

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JULY 5, 2011, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

Councilman Tom Martinbianco led the Invocation and Pledge of Allegiance.

The Regular Meeting is called to order by President Steven Heffner at 7:10 p.m.

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

MEMBERS ABSENT: None.

OTHERS PRESENT: Atty. R. Austin and J. Adams, City Clerk.

Haskins moved and Ellenburg seconded the following motion:

Approve and authorize the minutes of the Regular Council Meeting on June 20, 2011 at 7:00 p.m.
Motion carried 7-0.

Mr. Heffner said he would like to add agenda Item #3 to rescind a Resolution Regarding Access to Public Property for Political purposes adopted on June 20, 2011 at the Regular Council Meeting, and adopt a revised Resolution Regarding Access to Public Property for Political purposes.

ADMINISTRATIVE REPORT:

Mrs. Adams presented the Administrative Report on behalf of Mayor Zelenko. The Mayor hopes everyone had a good holiday with your family. She is attending a meeting in Lansing and she is sorry she cannot be here tonight. Ms. Rebekah Hildreth, President of the Burton Kiwanis, and Paul Hildreth is here to report to you on the Bentley Key Club and their community project with the Fire Station Park. Senator David Robertson will hold office hours at City Hall on Friday, July 22nd from noon to 1:30 p.m. The Mayor is asking for another Finance Meeting to be held on the pre-bid ordinance.

COMMITTEE REPORTS:

Mr. Martinbianco said the Finance Committee met this past week regarding the revision to Ordinance 32, Sub-Sections .8 and .19 to a pre-bid ordinance. We have information to update us, and keep us active in collaborative bidding with other communities, municipal institutions, other governmental entities, and assist us in that regard. Mr. Smith shared some links on-line that we were able to access that explained it a little more in-depth. He compliments Mrs. Moulton in her role as interim purchasing agent in pulling together and assembling information in a short period of time. We would like to schedule the Finance Meeting on Monday, July 11th at 4:00 p.m.

Mr. Wells said he would like to schedule a Public Access Committee Meeting that will follow the Finance Meeting on Monday, July 11th at 5:00 p.m. to about going out for bids on the City's website.

AUDIENCE PARTICIPATION:

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 2

Adam Roberts, 205 Bloomingdale, Fenton, MI, said he is here on behalf of the water and sewer laborers. He is frequently asked by residents when are we going to re-do our roads. Is it possible to put on the ballot a road millage? Today we had a main break and I literally pulled apart the bolts from the watermain with my fingers, that is how old and worn out it is. Mr. Haskins made a great point in the last meeting of how did we make it by running on such a short amount of mills and how we never had to have any layoffs. Mr. Roberts asked what it would take to get the process started of opening the Charter to increase the mills.

Debra Walton, P.O. Box 190273, Burton, inquired regarding the number of City employees that received raises this year. She made reference to the DPW Director's salary and if he was reprimanded for having his car worked on. She is having problems with her water. DPW use to bring out bottles and test the water but there has been no testing in 2 years. We have mold in everything and dripping off of the faucets. She wondered if maybe they were cutting back on chemicals.

Joan Hawks, 1203 Arrowhead Dr., stated she was here in April asking for the Salary Commission to be called in concerning pay and benefits. It has not been done and there is no intention for doing so till after the election in November. You stated it was up to the Mayor to call them out. Councilman Wells was the only one to speak up and make a formal request for the Salary Commission. Flint elected officials voted to take a 10% pay cut as well as other communities. If these officials can vote a reduction under present laws, why can't our elected officials follow suit. The impression I see by you not calling out the Salary Commission is that you are here for the money and not to serve the citizens of Burton. I am here again because I see cuts and layoffs of the employees that Council and the Mayor have made. I find it offensive when calling for wage cuts from employees when the Council and Mayor have offered no wage cuts. I find it offensive when the Mayor's administrators are getting pay raises while laying off police. I ask for fairness and show you are true leaders by setting the example to the employees and citizens of Burton and take the same cuts that you are going to place upon them.

