

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JUNE 6, 2011, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

Council President Steven Heffner led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by President Steven Heffner at 7: 00 p.m.

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

MEMBERS ABSENT: None.

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

Ellenburg moved and O'Keefe seconded the following motion:

Approve and authorize the minutes of the Special Council Meeting on May 12, 2011 at 6:00 p.m.,
and Regular Council Meeting on May 16, 2011 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Zelenko said Atherton School celebrated 175 years of being a School District with an open house last Sunday. Over 800 people attended. She thanked Ramona Miron for all her hard work in organizing that event. Mayor Zelenko thanked Mr. Smith and colleagues on Council that helped put together the 5K Road Race. That kicked off Memorial Day and our salute to the veterans. We had 394 participants. She thanked Genesee County Fire Brigade and the Color Guard from the Army with Sargeant Mancino that helped us with our salute to veterans and accompanying Jowann Kerrigan as she sang the National Anthem. Mayor Zelenko thanked further Mr. Heffner and colleagues for getting the car show at Courtland organized with Troy from Courtland Center. We had over 78 registered car entrants. Jessie Couch and his band entertained us through the day and it was a great event. Cheryl Sclater and Stacey Betts did a wonderful job organizing the evening ceremony at the Veterans Memorial. Chief Benthall was the emcee and we had the Flint Master Singers. The Atherton High School Band gave their musical salutes to veterans. Ruth Hindes and Brenda Ott led the candlelight vigil. Once again we thank Meijers for providing the fireworks for a spectacular finish to the evening. It takes a lot of folks to put on that event, and even void the parade this year, it was a very busy day with a lot of folks participating. We had firefighters, police officers and DPW workers. A special thanks to Julie Adams who oversees all the decorations for the Memorial Day event, she did a wonderful job.

Mayor Zelenko stated due to the increased use of Kelly Park during weekends, we will be cleaning up on Mondays and Fridays. We received from MML a dividend check on our property and liability of over \$45,000. The amount has been spread back across the departments at the same percentage rate that it has been paid into by those departments. Mayor Zelenko announced she copied everyone an e-mail regarding the possible personal property tax elimination, Senate Bill No. 34. It is currently in the Senate Finance Committee. She encouraged everyone to send an e-mail to www.michiganlegislature.org. Click on committees, you will find the Senate Finance Committee. Tell them how important it is they do not touch our personal property tax. It will take a lot of us at the city and local level to voice your opinions. Having been in the Legislature, it carries a lot of weight in making your votes and decisions. If you call their offices, you can talk to their staff and they will speak to them about it.

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Mayor Zelenko indicated further Council received a copy of Mr. Joliat's letter updating the disturbance of the peace and the animal situation with Mr. Wolfe on Center Road. For those living on gravel roads, chloride will begin June 20th

COMMITTEE REPORTS:

Mr. Wells said the Public Access Committee is proud to put a proposal together for our website thanks to Mr. Smith, Mark Udell and Administration. Bids will be in a sealed envelope identifying the item being bid as website re-design. Bid proposals must be received by 4:00 p.m. on Tuesday, July 5, 2011. At that time, no further bids will be accepted. The bids are going to go out on M-Live. Mr. Smith is working with the Flint Journal to get out information at a reduced cost. Anyone from Burton will get a 5% advantage because of our ordinance. We look forward to getting this up and running by September 1st. We are going to have a meeting next week and I left a message for Mr. Runnals at the View and we are going to see how they can help us out with the contest for the City motto.

AUDIENCE PARTICIPATION:

Robert Caraway, 2101 Judd Rd., said driving is somewhat better on Judd Rd. but the police presence slowed down a little bit. He asked if there is an ordinance about parking on sidewalks and specifically permanently parking 6 or 7 months. There was a situation I almost got hit head on 2 weeks ago because you have to walk across and behind a pickup truck and an old Chevy station wagon on Fern. The license plate expired in November on one of them and the other one is backed in to where you can't see it. Kids have to walk around and out into the street because they can't use the sidewalks.

Debbie Walton, 1224 Carman St.

Lisa William, 1196 Carman St.

Mrs. Walton said she spoke to the priest at Holy Redeemer Church a couple of weeks ago concerning how close the fireworks at their festival were going to be in the north end of the football field. She talked to the State and they said it was okay by the City. Friday, June 3rd at 9:45 p.m. the fireworks took place. She called Danny Wells at 7:00 p.m. to 7:30 p.m. that evening and asked if he would come to witness what was going to take place. Danny came and taped it. We weren't notified until I called the Lansing Diocese and expressed how upset I was that this was going to take place so close to our homes. A letter finally came out to the homes showing what was going to take place. She wants Council to stop the fireworks. The ground was shaking and the noise was very bad. A piece fell on Lisa William. A fireman told her they are supposed to be 400 ft. from a structure; the paperwork showed 380 ft. She does not believe a fire truck was there and with the crowds, she doesn't know how one could have gotten in. She asks that before a permit is given to Holy Redeemer residents be allowed to have input.

