

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
MAY 2, 2011, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

Councilman Vaughn Smith led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by President Steven Heffner at 7:10 p.m.

MEMBERS PRESENT: Smith, Heffner, Ellenburg, Martinbianco, O'Keefe and Wells.
MEMBERS ABSENT: Haskins.
OTHERS PRESENT: Mayor P. Zelenko, Atty. M. Joliat and J. Adams, City Clerk.

O'Keefe moved and Martinbianco seconded the following motion:
Approve and authorize the minutes of the Regular Council Meeting on April 18, 2011 at 7:00 p.m.
Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Zelenko introduced Stacey Betts, Co-Chairman for the Burton Memorial Day Festivities.
She is here to give some updates.

Stacy Betts, 1462 Scottwood, said she is co-chairing with Cheryl Sclater the Burton Memorial Day evening activities. At 8:00 p.m. Atherton Band will do a concert for about half an hour. The Veterans Honor Ceremony includes the Flint Master Singers and that is scheduled from 8:30 p.m. to 9:30 p.m. A candlelight tribute with Ruth Hindes and Brenda Ott is from 9:30 p.m. to 9:45 p.m., and fireworks will follow at 9:45 p.m., courtesy of Meijers. Everyone is invited to attend.

Mayor Zelenko introduced Ramona Miron and stated she is spearheading Atherton's 175th year celebration.

Ramona Miron, 3051 Connecticut, said she is doing the Atherton reunion for all of the graduating classes from 1954 to the present class of 2011. Everyone is invited to attend. Mayor Zelenko and Superintendent John Ploof, are both speakers. We have confirmed 250 people attending. Koegels is bringing hotdogs, Elga is helping us with the funding, VG's is providing the cake, local restaurants are donating food, and there will be karaoke along with other happenings. It will be on May 29th from noon to 6:00 p.m. at the High School. There are 1,000 members already on the Facebook page and you can reach her at atherton.reunion@yahoo.com.

Mayor Zelenko said she has some updates from the last Council Meeting minutes. Sharkey's has been in touch with us and they have their volume controlled for the outdoor patio. They did some renovations to their speakers and equipment so they have dual control for inside and outside. It shouldn't be a problem this year. In my conversation with the Police Dpt. and our Police Chief, anyone that hears these noises and feels it is a violation, they can register the complaint and sign the ticket. It doesn't have to be a police officer. Just be prepared that you may have to go to Court on it.

Mayor Zelenko addressed further Mr. Martinbianco's DPW issues. The crosswalk signal at Bristol and Fern was referred to DPW. They spoke to the County to have it taken care of. The burned out house at Pawnee and Arrowhead is under investigation.

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COMMITTEE REPORTS:

Mrs. Ellenburg said tonight they had a very informative meeting on the wood burning boilers. A couple on Howe Rd. has one and they came to speak on it. They put a lot of money into this boiler and are running it appropriately. She spoke to neighbors on both sides. There was an issue for one neighbor so they spent \$2,000 to move it from one side of their house to the other side. We decided to move it forward to the Council. An ordinance was drafted and a copy sent to the attorney. Because of the budget coming up, she would like to wait till June to discuss the ordinance. If anyone wants more information on it she can provide copies.

Mr. Wells said he would like to bring the information to Council as a Whole, and that way everyone has a chance to look at it and tweak it, then take it to Mr. Austin. Mr. Wells indicated Mrs. Ellenburg did a very good job on it.

Mrs. Ellenburg said the Library had their book sale last week and it was very successful. We discussed with the Mayor the placement of books in one of the City's buildings. Morris Abbott has been taking care of the books for about 10 years. He is coming up in age and his health is not good. So we are going to be storing books in the pole barn so they can be sorted through. We will also be storing the library trailer on the City property instead of parking it at the library where someone could vandalize it. Mrs. Ellenburg expressed further her thanks to the DPW for helping load boxes of books for the sales. Thirty boxes were donated to Goodwill and 10 boxes to the Women's Shelter of Flint. Friends of the Library help the community out a lot.

AUDIENCE PARTICIPATION:

Herb Merrill, 4098 S. Center Rd.

William Eddy, 4128 S. Center Rd.