Bud LeGrande, 2105 E. Buder, asked who leased the lawnmowers and bought the trucks and trailers to mow the lawns. He said they didn't get mowed. Mr. LeGrande presented pictures to Council of a resident's property behind his home.

John Stapish, PO Box 190134, Burton, spoke regarding DPW road crews.

Dora Hilts, 2145 Kenneth St., stated her neighbor is having open fires every night. The other night it was 6 foot high at 2:00 a.m. She believes there is underage drinking and sees young people acting wild and walking up and down the road singing loudly. She called Saturday about the fire. A fire truck drove by and a fireman called her to say it was a fire pit and it negates all the fire rules. She doesn't understand how an open fire 2 ft. off of the ground negates the rules. It makes it more dangerous because it could be knocked over.

Ms. Hilts stated further the fire is 10 to 15 feet from a building right next to them and they burn even when it is windy. She asked Council if something could be done.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 3

Paul Hildreth, 2364 Meadowcroft Dr., said he is a staff sponsor for the Bentley High School Key Club. As a service project, they would like to adopt the playground area next to the Fire Station on Belsay Rd. We would like to paint, clean, and trim as a project. Mr. Hildreth said he spoke to the Mayor as well. They are a good group of kids. It is a new organization and they want to help the City out. We ask for Council's approval to do that.

Rick Fuhst, 1208 S. Genesee, said at the last Council Meeting the budget was passed for next year. The City lost 11 employees and we were then told that Kelly Park would be cleaned twice a week. Why are we putting parks ahead of police protection? We don't need a park. We need police protection. Our Fire Chief said he has 2 full time employees, himself and a secretary. There are 5 cars assigned to the fire department where part time city employees are driving our cars around full time. We need to look harder at this budget and cut the fluff out of it. We don't need part time people driving around our cars, using our gas, insurance and maintenance. We need the police protection.

COUNCIL DISCUSSION:

Mr. Wells said he appreciates Mr. Hildreth and his daughter coming in tonight. He asked if the Mayor mentioned any problems with talking to the unions about it.

Ms. Hildreth said the Mayor thought it was a fantastic idea as long as they don't do mechanical work or actual labor on the equipment.

Mr. Wells said he is all for it 100%. Someone could adopt Kelly Lake and clean that a few times a week. This is how we all have to pull together. He appreciates them coming up with the idea.

Mrs. Ellenburg inquired to Mr. Austin about Ms. Hilt's fire burning concerns.

Mr. Austin said Chapter 92 in our codified ordinances regulates open burning. He will be done in Court tomorrow morning by 11:00 a.m. and would like to have a 3-way conference call with Ms. Hilts, himself and the Fire Chief.

Ms. Hilts stated she would call Mr. Austin's office tomorrow.

Mr. O'Keefe said he was under the impression that we were catching up with the weed cutting.

Mr. Heffner said at the last Council meeting they hired Red Hawk to start mowing. I am sure they are in the process of that. I don't want to speak for administration.

Mr. Heffner said he was at Mr. LeGrande's house and the yard is pretty bad in the back of his property. He would like Mrs. Adams to ask Administration at their next staff meeting.

Mr. O'Keefe said he agrees with Mr. Wells, it is refreshing to have a young group of people come in and want to do something for the community. I encourage other groups and maybe we can have another service group assist us with Kelly Lake. It is a great idea.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 4

Mr. Martinbianco questioned Mr. Austin on the process to effectuate the Bentley Key Club. He assumes they will be covered under Kiwanis International. Do we have to sign an informal hold harmless document.

Ms. Hildreth said the Kiwanis and Key Club pay their dues to the international organization and it goes towards liability insurance. Anything that is a sponsored project by either Key Club or Kiwanis is covered under our liability.

Mr. Austin asked if they could fax or e-mail to him the liability coverage.

Mr. Martinbianco said the Mayor can sign off on it and we can put that all together and make it happen.

