CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 5, 2013, 7:00 P.M., COUNCIL CHAMBERS
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Councilman Dennis O'Keefe led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by President Tom Martinbianco at 7:00 p.m.

MEMBERS PRESENT:	Martinbianco, Heffner, Smith, Ellenburg, O'Keefe and Haskins.
MEMBERS ABSENT:	Wells.
OTHERS PRESENT:	Atty. R. Austin, S. Warren, Human Resource / Labor Relations Director, Police Chief T. Osterholzer, G. Burke-Miller, Controller, G. Kray, DPW Director, D. Marshke, Water & Sewer Superintendent/ Foreman, and J. Adams, City Clerk.

O'Keefe moved and Smith seconded the following motion:
Approve and authorize the minutes of the Regular Council Meeting on July 15, 2013 at 7:00 p.m., and Special Council Meeting on July 22, 2013 at 6:00 p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Ms. Warren said Kelly Lake has been closed for about 2 weeks now due to high e-coli levels. We got an all clear last week that our levels were down, however the Health Department called us back and said we don't meet the average for the month so it had to remain closed. We are in contact with the Health Department on a daily basis and hopefully it will get re-opened very shortly.

Ms. Warren said the millage committee has been meeting weekly. The co-chairs for that committee are here tonight to give an update under citizens' comments. Greg Kray is here to address Items #3 through #6 and the Introduction of an Ordinance. Dave Marshke is also present to answer any questions. Ms. Warren said she would like Chief Osterholzer to give some updates on events in the City.

Chief Osterholzer said he would like to give a heads up on something that will probably hit the media tomorrow. Over the course of Friday night into Saturday morning and then into Saturday night – Sunday morning, we had a suspect who committed a string of home invasions in the first degree, meaning people were home. He was targeting elderly people. One of these we arrived on the scene and the gentleman was having chest pains so bad we had to ship him to the hospital. Through the course of some very good police work, early Sunday morning a person was taken into custody, however a victim of the home invasion woke up and found he had been broken into, called 911, and in the 5 minutes between him calling 911 and our officer arriving on the scene, this gentleman had a massive heart attack as a result we believe the stress of the home invasion. Detective Dave Powell and Lt. Mike Odette have worked on nothing but this for 2 days. I am happy to say that 3 felony home invasion warrants were issued for the suspect's arrest today along with a count of aggravated resisting arrest and we are working with the Prosecutor and hopeful we will be seeing felony murder charges as well. Given the difficult circumstances this family is now enduring and our detectives and I have endured, dealing with the family doesn't feel so good. The suspect is in custody, I doubt if he will see the light of day so that is good news for our citizens. You will see something about this in the media tomorrow.

Mr. Martinbianco said we appreciate all the efforts of the police department.

COMMITTEE REPORTS:

Mrs. Ellenburg said the Legislative Committee met earlier tonight pertaining to the Sewer Use Ordinance. It was recommended we bring it to Council.

Mr. Martinbianco asked if during discussion about the ordinance, to highlight the changes as it is a lengthy document.

Mrs. Ellenburg said Mr. Austin will address it, Mr. Kray and/or Mr. Marshke can elaborate on the details of it.

Mr. Martinbianco said it is more detailed oriented because I am guessing probably some of that is generated by the County so we will have to delineate those powers their affected with and how they affect us.

Mr. Heffner said on August 25th there is a barbecue out to Kelly Lake; the Guns & Hoses – Police against the Fire Department. The winner of that is taking on the Council. We as Council need to put a team together. Hopefully we can count on everyone to be on a team, there are 7 man teams. Mr. Heffner asked Mr. Austin regarding all of Council being together for that event.

Mr. Austin replied it is purely a social event. I am directing you to not deliberate toward rendering any decisions that affect City business. You will be there to cook up some ribs and have a good time and that is fine.

Mr. Heffner said there is a $7.00 admission, $5.00 for lunch. Word on the street is the Fire Department already counted the police out.