Rick Fuhst, 1208 S. Genesee Rd., spoke highly of the Courtland Car Show. He ran into road blocks trying to come back home due to a walk-a-thon. He doesn't mind that organizations have walk-a-thons, but they should have to pay for the police officers.

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John Stapish, P.O. Box 190134, spoke regarding Item #7, approving the low bid of \$6,200 for a dump trailer for use in conducting violation clean-ups. He was billed 1.5 hours for a \$13.29 for a pick-up and \$25.74 for ½ hour rental for a dump truck. Mr. Stapish questioned the \$6,200 cost for the dump trailer and the reason for the purchase.

Ramona Miron, 3051 Connecticut, thanked the City for the 175th class reunion. Council supported them and the police were there, she is very thankful.

COUNCIL DISCUSSION:

Mr. Wells said on the May 2nd Regular Council Meeting agenda, Item #3 was to approve Holy Redeemer's firework display. He thinks a lot of times when things come through for a church, we assume it is a pretty good thing. I went over 9:45 p.m. and the festival itself was not loud. When the fireworks started, Mrs. Walton had to tranquilize her dogs to get them under control. The fireworks went on for 45 minutes and were very loud and close to the houses. This is the first time in 42 years for fireworks there. It is located next to Bristol Road and the Carman Street subdivision. It is too close to the neighborhood.

Mr. Wells said he has had several dozen complaints of gang fights over there. Residents have called and talked to the police department and the County.

Mr. Martinbianco said in the years we have had fireworks back in the DPW, he has never heard a complaint. Kids love it and it is a family event. They were probably hoping to have that same outcome at Holy Redeemer. He has heard complaints to bring the parade back and expand the fireworks.

Mr. Haskins inquired if the area behind the bleachers and football field were used for the festival. He wondered if the south part of the football field closer to Bristol Rd. would have made a difference with the fireworks. With all the area they had, unless it interfered with the festival, the property line against the fence would have been the worst ill place to have the fireworks.

Mr. Wells said a lot of work was put into this effort. Mr. Austin was involved in putting this together, the Fire Chief, and the Bishop Airport Authority. In my opinion, I wouldn't vote to allow them to do this next year and with Bristol Rd. so close, it is not a good idea.

Mr. Heffner asked the Mayor if the neighbors were notified.

Mayor Zelenko replied not to her knowledge. The City didn't notify.

Mr. Heffner said when we looked at the backup material, we didn't have anybody in here saying they didn't want it to happen. I didn't see anything in the backup material that suggested we should turn it down. I think if it happens again, the neighborhood should be notified so they have the opportunity to voice their opinions.

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Mayor Zelenko said she thinks you put the notice on the church, the applicant.

Mr. Heffner said it could be put that this is part of a pre-condition before it even comes to us.

Mrs. Ellenburg said she watched the fireworks at Grand Traverse and Bristol Rd. and they seemed very low. If it was quite windy out, there could have been a problem. We have another firework display coming up in someone's neighborhood the 4th of July and they are the same size fireworks. Persons go through a lot of hoops to get permitted through the State, the Fire Dpt. and the City. This was a trial run and we will look at it more closely.

Mrs. Ellenburg addressed Mr. Fuhst's comments on the race/walk. She said Faith Tabernacle's race was being held and they pay for police to block off roads for safety of the walkers and runners. The same for the Memorial Day run and walk. We paid police from the entry fees. Mrs. Ellenburg addressed Mr. Caraway's comments about Judd Rd. She discussed with the Mayor about possibly having a sign on Judd Rd. stating truckers cannot turn and head towards Saginaw St. That road is not built for semi-trucks. The Mayor or Greg Kray could check into some type of signage where the trucks have to go back to Dort Hwy., if they don't there will be a fine. It is endangering children and causing havoc to our roads. Mrs. Ellenburg thanked Vaughn Smith and everyone that worked for the Memorial Day. Everything was fun and exciting and successful for our City.

Mr. Heffner asked Mr. Kray for his input on the dump trailer.

Mr. Kray said under normal circumstances, it would cut the costs we bill the residents for clean up on material and labor approximately in thirds.