Mr. Martibianco referenced Mrs. Walton's comments on her water mold problem. He said it was alarming to him, given the recent Water Quality Study from the Genesee County Water and Waste Services, that you would have any kind of issue especially with mold, if that were the source. If something happened we have not purged those lines through there or if we are waiting to see the completion of that Bristol Rd. line, and we have the anticipation of bringing that back from Camden. I don't know with the DEQ problems if we are running into that as referenced by Mr. Roberts in the south end and the necessity to deploy capital and make those capital improvements over there. As he attested, he can pull the bolts out of some of the connectors there. I thought there was a regular process conducted by the water and/or fire department to purge and test those lines done through the fire hydrant. Mr. Martinbianco stated further, he would make inquiries of the DPW and the Fire Chief and find out when the last time those things happened.

Mr. Wells said he spoke with Mrs. Walton and she is the 4th person in the City having problems with their water and mold.

Mr. Martinbianco said because we are on a unified water system it all comes from the same place, Lake Huron. It comes through the treatment plant, through Imlay City via Lapeer and then here. About 8 or 9 years ago they had a slime detection problem and I think it was the City of Detroit that caused the issue. I don't think we do much chemical analysis or chemical change at our point unless it is something we do in the water tower in remediation or lack thereof. That will have to come from the water department and find out what system. They may have to talk to the Water & Waste Services with Mr. O'Brien about the effect of the water quality and where they took the water samples because we have some issues in our City generated in our system, and it is their water.

Mr. Wells spoke regarding mowing the lawns and abandoned properties. He said as long as we don't get more rain he thinks they will get caught up.

Mr. Haskins addressed Ms. Hilts concerns on the fire burning. He said the fire pit is basically considered a grill and there are no regulations on them. If there is drinking and partying going on, she should call the police. Unless there is something out of control and a severe hazard, the Fire Dpt. can't do anything with it.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 5

Mr. Haskins referenced the lawn service contract and stated now that there are 2 laborers laid off, per the union contract there cannot be any contracted work. That should pose a big issue.

Mr. Wells said he would like to commend Mrs. Hawks for coming forward again and speaking her mind of what she thinks is right. He agrees with her. He would like a copy of her letter and pass it on to Administration and see if it has any affect. He would like to see everyone at all these meetings and hear their opinions.

Mr. Heffner asked Mr. Austin to speak on Item #3 and update Council.

Mr. Austin said at the last Council Meeting, Council adopted a resolution regarding access to public properties. Four of the paragraphs were whereas describing why we were adopting the resolution and two of the paragraphs were the guts of the resolution. All of the paragraphs except for one clearly indicated that the concern we had were that people were coming into the buildings of the city to collect signatures for petitions and creating a problem. The very last paragraph in that resolution didn't really fit with all the other paragraphs. The last paragraph talked about no public lands of the City shall be utilized in a similar fashion. It didn't fit with all of the paragraphs that went before it, which dealt with the utilization of the buildings. It is that very paragraph that has been the topic of a great deal of conversation. In today's Flint Journal, he read online a quote from the ACLU Attorney Greg Gibbs. He is a very respected attorney in town and I read his comments. His concerns dealt with and focused in on that very last paragraph. I took his comments to heart and as a result of those comments, I went back and did a little research, at no charge to the City, and revised the resolution that Council adopted. I made copies for Council tonight. I prepared the exact same resolution you adopted at the last meeting, except I omitted the very last paragraph that dealt with the lands.

Mr. Smith asked for clarification on people collecting signatures.

Mr. Austin said this building is a polling place and because of absentee ballots, we have to be cognizant of the fact this is a polling place and they have to stay 100 feet from this building. They can on the lawns, or the lawns on the Senior Citizen Center, and they can protest. That was always the intent.

Mrs. Ellenburg said this was a concern with the Director of the Senior Center. She is very protective of the seniors and having the petitioners come into the Senior Citizens hall, she felt it could be a risk for them. A lot of seniors are skeptical and won't sign anything, but some sign everything. She was trying to protect them and not to do away with anyone's rights of signing a petition. The way this is wrote up is a lot clearer and still protects our seniors if they want to sign it outside of the building and is not disruptive.