Chief Osterholzer said they work with fire all day - they are pretty good cooking ribs over an open flame.

Mr. Martinbianco asked Mr. Heffner if there is any formal thing to share from Parks & Recreation about Back-to-the-Bricks.

Mr. Heffner expressed no.

AUDIENCE PARTICIPATION:

Dave Roach, 3280 Belfast, said he is representing the Burton citizens millage committee along with co-chair Steve. We met for the last 3 weeks discussing multiple items, multiple options, looking at what is available for funding not only under current budgets but with possible millages with the ideas to strengthen public safety, starting addressing infrastructure issues that are continuing to grow and being delayed because of lack of funding, and to address long-term liabilities within the City. The issue that is facing us today has been a long time coming, but if we continue to ignore, we are going to open up some real problems, in our opinion, here in the City.

Mr. Roach stated further, they have had a group of between15 and 25 people in attendance so we have had good showing and dialogue amongst the group. We feel we are working towards getting you a firm recommendation for Council to act on August 19th. With the help of Ms. Warren and Ms. Burke-Miller of Administration, we were able to look at possible solutions and possible recommendations. We have nothing firm to present to Council this evening, but we are strongly going to be in force to make that recommendation on August 19th. In this year's budget, you allocated the original $ 3.1 million dollars for public safety in the Police Department and that equates to about 6.26 mills, an additional $300,000 added by Council to bring it to $3.4 million, brings that up to 6.86 mills. We realize that these are tough economic times in Burton, and we have to do this in a manner everyone will understand and accept and everyone can move forward on. I am looking forward to working with the Council and Administration to have a single voice going forward if Council approves and decides to move forward with this recommendation. If Council has questions, he would be happy to entertain those.

Deborah Walton, PO Box 190273, said our City has been going through a lot. She spoke to many people about the millage; she is on the millage committee. She was shocked to hear a couple of Council people made comments that seem to be incorrect. They are telling residents that our officers are making $79,000 a year. Surely the figures we are seeing are the same figures you are seeing. She would hope Council wants a safer place for our residents to live. Our millage chairman and committee members are working very hard for Burton to be a safer place to live. She asks Council to have their facts straight before you tell residents something that may be incorrect. If I am wrong, I apologize. She feels in the last Council meeting her 3 minutes to speak were taken away from her when she was trying to explain about a home in my neighborhood. Other people were allowed to walk to the podium when audience participation was closed.

COUNCIL DISCUSSION:

Mr. Haskins thanked the committee for all their hard work, crunching numbers and going through the finances and putting together a plan for the residents. He was able to attend one of the meetings. We are limited to so many of us that can go. He wants to re-iterate one fact and make it clear that I would like our Police Department to be no less than 45 officers with this millage. If that means with this millage the Police Department is not self-reliable and funded solely from the millage and we still have to use General Fund money, so be it. If we had 10 home invasions within one weekend and one gentleman died because it, it can be prevented with more police presence and it needs to be done. I want to make it very clear, I want to see our police department back up to 45 like it was 10 years ago, and I would like to build from there, but at a bare minimum, I want to at least see that. If it takes still putting in General Fund money to fund the Police Department, then so be it. That is where our City needs to be to maintain a half-way decent safe level, I am not going to say it will be 100% but 45 will definitely put us back up in the ball park.

Mr. O'Keefe said tomorrow evening there is a committee meeting and because only a few of us can go, I would like to put my reservation in for being one of the Council people to be there tomorrow evening.

Mr. Martinbianco said apparently Mr. Wells is on vacation. He asked if anyone else is interested from Council to attend.

Mr. Smith said he will be there as well.
Mr. Haskins said he will attend.

Mrs. Ellenburg said she will go on Thursday.
Mr. Martinbianco said he will go on Thursday.
Mr. Heffner said he will if he gets out of work.