Mr. Eddy said they talked about Sharkey's on April 18th but he is here to push strongly for no more outside music at Sharkey's. It took them 2 years to come up with a new volume control. They can't be trusted. I have talked to them and they say they will address it and take care of it, and they have never done it. Last Wednesday night at 11:00 p.m., they had the volume kicked up. I drove up there. It was raining and cold outside and there was nothing going on. Three gentlemen were standing on the outside deck smoking cigarettes and drinking beers. All the umbrellas were closed down and they had the music kicked up for 3 people. They already have a base of customers set up. During the Fall and winter when there is no outside music, they stay just as busy as they do in the summer, so there isn't a reason for outside music. They already proved themselves untrustworthy, they don't want to cooperate and be nice to their neighbors. I know they pay property taxes and business taxes, but so does Herb Merrill, myself and several of my neighbors. We have brought decades of property taxes paid to the city, decades of paychecks brought to this city, and there still is people that won't come to this Council and talk about Sharkey's being a problem because they are afraid they will be retaliated against. They are afraid of someone trashing their yard or some of their workers putting out bad statements on people.

Mr. Eddy stated further he drives truck for a living and gets up between 4:00 a.m. to 4:30 a.m. depending on the job. My truck when loaded weighs 77 tons. When I am driving down the road

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and I am not a 100% every day, people's lives are in danger. If someone gets hurt, if I get hurt, or somebody God forbid gets killed, I don't know if City of Burton, Sharkey's, or Jerry Drudi himself is prepared for major lawsuits. These meetings have been well documented. This problem has been well documented. There is a problem with the noise. People have known for years that I drive truck, I am on the road and people's lives are in danger now. So if something happens, we have 2 years of documentation pertaining to this problem.

Mr. Merrill said people have talked to Sharkey's for over 2 years now. The Mayor has talked to them, and the Police Chief has talked to them a number of times. Bill has talked to them. They always say what they think you want to hear. The first opportunity they get, they crank up the volume. It is not every Friday, Saturday or Sunday, but every now and then up goes the volume. You have little kids that parents can't get to bed, you have the mentally disabled living right across the street from them, and you have elderly neighbors that need their rest. I use to get up at 4:30 a.m. in the morning and drive to Ann Arbor and back, which was a bit of a strain when you couldn't get to sleep till after 2:00 a.m. This is nonsense that has to stop. The City gave them the opportunity to have outside entertainment, which gives them those speakers, and the City has to have the power to take the outside entertainment away from them. You can't trust them to do what they say they are going to do, so you take away the option of having the outside noise. Just signing a complaint or ticket, we don't even know what that procedure is. The Chief two years ago told us to call 911 and they would show up and take your complaint. That never happened once. What is this new procedure nobody knew about till tonight and what is that suppose to do. Something has to be done about Sharkey's disrupting the neighborhood. It is up to Council, City Administration, and the Police Chief to do their jobs that we have been paying taxes for years to protect us from this nuisance business. He appreciates attention to this problem.

Robert Garroway, 2201 E. Judd Rd., said his street has 25 miles an hour speed limit. There are 3 to 4 schools in that district and people are driving as much as 50 miles an hour through there. I went to the police department and stopped officers to talk to them about it. Kids will not walk on the sidewalks; they walk in the streets. Somebody is going to get killed. Something has to be done along with the truck traffic that comes any further west than Fern. There should be no trucks coming any farther than that and no trucks allowed on that stretch of Judd Rd. at all. Businesses are on the very east end of the road and that is where they should exit. He counted 16 trucks that shot down through there today between 3:30 p.m. to 5:30 p.m. A child is going to get run over and that concerns him. They have to slow down because of these children.

Jim Shustock, 1346 Howe Rd., said he lives on the corner of Howe and Springfield and he sees cars zoom by 45 to 50 miles an hour every day. We never see a patrol car.

Monica Shustock, 1346 Howe Rd., said last year she hand delivered with twelve neighborhood children flyers to neighbors to remind them the speed limit is 25 miles an hour. She was surprised some of the people handed the flyers back and said keep the kids out of the road. You are talking about children that are 6 years old, 10 to 12 year olds and they don't pay attention when they are on bikes.

Mrs. Shustock stated further, it would take only seconds that someone could hit them. She suggested an officer once in a while drive by.