Mr. O'Keefe said our City Attorney coaches the Mott golf team, and 2 weeks ago he and the team went to Oklahoma for the finals for the entire country. Mott Community College finished 7th in the entire country. I think it is unbelievable especially the climate we live in where a lot of golf teams play golf 365 days a year. He does not have that luxury. I applaud him being a coach at Mott College and he and the team doing as well as they did.

Mr. Wells addressed Mr. Caraway's comments regarding an ordinance on parking on sidewalks. He believes we do have an ordinance.

Mr. Austin stated it isn't a special ordinance; it is under the Uniformed Motor Vehicle Code.

Mr. Wells said he use to live in that area and it is dangerous. I don't know what we can do to step up code enforcement over there. The other problem is there is not enough room to park more than one vehicle over there a lot of times. It puts a burden on the family. Like the Holy Redeemer situation, there is a thin line in some of our ordinances so we don't make it too tough on our residents. Mr. Wells mentioned to the Mayor of having code enforcement go over there.

Mayor Zelenko indicated she would need an address to look into it.

Mrs. Ellenburg said she lives close to Fern. A lot of the driveways are slanted. If they have a garage and things in it, then they have to park on the slant and then they are on the sidewalk. It will be tough to enforce.

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Mr. Wells asked if there is some type of variance they could ask for.

Mr. Austin said there is not a type of variance that would allow parking on the lawn. You are talking about residential property that is not required to have site plan approval.

Mr. Martinbianco mentioned the need to set a time for a final meeting on the budget.

Mrs. Burke-Miller said they are looking at Thursday, June 16th.

Mr. Haskins mentioned that the ZBA Meeting is at 5:00 p.m. on that day.

Council agreed to set the Budget Workshop for Thursday, June 16th at 5:30 p.m.

Mr. Wells said he had a few calls this weekend on the Fenton Road area mobile home park, south of Bristol Rd. There are deplorable conditions. The first 4 or 5 trailers do not have windows in them and people are living there. Animals are running rampant and some are being thrown into dumpsters. The other mobile park down the road has its problems too. We need to send someone in and check it out. They may want to take police protection with them.

Mr. Martinbianco said there are issues over there with respect to water quality. It is an on-going problem. We are not quite sure why Genesee County Water & Waste Services denies our permit to put PBC pipe. To back-fill that, both mobile home parks with City water, you would have to obtain some right-of-way permits and to date, it has not been done. The problem we run into is Statutory. The Michigan Mobile Home Commission solely takes care of those issues. It has to be brought to their level first. We do have an interest in it as administrators of the City saying you have not brought good water in, Mr. Prysby from the DEQ, Genesee County Health Department, hasn't fulfilled his obligations, he has not responded to a letter from 2 ½ years ago that was sent to Mr. Stein, the owner of both of those properties, and has not fulfilled the obligations that the Genesee County Health Department brought forth. Our emphasis has to be on the Genesee County Health Department, Water & Waste Committee and tell them they really have to start moving on these properties. Conditions are probably deplorable and they need to be addressed. One of the statements the City made was to enter into an agreement with Flint Township to put that watermain through there which was going to serve mutual purposes in addition to Flint Township and ours, but also offer him a little more saleable agreement where he can put City water in. The bottom line is, we have that whole segment of Fenton Rd. Watermain we are going to put in and he should be a logical participant in that adventure.

Mr. Wells asked if it the City Council's duty to put that letter together or do we need to go through the Administration working with the Attorney to put something together. When I went through there the other day, the first thing I thought was this is a lit cigarette on a windy day away from being a disaster. Once one of those things starts going up, some of the grass in there is waist high.

Mr. Martinbianco said our better contact would be through the Administration to the Michigan Mobile Home Commission and have them come in. It would be appropriate by resolution, approve and authorize the Administration to file a letter indicating adverse conditions in those mobile home parks with the Michigan Mobile Home Michigan and allow them to begin their conduct and that will catch the attention of the Genesee County Health Department.

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Mr. Wells expressed that he is in total agreement. One of the main reasons we decided to spend the money to run that through there, was to give those people a chance to live a healthy life style and to upgrade that community and bring some businesses in on Fenton Rd.

Mayor Zelenko said she has been through there and she has a contact with the Michigan Manufactured Mobile Home Commission. She will make a phone call and find out what the procedure is.

Mr. Heffner addressed Item #16 and #17. He asked Mr. Kray if he was aware that the company was a landscaping company.

Mr. Kray responded they are landscaping and excavation.

Mr. Heffner said he doesn't think asphalt people should be doing concrete work, and landscapers should be doing asphalt work.

Mr. Kray said as the prime contractor, he has subcontractors that are qualified in those areas.

Mr. Heffner said backup materials state they come with excellent references. Council did not get those references. He asked who the subcontractors are.

