

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JUNE 1, 2009, 7:00 P.M., COUNCIL CHAMBERS
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Councilman Steve Heffner led the Invocation and Brownie Troop 70110 led the Pledge of Allegiance.

The Regular Council Meeting was called to order by President Tom Martinbianco at 7:10 p.m.

MEMBERS PRESENT: Conley, Ellenburg, Haskins, Heffner, Martinbianco, Tinnin and Zelenko.

MEMBERS ABSENT: None.

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

Mr. Heffner thanked Brownie Troop 70110 for their help cleaning up at Kelly Lake Park. He planned to give them a certificate of appreciation at a later date. He asked for a brief recess to speak with the girls.

The Regular Council Meeting recessed at 7:12 p.m.

The Regular Council Meeting resumed at 7:16 p.m.

Ellenburg moved and Heffner seconded the following motion:

Approve and authorize the minutes of the following meeting: Regular Council Meeting on May 18, 2009 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mr. Kray indicated that the Finance Committee met May 13th to discuss the sewer rate increase that was passed down from the Genesee County Drain Commission on January 2, 2009. The committee recommended the rate proposal be sent to the full Council for consideration. Mr. Kray gave a brief presentation regarding the sewer rate history, the breakdown of sewer rates per cubic foot, and how fees will impact metered and non-metered customers. Basically, Burton's sewer rate remained the same and the County's portion increased. Specific rates for metered and non-metered customers were outlined on the agenda in Item 10. More information was available in Mr. Kray's handout titled "2009 Genesee County Sewer Rate Increase".

COMMITTEE REPORTS:

Mr. Heffner said the Finance Committee met to discuss registration fees for abandoned structures. Another meeting has been set for June 15th at 5:45 p.m. to continue discussion on this issue. He requested Mr. Austin be present at that meeting. Mrs. Zelenko said the committee was considering the fee structure for abandoned houses, as well as determining how to adjust and address vacant homes with valid building permits. Mr. Austin said if the City could show that a valid building permit reflected a cost savings in administrative expenses then it could be taken into consideration when determining the fee structure. He indicated that the ordinance does not distinguish between mortgage companies and other types of ownership.

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Mr. Heffner said the Memorial Day Celebration and the Gus Macker Tournament were great successes. It was estimated that 5,000 people attended the Gus Macker. He thanked Council members for participating in these events. He said the Park's float took second place.

AUDIENCE PARTICIPATION:

Rick Fuhst, 1208 Genesee Rd., suggested sewer billings be sent out monthly. He spoke regarding abandoned homes being charged a flat sewer rate. He felt a home with a building permit, utilities and mowed lawn should be designated as a vacant building, not abandoned.

John Stapish, P.O. Box 190134, asked for clarification on the two Building Authority appointments. He opposed the administrative late fee on property taxes, the 10% late fee on water billings and the sewer rate increases. He commented on crime statistics for Burton.

Don Brown, 1424 Connell, asked for clarification on the weed-cutting contract. Mr. Martinbianco indicated that the weed-cutting contract has been bid. Mr. Brown should file high weed complaints with the code enforcer.

COUNCIL DISCUSSION:

Mrs. Tinnin spoke in reference to the Finance Meeting that was held on May 13th. She asked for clarification on the flat rate for sewer customers. Mr. Kray provided the identical sewer rates from the County, as proposed in Item 10.

Mr. Kray indicated that when apartment buildings and commercial businesses tap in to the sewer system their units are calculated by the usage and the square footage of the building. Mr. Martinbianco was concerned that not enough attention has been focused on commercial and industrial customers sewer rate increases. Mr. Kray said the rate structure does address all types of buildings. Mr. Austin referenced pages 149-150 of the Codified Ordinance Book. He indicated that the Table of Unit Factors provides the REU factor for all users. Mrs. Tinnin requested the number of sewer units for high-rises and commercial buildings. Mr. Kray directed Mrs. Tinnin to contact the Mayor for these requests.

Mrs. Tinnin referenced a DPW contractual employee. She wanted to know if the employee's check was being withheld and applied to the past due water bill. Mr. Kray said what employees do with their checks is not his business.

Mrs. Tinnin wanted to know if the Mayor had the authority to make special payment arrangements. Mr. Austin said Section 51.143 governs the payment for water services. It does not provide for special treatment of customers. Mrs. Tinnin indicated that no free services shall be furnished by the system to the City to any person, firm, corporation, etc.

