

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JULY 19, 2010, 7:00 P.M., COUNCIL CHAMBERS
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Councilwoman Paula Zelenko led the Invocation and Pledge of Allegiance. Mrs. Zelenko asked everyone to keep the Wells family in their thoughts and prayers due to the grave illness of a family member.

The Regular Meeting was called to order by President Steven Heffner at 7:20 p.m.

MEMBERS PRESENT: Ellenburg, Haskins, Heffner, Martinbianco, Smith and Zelenko.

MEMBERS ABSENT: Wells.

OTHERS PRESENT: G. Kray, DPW Director; L. Moss, Purchasing Agent; Lt. Osterholzer, Police Department; Attorney R. Austin and G. Webster, City Clerk.

Ellenburg moved and Zelenko seconded the following motion:

Approve and authorize the minutes of the Special Council Meeting on July 6, 2010 at 6:30 p.m., and Regular Council Meeting on July 6, 2010 at 7:00 p.m. Motion carried 6-0.

Ed Benning, Assistant General Manager from MTA and Candy Sutton from Your Ride were available to discuss the MTA millage renewal that will appear on the August 3rd ballot. He distributed information regarding MTA services.

Mr. Heffner announced that Genesee Rd between Court St and Davison Rd would be closed from July 19–30th due to road repairs at the railroad tracks.

ADMINISTRATIVE REPORT:

Mr. Kray announced that the Mayor's Office has been in contact with Canadian National. As a result, the Genesee Rd. railroad tracks will be repaired. The road will be closed until July 30th. In addition, they are in the process of having the Belsay Rd railroad tracks repaired. DPW is aware of problems with the Center Rd. railroad tracks, as well. Mr. Kray said the Davison Rd. project has been completed.

Ms. Moss reported on work that has been done on the vacant property next to the Memorial Library. She said the summer help cleaned the property, took the fence down, removed a large tree and smoothed out the dirt. It should be ready for the next project. The volunteer group will not have to meet on July 24th to do the work.

Ms. Moss spoke on Item 2 regarding the 5-year agreement with Image Business Solution. The City had a 60-month agreement with the company. This is a renewal of the current contract with a better price. The company will be providing more and better equipment. We have paid the same price since 2002. Through the Mayor's Office and Liz Zirnheld we have kept the price the same. There will be no increases over the next five years. A copy machine will be installed in the Clerk's Office so work can be done in their office. Mrs. Zirnheld was available to answer questions.

REGULAR COUNCIL MEETING MINUTES

JULY 19, 2010 / 7:00 P.M.

PAGE 2

COMMITTEE REPORTS:

Mrs. Ellenburg said the volunteer group would not have to meet at the library on July 24th. She thanked everyone from the DPW that cleaned up the area. The next book sale will be held July 29th and 31st. Volunteers are needed to help with the sale beginning at 10:00 a.m. on the July 29th. She thanked DPW for their help moving books for the sales.

Mrs. Zelenko said the legislative committee met and made a recommendation to send the ordinance prohibiting consumption of alcoholic beverages in public areas to the full Council. Basically, this is verbatim of our old ordinance except it is decriminalizing it from a misdemeanor to a civil infraction. This appears on tonight's agenda.

AUDIENCE PARTICIPATION:

Bud LeGrande, 2105 E. Buder, spoke on MTA issues. He said there should be an audit done to determine how many people are riding the large busses. Once the audit is complete, the bus schedules should be adjusted to save money. He opposed changes in the water ordinance. He spoke regarding a recent incident where an officer shot a dog. He thought an investigation should be conducted and the officer removed from the Police Department.

Mr. Martinbianco wanted to know if there was a dog in the chambers. Mr. Bateman had the dog that had been shot by the officer.

Mr. Austin said an internal investigation was underway regarding the shooting incident. This began the day after the incident. The homeowner was not cooperating with the Sergeant doing the investigation. The City would not take any further action until the investigation was completed. He cautioned everyone that comments would be recorded and could be used during the investigation. He advised everyone present not to make slanderous remarks.

Billy Bateman II, 1452 Kenneth St, said his dog Macaroni had been shot by an officer. He said there were several discrepancies in the police report regarding when, where and how the shooting took place. He said Randy Perry, a witness to the shooting, was not drunk. He said the police officer did not announce his arrival. Mr. Bateman heard two shots fired. He said the officer picked up the bullet casings and left the scene without comments. Mr. Bateman felt the officer should lose his job. He said his dog has suffered a lot due to the shooting.

Mr. Heffner offered Mr. Bateman condolences on behalf of the Council.