Mr. Kray said the owner of L & M is one of the best contractors he has ever worked with. He did several projects with him including Davison Rd. and Torrey Rd. He worked with him when he was at the Road Commission. He is an excellent contractor.

Mr. Heffner said he did some research and didn't see anywhere where they did roads.

Mr. Kray stated he does roads but he does not do pavement/asphalt. He does the sub grade and base course.

Mr. Wells asked how much lower he was to the next person.

Mayor Zelenko said the information is in the packet.

Mr. Heffner indicated the next lowest was an excavating company. They were \$3,000 to \$4,000 higher. Ace Asphalt was lower after that which was \$7,000 higher.

Mr. Kray said what this tells me is that the majority of this work is sub grade and base preparation and the asphalt is not the majority of the cost of this job. Whoever does the work will have to meet the specs.

Mr. Smith inquired regarding Item #2, the Kellar Thoma billing amount.

Mayor Zelenko said this is on one arbitration case that started before she became Mayor. We won that arbitration.

Mr. Smith inquired regarding weed mowing and if they are proceeding with a list.

Mr. Kray said 30 lawns were mowed on Thursday and Friday combined.

Mayor Zelenko said we are doing it all in-house right now and they are doing a great job in getting the list caught up. Because of the weather it was hard to get out there with all the rain.

Mr. Smith asked about the savings involved.

Mr. Kray replied by doing in-house rather than contracting we are at least supplementing a contractor within house and we are saving employment.

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Mr. Wells said he has had several calls of thanks and you guys are doing a great job.

COUNCIL DISCUSSION:

Mr. Wells expressed that Mr. Joliat has done an exemplary job while Mr. Austin was off.

Mr. Austin said he is very glad to have Mike in the office.

Mr. Martinbianco wanted clarification if Item #2 was arbitration and if it was in the City's favor. Mayor Zelenko said it was POAM arbitration regarding our retiree health care.

Mr. Martinbianco asked if the arbitration bill was split and inquired further regarding 312 Arbitration.

Mayor Zelenko responded the bill was split. It was part of our contract with what we pay for health care premiums. We did not violate the contract.

Mr. Martinbianco inquired regarding Item #4 if they cannot fulfill their obligation and how are we going to be held harmless.

Mayor Zelenko said we wish to continue to remain in the CDBG.

Mr. Kray said most of the projects we are doing with the CDBG money are projects we are going to do any way that needed to be done. I don't think we are doing projects that were specially designed for the CDBG funds. Buder St. paving is something we wanted to do anyway. The Saginaw St. Water Loop had to be done. We are using a portion of it to pay for the code enforcement officer when he works in low to moderate income area, some of it goes to the Senior Center.

Mr. Wells said that money is well needed and well spent. Van Y deserves the road around the school paved. Maybe for next year we can see about paving around the school.

Mr. Kray said the area would have qualified but despite 3 attempts, 2 mailings and the 3rd attempt door-to-door delivery, we were 3 homes short of having residents return the survey. The numbers were there to qualify but the percentage of returned surveys were not. We can't force them to return surveys.

Mr. Wells expressed again the possibility of paving around the school.

Mr. Kray said we are required to do any home it will affect or benefit. We worked with the Genesee County Metropolitan Planning Commission in coming up with the survey area. Our only hope is the next time it comes up, we will try again.

Mr. Heffner said on Scottwood from Bendle High School to Fern Street, when school lets out all the cars come out of the parking lot, and all the kids come out. There is no sidewalk there. I wish we could take some of these dollars and put a 6 ft. wide sidewalk down the north side of the road. We couldn't on the south side because it would eat up the neighbors' lawns too much. That is a real safety issue there. Mr. Heffner asked if the Mayor would look into it.

Mr. Heffner referenced the National League of Cities Weekly. He said the Federal government is looking into getting rid of the CDBG monies, so we might as well use it while we have it.

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In reference to Item #6, Mr. Smith inquired regarding the contract and interest of transparency.

Mayor Zelenko said this is the company we had a contract with. In a measure to save money and prevent lay-offs, the former Mayor cancelled the contract. He had to control possible litigation that would come out of this. This is our best solution to avoid costly litigation.

Mr. Haskins asked for clarification on the contract and if they are saying we had no rights to get out of it.

Mr. Austin said their attorney has contacted me claiming we had no right to terminate the agreement between the parties.

Mr. Haskins asked what gives them justification to say that.

Mr. Austin replied their attorney indicated that the agreement between the parties had a termination provision in it and that termination provision was not followed when the former Mayor terminated the agreement between the parties.

Mr. Haskins said they are threatening litigation and there has not actually been anything filed. Mr. Austin said that is correct.