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Mrs. Tinnin asked for clarification on ordinance violations. Mr. Austin does not prosecute alleged violations dealing with City officials. If a complaint were filed, the Police Department would commence an investigation. If necessary, the case would be turned over to a special prosecutor. Mrs. Tinnin read a letter that she sent to the Mayor expressing her concerns with billing practices. She requested detailed water billing information regarding delinquent accounts.

Mrs. Tinnin wanted to know what steps would be taken if an elected official violated their oath of office. Mr. Austin said if an elected official violated their oath, they could possibly be removed from office, due to malfeasance. The Attorney suggested it was premature to assume that there were any violations. Mrs. Tinnin felt it was the Council's responsibility to make sure City business was conducted properly.

Mr. Austin indicated that Section 52.136 addressed the enforcement of water ordinance provisions. Genesee County Water and Waste or the City has the authority to enforce water ordinances.

Mr. Heffner strongly opposed Council members using people's names when discussing overdue water bills. He felt we should not make it public. This will end up in the paper. That is wrong.

Mr. Kray said Mrs. Tinnin brought it to our attention that no free services should be provided. Currently, we are providing free services to sewer customers using 16 cubic feet or greater. The responsibility to correct this issue falls on the legislative branch of government.

Mr. Haskins pointed out that the County increased the sewer rates, not the City. He felt it was the fiduciary responsibility and obligation of the elected officials to pass on the County increase. The City cannot afford to continue to absorb the increase. He was unaware of anyone receiving free service, except for those sewer customers using over 16 cubic feet of sewer. He opposed Council members requesting customer's personal finances and bills. In these hard economic times, he thought the administration should be working with residents having difficulty paying their bills. Water is an essential resource to survive.

Mr. Kray said the last time sewer bills were increased was in May 2006. Under the new rate structure the City does not get any money for the quantity used. We charge a flat rate. We do not treat the sewage, so there is no excess surcharge. We maintain the sewer lines.

Mrs. Tinnin said a lot of people are having trouble paying their bills. We should not selectively show favoritism. If no one paid bills, the City would not survive. Our water fund has decreased over time. On the other hand, there was a sewer surplus of \$13,780,000 in 2008. We have the highest unrestricted net assets in sewer, yet we plan to raise the sewer bills sky high. She felt the City needed to adjust rates to meet the cost of the operation. We need to look at what we are paying in wages and fringe benefits. They have tripled wages and fringe benefits in that department. She feels the department needs to manage their needs. She is sensitive to the fact that people are having financial difficulty. She does not want to be naming people. The fact remains we need to police how ordinances are being enforced.

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Mr. Haskins said we should pass on the rates from the County or the surplus will be depleted.

Mrs. Conley felt if the employee was receiving a check, it should automatically be put on the outstanding bill. She wanted to know why the employee's water was not turned off due to nonpayment.

Mrs. Ellenburg agreed with Mr. Heffner and Mr. Haskins. It is an embarrassment for names to be brought up in reference to delinquent bills. She said the topic of payment arrangements should be discussed with the Mayor. Mrs. Tinnin said this information was public record.

Mrs. Zelenko said that Mrs. Tinnin has brought up some valid questions that needed to be addressed. We need to check into things. She said a lot of this discussion has been pure speculation that could have been answered if we had discussed it with the Mayor. She planned to make an appointment to discuss these issues with the Mayor. Mrs. Conley said she called the Mayor twice and he did not return her calls.

Mr. Martinbianco referenced a letter from For-Mar Nature Preserve. They wanted input on how to reduce the deer population at the preserve. There is a no hunting ban north of Lippincott. He wanted to know if the organization had contacted the City for a special hunt. He asked for clarification on what should be done from an ordinance standpoint to accommodate this issue. He felt we should possibly expand hunting areas. He asked Mr. Kray to look into this situation.

Mr. Martinbianco asked for clarification on the water reliability study. He wanted a response from DEQ. He wanted to know who hired Bendzinski to do the water rate study. Mr. Kray thought the reliability study was complete except for one paragraph that needed to be revised. One page was to be changed, substituted and then approved. He thought the City hired Bendzinski to look at the water rates, recommend a structure and how to proceed. Mr. Heffner said Council members received a copy of the Bendzinski report in the last meeting package.

Mr. Martinbianco would like more time to review the sewer rate information. The County is going to pass on the rate increases regardless. He said the presumption has fallen on the well user. It was suggested that if well users use more than 16 cubic feet or more, the water customers were subsidizing them.