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Rick Fuhst, 1208 S. Genesee, expressed that he has been close to being hit many times trying to make a left hand turn into his driveway. People drive 50 to 60 miles an hour down Genesee. Agenda Item #8 is the mowing fees and he hopes the City is not using the same people as last year due to the many complaints. He seen in the paper the City wants to bring in an auditor to review the wages. One of our residents wants to know about cuts to City Council wages. If all of you took a wage cut, it wouldn't save one police officer's job. This audit is going to cost more than what you are making and are we really saving anything. We might want to see what the audit is going to cost first before we proceed with something like this. Mr. Fuhst stated further, we should look into saving money in our Motor Pool. It has been stated more than once that our Fire Dpt. has 2 full time fire persons on payroll yet they want 6 to 7 cars in the fire department.

Kim Gazso, 2257 Savoy, commended City Council for approving child abuse awareness.

Bob Walls, 2400 Meadowcroft, said he went on the website for the City of Burton and didn't see a link for Council. He asked if Council's names and phone numbers could be listed so the gentlemen that spoke earlier can contact them when they have a problem at 1:00 a.m. in the morning when they can't sleep. Mr. Walls stated further he found a link listing past Councilman and administrators who are no longer here. The company should be contacted to have it updated. Mr. Walls asked if there was any follow-up with the request of Mr. Wells on the wage commission.

John Stapish, PO Box 190134, inquired regarding agenda Items #9 through #15.

COUNCIL DISCUSSION:

Mr. O'Keefe said at the last Council Meeting, the gentlemen from Center Road came and we had a conversation with them. I know there has been some contact with Sharkey's. He asked the City Attorney how we are going to solve this problem.

Mr. Joliat said there are 2 approaches from the City Attorney's position we can take. One the Mayor mentioned is they can be issued tickets for disturbing the peace, violation of the noise ordinance, and anyone that lives nearby can be the complainant, or a police officer can be a complainant if the officer happens to witness it. Those are misdemeanor offenses punishable by 93 days in the County Jail and/or a \$500 fine, probation, and whatever type of terms the Judge would want to impose to get cooperation, to get compliance with the ordinance. That is one way. We prosecuted noise ordinance violations not just against businesses, but kids that have parties, homeowners; anyone can be prosecuted for violation of the noise ordinance. The other way from the Attorney's position would be a civil nuisance abatement action. If the issuance of tickets doesn't work, if the voluntary compliance doesn't work, and having Judge Latchana in District Court impose conditions doesn't work, the City could initiate a civil action and ask a Circuit Court Judge to enjoin either temporarily or permanently, any outside noise, any violation of the City's Zoning Ordinances, any violations of the City's Noise Ordinance.

Mr. Joliat stated further, that is sort of a last resort because then you are going into Circuit Court and you are starting to spend some money. The other hammer the Council has is the renewal of

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the Class C Liquor License. If they are not complying with the City ordinances, they are disturbing the peace and causing problems, and frequent police call-outs. Mr. Joliat referenced an issue in Mundy Township where they refused to renew the liquor license of a bar because they kept having call-outs for fights. You could refuse to renew their license if they don't comply and start putting in some controls in place at the business. Those are the 3 ways from the legal prospective getting some compliance.

Mr. Martinbianco said it never came before the Planning Commission as far as the installation of outdoor speaker systems, which may or may not be encumbered by their operating license issued through the City. However, they did go to the ZBA for the installation and utilization of outdoor volleyball courts. I am not saying that is where the issue emanates from, but it could be a contributing factor. It happens during this specific time of year when there is outdoor activity going on and they like to make them part of whatever outdoor activity is and I don't know what right of refusal we have, which is the only thing I could find through our ZBA allowing them the variance to operate the volleyball courts, if we have another hammer there, as much as to insinuate that is perhaps where the problematic area comes from, not even knowing how late there lights are on.

Mr. Joliat said it is a contributing factor for sure. I am not familiar with what happened at ZBA and what variances were granted. If we have to look at all possible alternatives to bring them into compliance so they are not disturbing the peace that is what we will do.

Mr. O'Keefe said he is relatively new to this too. The last two meetings these folks have come and presented their case very well. You can tell they are very frustrated after two years, and I would be too. The City has to do something to get this taken care of.

Mr. Wells said maybe Administration can sit down with Mike or Rick and put a letter together and say we are at our wits end, here is what your options are, and we are going to draw a line in the sand right now. We appreciate your business and don't want to run anyone off but this is the way it has to be. We have to look out for our neighbors. There are things they can do.