Mr. Haskins said he doesn't care who cleans our City, as long as it is getting done. I have an issue with them threatening us as elected officials of the City and bullying us into a 3 year contract extension that never existed for a year and a half, and forcing us to basically take this or they are threatening litigation for \$48,000. Mr. Haskins inquired regarding the bid process.

Mr. Austin replied that the bid process exists. This would be an extension of a contract that was originally bid. We have done that a number of times in the past with garbage pick up being one. We have extended contracts initially bid.

Mr. Haskins said this one wasn't in existence for a year and a half and we are saying we are going to extend to 2014. What happens 6-8 months down the road and we don't have money for this contract that goes to 2014, are we up for litigation again.

Mr. Austin said not only that, but my correspondence explains to you that part of the negotiation if we were to agree to this, includes a buy down provision on an admitted liability of \$48,000. This contract if it doesn't go for at least 2 years there would be a pay off we would owe on this admitted \$48,000 liability.

Mr. Haskins asked for the actual contract we signed that we supposedly violated. The only thing I ever seen was the bid agreement.

Mr. Austin said there is no written agreement in affect. There was a bid submitted in response to a request for bids and a Resolution adopted by Council accepting the bid as low bid. There was no written contract that normally you would expect to see. It doesn't necessarily mean there was no contract between the parties. There is no written contract between the parties, that doesn't

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necessarily mean there was no agreement between the parties that could result in a lawsuit however.

Mr. Haskins said you said there was something in the contract that said we violated as far as getting out of it. If there is no contract or anything else, we were paying them by the month, so therefore giving them a 30-day notice to get out of the contract should elude the fact to alleviate us from any litigation.

Mr. Austin said you are suggesting if there was a contract, the contract was a month-to-month contract. If this Council should reject this proposal and litigation is filed, I will argue there was no contract and if there was a contract it was a month to month agreement and therefore, Mayor Smiley had the right to terminate the contract because it was only a month-to-month agreement, in the event that Council rejects this proposal. Those are the arguments that I will make in the event I have to defend this litigation in Court. I can't take you into Executive Session and explain this matter carefully because there is no pending litigation.

Mr. Austin clarified further stating he cannot speak freely about this because if I do, subsequent litigation, anything I say could be used against the City in that litigation. If for example I say there was a contract, that statement could be used against us in Court. The Open Meetings Act puts us at a real disadvantage in discussing situations like this. I have tried very carefully to dance around it in my letter to you.

Mr. Haskins asked if this was approved tonight, then we are in another issue with the current cleaning service.

Mr. Austin said in the event this is approved, the current method of cleaning the buildings would have to change, that is correct. We have a young lady who is an employee of the City and who essentially utilizes as assistants, individuals who are being prosecuted, who are referred for community service work in lieu of prosecution. That is who does the work. Whether that is a good situation or not, that is how it is being taken care of currently. That would change if this situation were adopted.

Mr. Haskins asked if we are looking at litigation on that end because it is being terminated.

Mr. Austin replied he doesn't think so.

Mr. Martinbianco said you refer to the current contractor as being an employee. What makes that an employee/employer relationship. Is there something other than we were under the aspect of when this individual was brought on.

Mr. Austin responded if this agreement were approved, there would likely be a layoff of that employee who is currently in charge of cleaning the buildings.

Mr. Martinbianco said there was enough employer/employee relationship where not only were we paying Social Security, Medicare and all the roll ups that come with that issue of employment, when it was never characterized as that by prior administration, when it was brought forward

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saying we are terminating the agreement with the existing company and bringing this individual forward and actually putting them on the payroll.

Mr. Austin said he doesn't know when she became an employee, but she is at this point an employee. It is my understanding that she would in all likelihood be laid off if this contract were approved. I don't know when she went from a contract person to a formal employee. The Mayor doesn't know the exact date of that either.

Mr. Martinbianco said a lot of communications on the attorney billings show you have had direct contact with this individual relative to the placement of those individuals that have been referred by you or the Court for this service. Mr. Martinbianco asked Mr. Austin if his recognition was that she is not a contract employee, but a direct employee of the City.

Mr. Austin said he does not know when her status changed to that of an employee. She was constantly trying to get more people to help her. That is the nature of her contacts with me. The nature of those contacts didn't change from when she was a contract individual to the time she became an employee.

Mr. Martinbianco said over a 90-day period perhaps she went from being a contract employee to being a legitimate full-authorized City employee. I wanted to make clear that any contacts you had with her, we paid for, were done when she was a City employee and not a contract employee.