Mr. Martinbianco asked what point would a motion be in order for rescinding, or is it a compound motion.

Mr. Austin said it is a compound motion, therefore, any member of Council who chooses to separate the compound motion into two motions, may do so, but the agenda item as I have written it up, is a compound motion that rescinds the motion adopted at the last meeting and adopts the new resolution.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 6

Mr. Wells said he would like to split that in two motions, one to rescind the last resolution and a motion to vote for the new resolution. Mr. Martinbianco said he supports that.

Mr. Austin clarified that agenda Item #3 will be to rescind the Resolution Regarding Access to Public Property for Political Purposes adopted at the June 20, 2011 Regular Council Meeting. Agenda Item #4 will be to adopt the revised Resolution Regarding Access to Public Property for Political Purposes.

Mr. Haskins said the Ordinance 68-C meeting planned for Thursday was cancelled and he didn't get a reason why or a reschedule date.

Mrs. Ellenburg responded we are going to work together with the Finance because she feels it has a lot to do with the finance on this ordinance and we are going to schedule it after August. We haven't set a date yet.

Mr. Haskins inquired as to how the resolution came about.

Mrs. Ellenburg said she heard concern from Jean Johnson.

In reference to Item #4, Mr. Wells asked if this resolution came through Administration.

Mr. Austin said Jean Johnson at the Senior Citizen Activity Center initiated it. She had people in the Senior Center collecting petition signatures, disrupting the activities at the Senior Center.

Mr. Wells said it seemed odd that it never came before City Council until it was already a resolution. He doesn't know if there is a need for the resolution. There are other ordinances on the books that would take care of those problems. The police can be called on a disorderly person. If someone wants to come into this building and have petitions signed, all we have to do is say you are welcomed and can sit down in the Council Chambers and put a sign out there they have petitions to recall people and then they are out of the way of everybody.

Mr. Wells stated further, everywhere I went except for an open park or Crossroads Village where people are out walking around, I think most of those people are being told what to do with their petitions. People are out having a good time and don't want to be bothered. I think we are really doing something that is not necessary and it will create more problems down the road with ACLU and people that don't really understand what we are trying to do here.

Mr. Smith asked if we are a polling place and would we be in violation of the law.

Mr. Austin replied this building has certain restrictions as to what political activity could take place in or within 100 ft. of this building. The Senior Center is not a polling place, so the restrictions that are applicable to this building would not necessarily be applicable to that building.

Mr. Smith asked if there was not an election going on, would they be able to come in here.

Mr. Austin clarified this building is a polling place for absentee ballots. The 100 feet restriction is applicable at all times that absentee ballots are being cast. Mr. Austin asked Ms. Adams if that is correct.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 7

Ms. Adams confirmed those statements are correct. She stated if you went to Bentley to vote, you couldn't have people inside that gym collecting signatures. Campaigning has to be 100 ft. from entrances.

Mr. Austin said people could be outside on the grounds at any of the buildings. If this resolution is adopted, they could not go inside of the building to collect petition signatures.

Brief discussion ensued regarding what designates disturbances.

Mr. Wells expressed he thinks we are courting trouble by saying no you can't. There are always individuals that will say you are trespassing on my rights. If someone creates a disturbance or is harassing someone, they can be removed. He cannot vote for it.

Mr. Martinbianco asked Mr. Austin if he is aware of any other community that adopted a similar resolution.

Mr. Austin said he is not aware of any other community in Genesee County but he did some research and found similar resolutions, not in the State of Michigan, but other communities. The constitutional protections are universal throughout the United States. I found similar ordinances in other states, the constitutional issues are identical, it doesn't matter whether it is in Michigan or other states. The resolutions and ordinances that are similar to this one that were upheld, I think the precedence is good even though they were not Michigan cases I found. Mr. Austin stated further, Attorney Gibbs comments reflected concerns with the public lands issues that have been deleted from this revised resolution.