Mr. Wells stated further, they could put sound barriers up, or hang some curtains that will trap the sound. It is a little bit expensive but if they want to continue with that music, I think this is the only way they are going to be able to do it. I wouldn't wait and I would get them involved right away and get these gentlemen and the neighbors a break.

Mayor Zelenko said she has no problem doing that. She asked Mr. Eddy for a specific time and day of the problem.

Mr. Eddy responded it was last Wednesday at 11:00 p.m.

Mr. Heffner said he has his card with his cell phone on it and the next time the music goes off, he wants them to call him any time. He will come over and take a look at the situation.

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Mr. Wells acknowledged Judd Rd. is a racetrack. We need to find a way to direct the truck traffic off of Dort Hwy. and down Quinlan, and back out behind where the big truck lot is. He thinks the City owns some of the property next to the railroad crossing there. We could make a circle drive and keep them out of the residential area. They are pounding the roads with those trucks and it is just constant all day long. There is no reason for them to be down in that residential area. Mr. Wells suggested having a police officer sit in that area for the day and possibly over at Howe and Springfield Rd.

Brief discussion ensued in having a speed sign showing how fast you are going.

Mayor Zelenko asked for a specific time when the speeding is at its worst.

Mr. Garroway replied it is at times when parents are taking their kids to school.

Mr. Wells mentioned Mrs. Hawks' request on the wage commission. He stated he has no problem in having the salary commission come in. Mr. O'Keefe sat on the salary commission. He asked for his input.

Mr. O'Keefe said the salary commission consists of residents of the City. They don't work for the City, so it is impartial. The Chairman brought wages of the Mayor's and Council's salaries. We looked at pier groups of cities the same size as Burton and made our recommendations. To my knowledge, the salary commission has not met since 2003. At that time, the salaries of the Mayor and Council were definitely in line with the pier groups. In fact they were in the lower quadrants.

Mr. Wells said Mrs. Hawks did bring in 80 signatures. We should not be ashamed or afraid for the salary commission to come in and look at what we are doing. I would like to have it happen before the elections since we have 6 people running. I think it would be a good idea. Negotiations will be going on in the budget process with our employees and we are going to ask them to take cuts. We should be at the top of that list.

Mr. Martinbianco spoke regarding the Sharkey situation. He stated the need to have a frank discussion with Mr. Drudi. As it has been indicated, everything seems to be happening after the fact. You can complain, but the incident is already done and gone. You need to have some evidence that a violation in terms of our noise ordinance exists, which would indicate we need some type of metering tool to do that. I don't know if we are in possession of that device. Typically, in the past we borrowed it from the City of Flint.

Mr. Joliat said the last time we used one was for the concrete crusher on Dort Hwy. He doesn't know if that was one the City owned or we borrowed it.

Mr. Martinbianco said if volleyball is driving this and that is when the activity is happening, that could explain the mid-week incident. Everyone needs to be a good neighbor including Sharkey's. They really need to tow the line and we have situations there that need to be addressed.

Mr. Martinbianco stated further, it would give us an opportunity to examine the rights and covenants under their grants from the ZBA and whether or not they have broached it.

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Mr. Martinbianco addressed conditions of the roads, and looking at a short-term fix with Major and Local Streets. We are a couple years out in the expiration of our bonds issued in 1998. After the year 2013, we will be in a much better posture, assuming gas doesn't continue going up in price. People will be using less gas, which will then be less gas tax revenue. We have to do something to patch up for 2 years. You will see agenda Items #9 through #15 which talk about reducing many of these streets, most of which are commercial and/or industrial streets, where they have had to turn back something that was concrete way back in the day, and turn it into something that is drivable. Some of those areas are intense industrial traffic.

Mr. Martinbianco said he would defer Mr. Walls' questions on the website to the Chairman of the Public Access Committee, and what we have looked at with the website and other objectives we would like to achieve.

Mayor Zelenko said they haven't gone out to bid yet for weed cutters. Agenda Item #8 is our own fees for in-house cutting. Within the next 2 weeks we will be going out to bid for the weed cutting. It will not be the company from last year. Regarding Items #9 through 15, an in-house audit was done on the traffic control order itself. The orders were not on file and that was the basis for these items. We needed the written document on file.

Mr. Smith asked if leagues have started yet at Sharkey's.

Mr. Eddy replied he didn't think the leagues started yet and that makes it just that much more worse because there is no reason to have the music piped out there, especially on a raining evening with no one out there.