Lorraine Barber, 3331 Leta, was at the house the night the dog was shot. She is Mr. Bateman's girl friend. She went to the police station to speak with the officer. He was not in that day. She said the Police Chief called her Thursday after the incident. Sgt Owens contacted her when he returned to the station. She planned to meet with him and give a statement until she read the police report. She felt the police report contained false information. She decided to forward her information through an attorney.

REGULAR COUNCIL MEETING MINUTES

JULY 19, 2010 / 7:00 P.M.

PAGE 3

Timothy Cole, 1442 Kenneth, said two police cars arrived at the scene with their lights off. He thought that was unfair. He was standing on his porch and witnessed two shots being fired off. He saw the dog being shot. The officers told spectators to go home or they would be arrested.

Robert Giles, 4391 Columbine Ave., said he has known the dog since he was a puppy. He has been to Mr. Bateman's house on several occasions. The dog hasn't charged anyone in the past. The dog likes to play with people. He felt the dog did not deserve to be shot. In his opinion, the officer shot the dog because he was a pit bull.

Darrel Fox, 1445 Kenneth, heard the shots the night of the incident. His finance's father was in the garage at the Bateman's when the shots were fired. He went to see what happened. He was stopped at the driveway. One of the officers told him to go back in the house or they would be arrested. Mr. Fox went back to his house. The officer then collected the shell casings and left. No investigation was done. He said Mr. Perry was not drunk. His dog plays with Macaroni all the time.

Bill Bateman, 3467 Atlas, Davison, said he wasn't there when it happened. He said Billy should get a medal for not doing what he would of done under the circumstances. Bill said the dog was like his grand dog. The dog means a lot to the family. He said Billy has a bad temper and he is trying to hold it. Based on his past experience, he felt the police investigation was a joke. He felt an outside agency should perform the investigation. He said the City should do the right thing and pay for the dog's doctor bills and the lawyer.

Larry Glover, 8195 Nichols, Gains, said the dog was gentle and has played with his son on several occasions.

John Stapish, P.O. Box 134, said the dog incident was a terrible situation. He said we have had problems with City employees for ten years and nothing has ever been done. He asked for a status report on the lady that had her flowers cut down. He opposed the enforcement of the grass-cutting ordinance. He spoke in opposition to the ordinance relating to procedures for water billing and affidavits.

Tom Mahollan, 2279 Connell St., has known the dog since it was a puppy. He wanted to know why the officers didn't announce their arrival. He wanted to know how long it would take to resolve this issue. He said the officer that shot the dog shouldn't have his job.

Rick Fuhst, 1208 S. Center Rd., felt the truth of the dog shooting was somewhere between the police report and the homeowners version. He didn't feel the police should be sneaking up on someone's property without announcing their arrival.

COUNCIL DISCUSSION:

The Regular Council meeting recessed at 8:15 p.m.

The Regular Council meeting resumed at 8:27 p.m.

REGULAR COUNCIL MEETING MINUTES

JULY 19, 2010 / 7:00 P.M.

PAGE 4

Mrs. Ellenburg thanked everyone that came in on the concern of the dog. She said her heart goes out to the Bateman's. She knew they were good pet owners. They treat their pets as if they were one of their own. She said this issue is under investigation. She hoped it would be resolved in a timely fashion.

Mr. Martinbianco expressed his condolences to the Bateman's. He asked for clarification on several issues relating to the dog shooting. He was concerned with police department policies relating to discharging a weapon and collecting evidence at the scene of an investigation. He wanted to know if all the officers had tasers. He wanted to know who would conduct the inquiry into the incident.

Mr. Austin said there was currently an internal investigation underway. Sergeant Qwens was doing the investigation. Mr. Austin will discuss this issue with the Police Chief once the investigation has been completed. If litigation is filed, it will be turned over to the Michigan Municipal Liability Pool.

Mr. Austin was not aware of any cases in the United States where an officer would be placed on administrative leave for shooting an animal, pending an internal investigation. He said the officer has rights as well. He has collective bargaining rights and other rights that are guaranteed to him.

Mr. Martinbianco indicated that Davison Rd. was a beautiful stretch of highway.

Mr. Haskins expressed his condolences to Mr. Bateman. He hoped the dog turns out fine. He applauded the efforts to help get the railroad tracks repaired on Genesee Rd.

Mr. Haskins spoke regarding a Burton Youth League team that was undefeated. This is the first time a team has done this. They are playing the championship game at West Bendle tomorrow at 6:00 p.m. Mr. Haskins was very proud on the team that he sponsored.

Mrs. Ellenburg spoke regarding the lady that allegedly had her wild flowers cut down by the weed cutting contractor. She said Mr. Kray was reviewing the pictures from the mowing job. They have asked the woman to come in and look at the pictures. She has not been corporative.