Mr. Haskins said the enforcement policy would be the same regardless if you have it or don't.

Mrs. Ellenburg said she has done many petitions and at Flint's Farmer's Market which is an open place, you cannot do petitions there. They will ask you to leave and if you don't they will bodily remove you and there has been times that has happened in the past. The senior citizens area is a very protected area. Even if you are a stranger from another senior center and they have never seen that person, they feel uncomfortable. I applaud Jean for looking out for our seniors. You don't know when these petitions are signed what they are going to do with that information. If they want to sign them, they will sign them outside the door just as fast as they will in the inside.

Mrs. Ellenburg stated further the library is a busy place and they can set up outside. She will be voting yes on it.

Mr. Wells said we are dealing with senior citizens. I would much rather have the problem, if you are going to one, inside the building where someone can see it happening then outside the building. I appreciate Mrs. Johnson and I know how she feels about the seniors. If someone is asking for a petition to be signed that they all agreed with, would we be having the same discussion? Is that what the problem is? Who is going to make that decision? If we agree with you, we will sign your petition, or maybe we don't want this one brought in here. We already have the protections in place if something goes haywire. We are inviting trouble by saying no you can't.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 8

Ms. Adams said the Michigan Bureau of Elections and the County Clerk's Office both stated that by a resolution or ordinance you can prohibit that activity inside the City's buildings.

Mr. Heffner said his personal opinion is they can get just as many outside as they can inside. Libraries are learning centers. You go in there and shove a clipboard in someone's face while they are trying to learn something, you disrupt their thought process. They come in here and try to get signatures from City employees our residents suffer. They are paying employees to work 8 hours a day and not paying them to sign petitions. They can get them on their way out of work. We don't want to discriminate who we think the disturbance is, and who we think is not a disturbance. Someone coming in here that we all don't like we could say "you are a disturbance". If it is someone that we favor "oh you are fine". I think this is fair. If it is raining, they can pitch a tent. I think it is fair by doing it outside. They can still go to the parks, they can do it on sidewalks and go anywhere they want, it is not necessary to come into the building.

Mr. Haskins said as long as our Attorney is confident we are not violating anyone's civil rights, then so be it. At least we are allowing them on the property now. There could be a neutral area now that as you stated, if there is someone that comes in you don't like, you can very well make the accusation there is a disturbance. I received many phone calls once the newspaper article hit.

COUNCIL ACTION:

Haskins moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from June 15, 2011 through June 29, 2011 in the amount of \$4,545.50.

Motion carried 7-0.

Haskins moved and O'Keefe seconded the following motion:

2. Approve and authorize the Attorney Billing (Kellar Thoma), 440 E. Congress, 5th Floor, Detroit, MI 48226, for the month of June in the amount of \$90.70.

Motion carried 7-0.

Wells moved and Martinbianco seconded the following motion:

3. Approve and authorize to rescind the Resolution Regarding Access to Public Property for Political Purposes adopted June 20, 2011 at the Regular Council Meeting.

Motion carried 7-0.

Martinbianco moved and Ellenburg seconded the following motion:

4. Approve and authorize to adopt a revised Resolution Regarding Access to Public Property for Political Purposes.

Motion carried 6-1, with Wells voting no.

REGULAR COUNCIL MEETING MINUTES

JULY 5, 2011 / 7:00 P.M.

PAGE 9

Mr. Heffner announced Parks and Recreation is starting Music at the Mall again this year. On July 23rd we will have the Cruise Brothers, they are a fantastic band we had last year. This year we have a new band. On July 30th we have the Banjo Club. August 27th there will be 2 bands. From 3:30 p.m. to 5:30 p.m. is Deb & Emily and from 6:00 p.m. to 8:00 p.m. we will have the Jessie Couch Band. This also will be what we are calling the After the Bricks Car Show, which is a week after the Bricks. September 10th will be the final one and we will have Magic Five. They will have schedules made up.

Meeting adjourned at 8:37 p.m.

Julie Adams, City Clerk