Mr. Austin reiterated that he does not know when she became an employee. He could have had contact with her prior to the time she was a legitimate employee. It was never initially my intention to fully staff the cleaning service of the City with the public service workers. I originally just gave the City some people to plant petunias for the Memorial Day. It was never my intention in giving the City these public service workers as a full cleaning staff. The former Mayor kind of embellished this idea of public service work to include a cleaning staff to clean all the buildings of the City under the direction of one employee and save the City a lot of money.

Mr. Martinbianco said there was a shooting at the library involving a cleaning company. He asked the Mayor if it involved this company.

Mayor Zelenko responded that she did not know.

Mr. Haskins said what he has a problem with is our economic times, what we are getting to with budget, and here is a 3-year extension that never existed, there is no contract, nothing signed, just the bid process that ends in 2014. We are entering into this because of a threat and we are being bullied by this M & M contractual service. If we don't do this they are going to submit paperwork to subpoena us and sue us. As an elected official of this City, we are not to be bullied. We have had past instances with other engineering firms that came in and bullied us and we stood firm on that as well. We do not need to enter into a contract agreement over the premise that there is a \$48,000 suit hanging over our head. This is totally unethical in my opinion.

Mr. Austin stressed that threats do not scare him.

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Mr. Smith asked if there was a negotiated settlement down to this amount, or was this the principal amount you started with.

Mr. Austin responded this was a fairly lengthy negotiation. They wanted more money per month and attorney fees, as recent as my last contact with them. We steadfastly refused to give them a dime in attorney fees. As you can see from this buy-down provision, this was a lengthy contract negotiation and it was in parts fairly complicated. I am convinced this matter will be resolved with a negotiated settlement. This is as good as it is going to get. If Council rejects it, there is no question in my mind there will be litigation filed within the next week or 2, and the matter will be litigated.

Mr. Wells asked if this company is bonded and if there is some type of surety bond.

Mr. Austin replied he doesn't know if they have a surety bond, but they are bonded. A surety bond is different from them being bonded.

Mr. Wells spoke of concerns of people working 2nd shift, after hours, and the City not having a grasp on who was going in and out of the buildings, the library, or DPW. We have some expensive equipment and we have everyone's data in here. It was a big leap of faith. It is time we do something professional about this. I also want to procure the rate like we did the lawn mowing agency and say if you are not doing a good job, we are going to let you go. If we don't have a contract, I don't see why we can't do that. I am willing to say we might have messed up, we are going to give you your job back, we will let you finish out the year and a half you had. Mr. Wells asked Mr. Austin how much money the City has into his time as far the negotiations with this.

Mr. Austin said he would guess \$750 to \$1,000.

Mr. Wells expressed mentioning to the company about hiring the City employee and we would bring them back. She is a pretty good cleaner. She is bonded and they are bonded, we have a professional service working for us, in case she wants to come back and litigate us.

Mr. Austin stated that was the last suggestion the Mayor came up with. Mr. Frank, the attorney for this company e-mailed me over the weekend requesting a little different pay schedule than what we had agreed to in the Mayor's office Friday. He is back to 2 payments a month rather than 1. I was thinking we could use that as an opener to request he hire that particular employee for this company.

Mr. Wells said he thinks that is a win-win if he can negotiate that.

Mr. Haskins said he doesn't think what Mr. Wells is offering is a bad proposal. It has nothing to do on my behalf with who is cleaning and who is not. It is the whole fact that we are being bullied into a 3-year contract that gives us no out. I cannot or will not support.

Mr. Wells said if we are actually negotiating a contract, less not be ambiguous. Let's negotiate a contract - we can dismiss you if you this, this and this, without litigation.

Mayor Zelenko interjected that it is a little dangerous to be trying to negotiate a contract here on this.

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Mr. Heffner was in agreement.

Mr. Martinbianco said he thinks it is a little slippery slope when you start talking about negotiating a contract that will involve the employment of somebody else that is already here. She will likely not accept less than what she is getting that we are currently paying and that could create a problem. She might say lay me off and we'll deal with it as we need to.

Mr. Austin said the employee may not have any interest even if the company was interested in hiring another employee. She may have ideas that are better for her. I am open to suggesting that to the attorney that still wants something from us yet. I am willing to talk to him about this. We have now established a good working relationship through our communications. My suggestion would be that Council either approve or disapprove this contract and if it is approved, I will have contact with him about that employee. If it is disapproved, we will go from there and do what we have to do. I would respectfully suggest that you go ahead and act on this contract and we will do what we have to do from that point.

Mr. Martinbianco said it sounds like we had an absence of a contract before. I don't want to imply that someone else didn't make an agreement, but now we have before us a legitimate bona fide contract offered acceptance and consideration all included within the concept of what we have in front of us here.