Mr. Kray said the sewer rates have been restructured. They found that well users were using more water than they were actually assuming in the past. Under the new County rate structure, the well users will pay 37 cubic feet a quarter. In the past, they were not paying nearly as much as the meter users. Mr. Kray said it is costing the City about \$25,000 a week to subsidize the non-metered customers. Sewer units are billed per individual user. Well users could install a meter to determine the cubic feet of water being used.

Mr. Martinbianco asked for an update on the weed cutting. Mr. Kray said the weed-cutting contractor was doing a good job.

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Mrs. Conley asked for clarification on the Keller Thoma billing. Mr. Martinbianco said this was the final billing from the Teamsters negotiations. He suggested she call Mr. McArdle for more details.

In reference to Item 5, Mrs. Tinnin clarified that the late penalty fees have remained the same.

Mrs. Conley wanted to know the best estimate of the end of the year transfers. In addition, she wanted to know what the General Fund Surplus was going to be as of July 1st. Mr. Martinbianco said Mrs. Foster will probably address the transfers at the next meeting. If there are year-end transfers, they will require Council action. He thanked the Administration, Mr. Heffner and Council for their hard work and input on the budget. He appreciated their efforts.

Moved by Zelenko, Seconded by Tinnin to: Remove Item 10 (Sewer Rate Structure) from the agenda and add it to the next Regular Council Meeting scheduled for June 15, 2009. Motion carried 6-1, with Haskins voting no.

COUNCIL DISCUSSION ACTION:

Moved by Zelenko, Seconded by Tinnin to: Remove Item 10 (Sewer Rate Structure) from the agenda and add it to the next Regular Council Meeting scheduled for June 15, 2009. Motion carried 6-1, with Haskins voting no.

COUNCIL ACTION:

Haskins moved and Conley seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from May 13, 2009 through May 27, 2009 in the amount of \$4,139.01.
Motion carried 7-0.

Haskins moved and Zelenko seconded the following motion:

2. Approve and authorize the Attorney Billing (Keller Thoma) 440 East Congress, 5th Floor, Detroit, MI 48226, for the month of April in the amount of \$592.76.
Motion carried 5-2, with Conley and Tinnin voting no.

Haskins moved and Heffner seconded the following motion:

3. Approve and authorize the Mayor's reappointment of Karen Foster, City Controller, to the Building Authority Board of Commissioners. Term expiring June 2012.
Motion carried 7-0.

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Ellenburg moved and Conley seconded the following motion:

4. Approve and authorize the Mayor's reappointment of Gayle Webster, City Clerk, to the Building Authority Board of Commissioners. Term expiring June 2012.

Motion carried 7-0.

Haskins moved and Heffner seconded the following motion:

5. Approve and authorize the following tax millages and fees to be levied for the 2009-2010 fiscal year: General Operating 4.7070 mills; Voted Police 1.9876 mills; a \$139.44 per unit rubbish removal fee on all residential improved parcels and those other parcels that utilize the service; a Property Tax Administration Fee of 1% on all tax statements and additional 4% late penalty charge when delinquent.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

6. Approve and authorize the Burton City Budget for all General Appropriation Act Funds for the 2009-2010 fiscal year (pages 11-22) and that the Burton City Budget be adopted on a departmental basis with the exception of pages 19 and 20, which will be adopted on a project line item basis.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

7. Approve and authorize the transfer of 15% of the Major Street MTF/LRP funds to the Local Street Fund, as monies are received, for the 2009-2010 fiscal year.

Motion carried 7-0.

Haskins moved and Conley seconded the following motion:

8. Approve and authorize the tax millage levy requested of 1.8269 mills for the Downtown Development Authority in the affected district for the 2009-2010 fiscal year.

Motion carried 7-0.

Ellenburg moved and Conley seconded the following motion:

9. Approve and authorize the proposed 2009-2010 fiscal year Downtown Development Authority Budget.

Motion carried 7-0.

*Removed from the agenda and added to the next Regular Council Meeting scheduled for

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June 15, 2009.

10. Approve and authorize a modification to the City's sewer rates and structure as follows:

- 1) A direct pass through of the Genesee County Drain Commission Division of Water and Waste Services of:
 - Metered customers: \$3.414/month/sewer unit (REU), plus \$1.658/100 cubic feet (CCF)
 - Non-metered customers: \$24.14/month/REU
- 2) City of Burton sewer charge of:
 - \$5.93/month/REU

Meeting adjourned at 8:45 p.m.

Gayle K. Webster, CMC
City Clerk