Mr. Martinbianco asked for an overview of the 5-year agreement with Image Business Solution.

Ms. Moss said Image provides the City with copiers. These copiers allow us to fax and email. She discussed other aspects of the lease. She said we had to pay off the current lease before starting a new lease. She has been researching the cost of this equipment since April. It was her understanding that a remaining \$10,100 bill on the lease has been paid. Ms. Moss said there were no bid sheets from other companies.

Mr. Martinbianco referenced a \$60,000 entry on the agreement. Ms. Moss said everything was included in one price. Mr. Martinbianco wanted to table this issue until the next meeting until Council received more information.

REGULAR COUNCIL MEETING MINUTES

JULY 19, 2010 / 7:00 P.M.

PAGE 5

Mr. Martinbianco understood that the current contract still had two months. Ms. Moss said the prior contract was no longer valid. If the contract were turned down, they would remove the copiers. She said this contract included more equipment without any payment increases. She felt the company offered the City a very good deal.

Mrs. Zelenko asked if the worksheet contained the identification of all types of services that would be offered. Ms. Moss agreed with that statement. She said it specifies what equipment would be in each department. Mrs. Zelenko asked if the \$10,100.31 was included in the \$2,498.02 lease. That helped pay off the old lease. Ms. Moss agreed with that comment.

Mrs. Zelenko referred to this lease similar to purchasing a new vehicle. If someone traded in their current lease and still owed on the vehicle, the balance would be rolled into the new lease. Basically, this is what we are doing with the equipment.

Ms. Moss said originally we were going out to bid in April. Instead this was set up. That was reflected in the information that was provided. If we had left Image at that time, we would have to pay the remaining balance. Now, we do not have to pay the \$10,100.31. We do not owe any money on the previous contract. She wanted to stay with the current company. We have had them for many years. They were offering the City a great deal.

Mr. Smith wanted to know if there was a Burton business that could handle these services. Ms. Moss said there was no Burton business that handles this amount of services. She would stay local if she could.

In reference to the Introduction of an Ordinance, Item 1, Mr. Martinbianco said there was no subdivision in the ordinance. He said it was not ordinance 2010-90.98. He felt there had to be a subdivision of that ordinance.

Mr. Austin explained that 90.98 was the section in the codified ordinance book that this ordinance would become. For bookkeeping purposes, we attach the year and a sequential number as the ordinances are adopted. This will be found on page 530 of the ordinance book. The attorney said this would be indexed with the civil infractions.

Mr. Austin clarified the reason for modifying this ordinance. Currently, it is a misdemeanor to consume alcoholic beverages in public areas. This ordinance address the same issue that is currently on the books, allowing for a designation of a civil infraction. This will give the police officer on duty the option of not writing any citation, charging a person with a civil infraction or charging him with a misdemeanor violation depending on the situation. With a misdemeanor you have to write a police report, collect evidence and speak to witnesses. With a civil infraction officers could write a ticket and go on. The ticketed person would have to appear in court. This gives the officers more flexibility depending on the situation.

REGULAR COUNCIL MEETING MINUTES

JULY 19, 2010 / 7:00 P.M.

PAGE 6

COUNCIL ACTION:

Haskins moved and Zelenko seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from June 30, 2010 through July 14, 2010, in the amount of \$4,458.50.

Motion carried 6-0.

Haskins moved and Martinbianco seconded the following motion:

2. Approve and authorize the Mayor and Clerk to enter into a 5 year agreement with Image Business Solutions, 49145 Wixom Tech. Dr., Wixom, MI 48393, in the amount of \$2,498.02, with no increase.

Motion carried 6-0.

INTRODUCTION OF AN ORDINANCE:

Haskins moved and Smith seconded the following motion:

1. Approve and authorize the Introduction of An Ordinance, Ordinance 2010__90.98, Prohibiting the consumption of alcoholic beverages on public streets, sidewalks and parking lots open to the public and providing for civil penalties for the violation thereof.

Motion carried 5-1, with Martinbianco voting no.

Haskins moved and Martinbianco seconded the following motion:

2. Approve and authorize the Introduction of An Ordinance, Ordinance 2010__51.142, an ordinance amending Sections 51.142, 51.143, 51.144 and 51.145 of Chapter 51 of the Code of Ordinances of the City of Burton by the Establishment of New Procedures Governing the Operation, Billing and Collection of Water Accounts, including procedures regulating affidavits of non-responsibility for rental properties within the City.

Motion carried 6-0.

Meeting adjourned at 8:55 p.m.

Gayle K. Webster, MMC
City Clerk