Mr. Austin said with a termination provision showing exacting how we would go about terminating.

Mrs. Ellenburg said she read that it does state how we could terminate them if they aren't doing their job properly. It states code ethics and shows if they would like to be hired what their specs are and what they go under, and the schooling they offer for their cleaning people. If the individual wants to apply for that job, I am sure if she qualifies, it could happen. My understanding is if we do accept a low bid that is the contract. I do remember when this cleaning contract was up and it was for 3 years and it was broke. I don't think it was a threat; I feel we are fulfilling the contract that we gave them and it was changed. I don't think we are being bullied, I feel we are trying to follow through what they were offered from the City.

Mr. Haskins said these contracts don't have a termination clause about financial stability and where we are going to be and if we can afford or not. Just like on the current agreement that was cancelled with a 30-day notice because of financial stability. There is nothing in this one that says anything about financial stability either. It is a bully tactic to say if you don't do it this way, we are going to sue you. This is my opinion and views.

Mr. O'Keefe asked Mr. Austin to clarify the termination statement and how it links up with the buy-down.

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Mr. Austin responded that in the event we have to terminate in accordance with the termination provision and they don't get their \$48,000 paid down over the 2 years, we can't make this contract work for 2 years; there probably would be litigation.

Mr. O'Keefe said if we had just cause, we would still end up in litigation.
Mr. Austin indicated yes it could be.

Mr. Wells said I think it is time we do our due diligence to the taxpayers and bring in a professional bonded company we can feel secure with to do their job and have a contract so if they don't do their job, we can do our due diligence and bring someone else in. I will vote to approve and hopefully everything will work out for all the parties involved.

In reference to Item #8, Mr. Wells inquired as to how many properties Mr. Akeel Dakki owns in Burton. At some point we need to look at people and do evaluations on them before we let them come in and buy these parcels. He had complaints on some of those properties. This could be an area where we could be digging a deeper whole and not helping us out.

Mr. Heffner stated Mr. Dakki owns several properties and he owns Fairland Food Store on Saginaw St. What I know of him, he is a pretty upstanding businessman and really tries to take care of the neighborhood.

Mr. Martinbianco said he respects his colleague's comments but they are really unfounded. We have an offer and acceptance and have consideration. I haven't seen anyone else step up for 1344 DeCamp and 1447 Bristol.

Mr. Wells said he is looking for the future. We are selling a bunch of properties, which we want to do. For every action there is a reaction. We can help ourselves in the interim and look to the future. I have no problem with Akeel either. He has been very good over there. I have had a few complaints.

In reference to Item #10, Mr. Heffner said he received a call that the grass is 2 feet high. He asked Mr. Kray if it would be the City or Mr. Thornton that will be responsible for it after tonight.

Mr. Kray replied we would take care of it.

In reference to Item #12, Mr. Wells inquired regarding the words stating single woman, and the distinction on just Ms. Cushman's case.

Mr. Austin said this is the way the deed will read.

Mr. Wells pointed out that it does not state that on Akeel Dakki's or Mr. Thornton's agenda item. Mr. Austin said on the deed it will read Akeel Dakki, a married man, or a single man. That is just how the deed will read.

In reference to Item #14, Mr. Wells stated since he has been on City Council, Sandra O'Reilly is probably the most active person on the Parks & Recreation Commission. She does a great job.

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In reference to Item #15, Mr. Heffner expressed there is to be no nudity with the Class C Licensed Business. Mrs. Ellenburg said she thought they already had a liquor license there. Mr. Martinbianco stated they do, Taft Builder's has it and is selling it to Mr. Myers.

Mr. Smith asked if there have been any altercations there. It is a card-playing establishment and with alcohol it could create a dangerous situation.

Mr. Austin said he does not have any issues coming from that building.

Mr. Smith asked if it is a well-managed place where we would not be regretting this move.

Mr. Austin said he does not see criminal arrests being made there.

Mr. Haskins indicated a lot of charities do very well making money there. He went there numerous nights to help out different organizations (ball teams and schools). Burton Rotary has even held some. There is alcohol. You will always at a given night run into 10 or 15 off duty officers there.

Mr. O'Keefe inquired if the Police Department signed off on this request before coming to Council.

Mr. Austin responded yes. These come to the Chief first.

In reference to Item #18, Mr. Martinbianco asked Mrs. Burke-Miller to explain GASB as it entails the current fiscal year we are in and years moving forward.

Mrs. Burke-Miller said this is GASB 54. It is a policy that is a best practice to put into place. We are not required to do so, however, I have seen several municipalities using several formats of this policy. This one is very well written and concise. It does a good job in describing each of the different fund balance types we are required to put into place. It is suppose to be in place as of the current fiscal year. It is best practices.