Mr. Smith suggests getting a hold of the league schedule because that would be the times to check as well.

Mrs. Ellenburg thanked Mr. Garroway for coming in. She has lived in that area all her life and as a kid it is hard to go 25 miles per hour. It use to be when we had a large staff of police officers they used to sit down there and catch people on Judd Rd. going over the speed limit. The same situation is on Fern St. Mrs. Ellenburg suggested checking with the County Road Commission on utilizing a speed sign. She said it does help and Grand Blanc use to set one up by their school.

Mr. O'Keefe stated the web page is in shambles, however, we have some council members working very hard on this and it will be something to be proud of. Mr. O'Keefe asked for a summary on the website.

Mr. Wells said information is being gathered to put a bid together for a communications network for the City. It will include a new computer and phone system, state-of-the-art website, cameras to tape the meetings and have available on the website. A few years ago prices were around \$25,000 for a website and now we are in the \$3,500 to \$5,000 range. They would like everything in place by September 1st.

Mr. Wells expressed to Mr. Walls that they went through the website and changed a lot of things, but they missed the outdated link he seen.

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Mr. Smith expressed that it is a PDF file. The website is designed that you can't find that outdated area very easily. The new website will be user friendly and easy to find people and departments.

In reference to Item #2, Mr. Wells said Tim Rapacz is a dynamic young man and he is part of the Gus Macker committee. He really wants to get involved with government. He just graduated from college. He is proud and excited to have him in Burton City government.

In reference to Items #4, 5 and 6, Mr. Wells inquired to Mayor Zelenko as to the number of properties the City still has. He stated she is doing a good job getting them taken care of.

Mayor Zelenko replied about a dozen properties have been approved.

In reference to Items #9 through #15, Mr. Martinbianco asked the maker of the motion, Mrs. Ellenburg, to approve the items in a block.

COUNCIL ACTION:

O'Keefe moved and Martinbianco seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from April 13, 2011 through April 27, 2011 in the amount of \$4,242.50.
Motion carried 6-0.

Wells moved and Smith seconded the following motion:

2. Approve and authorize Council's appointment of Tim Rapacz, 1478 Schafer, Burton, MI, 48509, as an alternate to the Zoning Board of Appeals, filling Scott Hynes unexpired term of December 2012.
Motion carried 6-0.

Ellenburg moved and Martinbianco seconded the following motion:

3. Approve and authorize a Resolution Approving Permit for Fireworks Display for Holy Redeemer Parish, 1227 E. Bristol Rd., Burton, MI 48529, as written.
Motion carried 6-0.

Ellenburg moved and Smith seconded the following motion:

4. Approve and authorize Resolution Authorizing Sale of 1344 DeCamp, Parcel #59-30-576-149, to give first approval for the sale of this improved parcel to Akeel Dakki, for the sum of \$2,000.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.
Motion carried 6-0.

Ellenburg moved and O'Keefe seconded the following motion:

5. Approve and authorize Resolution Authorizing Sale of 1447 E. Bristol Road,

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Parcel #59-30-579-003, to give first 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 6-0.

Martinbianco moved and Smith seconded the following motion:

6. Approve and authorize Resolution Authorizing Sale of 1468 Carman Street, Parcel #59-30-578-017, to give first approval for the sale of this improved parcel to Danny E. Thornton, for the sum of \$300.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 6-0.

Ellenburg moved and O'Keefe seconded the following motion:

7. Approve and authorize a Resolution for Bristol Road Bridge Preventative Maintenance funds through the Local Bridge Program for the year 2014.

Motion carried 6-0.

Ellenburg moved and Smith seconded the following motion:

8. Approve and authorize the fee of \$53.50 per 50 foot x 100 foot lot of brush hog cutting, \$56.67 per 50 foot x 100 foot for hand/riding mower, and \$0.003 per square foot for lots larger than 50 foot x 100 foot.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

9. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Fern Ave.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

10. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Jimbo Dr.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

11. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Flint Asphalt Dr.

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Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

12. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Card Dr.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

13. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Woodrow Ave.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

14. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Associates Dr.

Motion carried 6-0.

Ellenburg moved and Wells seconded the following motion:

15. Approve and authorize the issuance of a permanent Traffic Control Order of 25 miles per hour speed limit on Iron St..

Motion carried 6-0.

Meeting adjourned at 8:15 p.m.

Julie Adams, City Clerk