ requirements.

Mrs. Tinnin would like an update on the following issues: 1. She wanted an update to determine if developers have reimbursed the City for the final lift of asphalt. The invoices were dated 12-21-06.
2. She wanted a written update showing the status of the Burton development projects that were done on a lot fee method and include the Lapeer Heights watermain. The last time Council received an update was 2-28-06. 3. She wanted Council to receive any written correspondence between the City and the Attorney. 4. She would like a copy of the monthly expenditures and payroll sheets.

Mrs. Webster asked Mrs. Tinnin to put her multiple requests in writing. She would be glad to pass them on to the appropriate administrator. In addition, she indicated that all attorney correspondence had been distributed.

Mr. Isham said it would be helpful if Mrs. Tinnin put her laundry list of items in writing and give it to the Clerk and Council.

Mr. Austin gave an update on Item 5. The Courts have authorized us to proceed with the demolition. Mr. Williams agreed to remove the house. However, he has not signed the agreement prior to tonight's meeting as promised. He advised Council to amend the motion to provide that the agreement would be of no force or effect unless properly executed by Mr. Williams before 5:00 p.m. Friday, April 20, 2007. If he does not comply, the City will demolish the home.

Mrs. Tinnin moved and Mr. Wells seconded the following amendment to Item 5: To include no force or effect unless properly executed by Mr. Williams by 5:00 p.m. Friday, April 20, 2007. The motion carried 6-0.

Mr. LaDuke requested the time limit for audience participation be enforced. He felt everyone should follow the established meeting rules.

There was a discussion in reference to escalating costs of the Attorney billing. Council members felt the Administration should be doing some of the work being done by the Attorney.

There was a brief discussion held on the proposed budget. The Council hoped there would not be transfers and overruns at the end of the budget. They felt everyone should be fiscally responsible and stay within the budgeted allocations. The City might have to implement some type of a deficit reduction plan. We only have a certain amount of money to spend without depleting our General Fund.

Mr. Wells said unforeseen situations come up every year once the budget has been put in to place. Nobody can predict all the happenings. These overruns can be researched and explained. We should keep an open mind.

There was a brief discussion in reference to adding some contingency funds for unforeseen circumstances. Some budgets are set so low that they are destined to fail.

Mr. Isham said this is a proposed balanced budget, which will constantly reconfigure itself throughout the year. We should try to keep a handle on it. In some circumstances there should be some contingency backup.

Mrs. Tinnin requested the payroll sheets. She wanted to make sure the Police Department received the transfer and hired two police officers. She wanted to make sure the millage money was being spent to fund additional officers, not just to replace those that left.

Mr. Cross was concerned that the Administration would come back and asked for money shortly after the budget was past.

Mr. Wells wanted to know if American Legal was paid in full. He didn't want to pay the bill until the work was done right.

Mr. Austin did not know if American Legal was paid. He said the company does not know there are problems with the draft. He needs a representative from the City to deal with this issue.

There was discussion on the lack of quorum and other issues relating to the Parks Commission. Council planned to discuss the Parks Commission during budget workshops.

Mr. Cross wanted to know why Mr. Austin was still being paid to do some of the labor work.

Mr. Austin had to provide Mr. Spender with pertinent background information regarding Teamsters Local 214.

Mr. Isham said that Council members also brought him up-to-date. Hopefully, there will be no more correspondence between Mr. Austin's law office and Mr. Spender's law office unless approved by the Council.

Mr. Cross wanted to know if we received the check from Valvoline Oil. He planned to contact Mrs. Foster for this information.

Mrs. Tinnin wanted the Mayor to know that Mrs. Bolen was interested in a Park Commissioner position. Mr. Isham will pass this information on to the Mayor.

COUNCIL DISCUSSION ACTION:

Moved by Tinnin, seconded by Wells to amend Item 5: To include no force or effect unless properly executed by Mr. Williams by 5:00 p.m. Friday, April 20, 2007. Motion carried 6-0.

COUNCIL ACTION:

Cross moved and Wells seconded the following motion:

Approve and authorize the Regular Council Consent Agenda items 1-10 for April 16, 2007. Motion carried 6-0.

Cross moved and Wells seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from March 28, 2007 through April 11, 2007 in the amount of $3,191.00.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

2. Approve and authorize setting a public hearing for May 7, 2007 at 6:30 p.m. at Burton City Hall to discuss the proposed budget for the fiscal year 2007 – 2008.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

3. Approve and authorize the Mayor's appointment of Sue Flewelling, 2507 Covert Rd., Burton, MI 48509, to the Burton Planning Commission. Term expiring May 2010.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

4. Approve and authorize the Mayor's appointment of Laura Flewelling, 2497 Covert Rd., Burton, MI 48509, to the Burton Parks & Recreation Commission. Term expiring May 2010.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

Main motion as amended:

5. Approve and authorize the Settlement Agreement with Raymond Williams and Mary Virginia Williams approving the voluntary demolition of the structure located at 3309 South Center Road on or prior to July 1, 2007, and authorize the Mayor and the Clerk of the City to execute the Settlement Agreement on behalf of the City, with no force or effect unless properly executed by Mr. Williams by 5:00 p.m. Friday, April 20, 2007.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

6. Approve and authorize the Mayor and City Clerk to execute a "Preliminary Engineering Contract – Modified Park II" with the Michigan Department of Transportation (DPW Job #04-017C-P) at an estimated cost of $48,175.00 (81.85% Federal = $39,431.23 & 18.15% Burton = $8,743.77) contingent upon approval of the City Controller. MDOT Control Section STU 25402, Job No. 84671, Federal Project No. STP 0725 (027), Federal Item No. HH 4958, CFDA No. 20.205, Contract No. 07-5044. (Atherton Road from Genesee Road to Belsay Road)

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

7. Approve and authorize the following projects to be applied for and funded as FY 2010 Local Bridge Program Funds as follows:

   A. Maple Avenue over the Thread Creek – Proposed Replacement Project.
   B. Bristol Road over the Thread Creek – Proposed Rehabilitation Project.
   C. Atherton Road over the Thread Creek – Proposed Rehabilitation Project.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

8. Approve and authorize the Mayor and City Clerk to enter into a three year agreement between the City of Burton and AT & T beginning June 1, 2007 through June 1, 2010, with Centrex service costs of $707.32 and Internet and Router service costs of $1,074.00 per month.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

9. Approve and authorize the setting of a 2nd Public Hearing for Zoning Case #302 on Monday, May 21, 2007 at 6:30 p.m.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

10. Approve and authorize the request from Marina Bufalini, 2399 Willowdale Dr., Burton, MI 48509, to transfer ownership of 2006 Class C Licensed Business, located at 5448 Lapeer Rd., Burton, MI 48509, Genesee County, from Paliani's Restaurant, Inc. to Paliani's Enterprise, Inc.

Motion carried 6-0.

Meeting adjourned at 8:50 p.m.

Gayle Webster, CMC
City Clerk