Mr. Martinbianco said in completing the budget practice this year is to understand the limitations each one of those fund balances will have and what we can do with them as we move forward. It is not like the sewer fund now can be the fund that will recover everything. There will be certain encumbrances put upon those funds.

Mr. Heffner announced that Mr. Austin was "Coach of the Year". Mr. Austin received applause.

COUNCIL ACTION:

Haskins moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from May 11, 2011 through June 1, 2011, in the amount of \$5,755.75.

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Motion carried 7-0.

Haskins moved and O'Keefe 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 \$3,083.62.

Motion carried 7-0.

Haskins moved and Smith seconded the following motion:

3. Approve and authorize the Arbitrator's Billing (Thomas L. Gravelle) 2801 West Maple Road, Bloomfield Hills, MI 48301-3465, in the amount of \$892.00.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

4. Approve and authorize the Clerk to write a letter to the Genesee County Metropolitan Planning Commission Community Development Program regarding the City of Burton's wish to remain in the Genesee County CDBG Program.

Motion carried 7-0.

Wells moved and Haskins seconded the following motion:

5. Approve and authorize a Resolution Approving Submission of a Genesee County Senior Center 2011/2012 Track One Grant Application.

Motion carried 7-0.

Ellenburg moved and Martinbianco seconded the following motion:

6. Approve and authorize the Janitorial Contract Extension with Michigan Merchants Janitorial Supply & Service, and authorizing the Mayor to execute any and all documents required to effectuate this contract extension.

Motion carried, 5-2 with Haskins and O'Keefe voting no.

Haskins moved and Wells seconded the following motion:

7. Approve and authorize the low bid of \$6,200.00 submitted by Denam Auto Brokers & Trailer Sales, Inc. for the purchase of a 84" x 14' Dump Trailer for the use in conducting Violation clean-ups.

Motion carried 7-0.

Haskins moved and O'Keefe seconded the following motion:

8. Approve and authorize Resolution Sale of 1344 DeCamp, Parcel #59-30-576-149, to give final 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.

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Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

9. Approve and authorize Resolution Sale of 1447 E. Bristol Road, Parcel #59-30-579-003, to give final 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 7-0.

Haskins moved and O'Keefe seconded the following motion:

10. Approve and authorize Resolution Authorizing Sale of 1468 Carman, Parcel #59-30-578-017, to give final 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 7-0.

Haskins moved and O'Keefe seconded the following motion:

11. Approve and authorize Resolution Authorizing Sale of Vacant Land/Gram Street, Parcel #59-31-576-073, to give first and final approval for the sale of this improved parcel to Suzanne M. Cushman, a single woman, for the sum of \$100.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and O'Keefe seconded the following motion:

12. Approve and authorize Resolution Authorizing Sale of Vacant Land/Gram Street, Parcel #59-31-576-075, to give first and final approval for the sale of this parcel to Suzanne M. Cushman, a single woman, for the sum of \$100.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

13. Approve and authorize Resolution Authorizing Sale of Vacant Land/Gram Street, Parcel #59-31-576-076, to give first and final approval for the sale of this improved parcel to Suzanne M. Cushman, a single woman, for the sum of \$100.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 7-0.

Wells moved and Ellenburg seconded the following motion:

14. Approve and authorize the Mayor's reappointment of Sandra O'Reilly, 2279 Kenneth St.,

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Burton, MI 48529, to the Parks & Recreation Commission. Term expiring June 2014.
Motion carried 7-0.

Haskins moved and Martinbianco seconded the following motion:

15. Approve and authorize the request to Transfer Ownership of 2011 Class C Licensed Business, located at 1120 E. Bristol, Burton, MI 48529, Genesee County from Taft Builders, Inc. to Palace Pub LLC.

Motion carried 7-0.

Haskins moved and Martinbianco seconded the following motion:

16. Approve and authorize the acceptance of the low bid of L&M Landshaping, Inc., in the amount of \$41,006.28 for the project known as: Buder Street Paving Project DPW Job #11-001-P.

Motion carried 7-0.

Haskins moved and Wells seconded the following motion:

17. Approve and authorize the Mayor and Clerk to enter into a contract with L&M Landshaping, Inc., for the project known as: Buder Street Paving Project DPW Job #11-001-P, contingent Upon the City Attorney reviewing and approving required bond and insurance documents.

Motion carried 7-0.

Martinbianco move and Wells seconded the following motion:

18. Approve and authorize the Fund Balance Policy (Governmental Funds).

Motion carried 7-0.

Meeting adjourned at 9:14 p.m.

Julie Adams, City Clerk