Mr. Martinbianco said Tuesday and Thursday's line up is set. He asked if anyone had questions for Mr. Roach. He was gracious enough to be here to give us an update at this point in time.

Mr. Smith asked Mr. Roach to explain where the meetings are at.

Mr. Roach said the meetings are held at Elga Credit Union's Conference Center. We start at 6:00 p.m., Tuesday and Thursday of this week because we know we have a lot of work ahead of us.

In reference to Item #3, Mr. Martinbianco asked when the petition was filed. Ms. Warren replied June 20th.

In reference to Item #6, Mr. Martinbianco said some years ago there was a blanket motion to pave all the unpaved streets in the City. There was engineering work already done and authorized, I don't know if it was all completed, but authorized on all the streets. I am sure because Amy Street was a gravel street then and still is today, it would have fallen under that. Do we have any record of that work?

Mr. Kray said if we end up moving forward, most of the design work is already completed. There will have to be some fine-tuning to pull Amy Street out of that master paving project, but a lot of the work is already done.

Mr. Martinbianco said as far as establishing the center line, right-of-way, grading and all that, that is already in the bank.

Mr. Kray replied most of it is done.

Mr. Martinbianco said it is all on their dime and I don't want them to have to pay twice for something that is already done.

Mr. Kray said like the paving jobs we have done the last couple of years, CDBG – to the amount of money required to pull those streets out of the master paving project and do them individually, was a matter of a few thousand dollars. It knocks the engineering down to almost nothing.

Mr. Haskins inquired regarding a start date with Decamp yet.
Mr. Kray said there is no start date yet.
Mr. Haskins asked if it will be before the summer.

Mr. Kray said before summer ends, I hope so; I don't have good details on it yet.

Mr. Haskins said that was talked about way before Amy Street, the approval on it and the whole works.
Mr. Kray acknowledged yes.
Mr. Haskins asked what pushed Amy Street in front of Decamp.
Mr. Kray replied Amy Street is not in front of it. Amy Street is just the preliminary.

Mr. Austin spoke regarding the Introduction of an Ordinance. He said we appreciate that you didn't receive this ordinance till today. The ordinance you would be considering tonight has been re-numbered, it is Ordinance 2013-__ and then another sequential number of the ordinance this represents chronologically adopted this year. It would be like number 6 or something of that nature. We have re-formatted the ordinance from the original ordinance you received which was given to us from the County. This ordinance if adopted will be placed in the codified ordinance book under the tab of Special Ordinances. It will not be printed by American Legal Publishing. This ordinance is 117 pages so that will save us a lot of money to print this. There is a provision on the very last page of the ordinance which provides that if this ordinance conflicts with any part of the existing sewer ordinance found in Chapter 52, the provisions of this new ordinance will prevail. We are not going to go back and try and combine our existing sewer use ordinance together with this ordinance. It would take an extremely long period of time for me or for Amanda to try and combine those 2 ordinances together. With your permission, the ways things are now we will just adopt this sewer use ordinance which is mandated by the Feds and required by the County and we will put it in the ordinance book under Special Ordinances – it won't be printed and it won't be on-line. If it is not printed, it is not available on-line. Non one wants to see this on-line. It is a technical ordinance giving broad authority to the County to come in and protect the integrity of the sanitary sewage disposal system, if that should ever be required.

Mr. Austin stated further, in the committee meeting we had, we asked the County's representative how many times since this ordinance has been adopted by all the other municipalities in Genesee County, has the County closed down a business due to the introduction of materials into the sewer system, and the answer was zero – they have not done it. This ordinance gives them the authority to do it unilaterally and without prior contact with the City, but they have not done that and never exercised that authority. It is just an authority the Feds require the County to have.

Mr. Haskins asked if that is the only thing that is additional to this ordinance that is changing, just giving the County authority to go and investigate businesses.

Mr. Austin said the ordinance is 117 pages. It has a lot of material in it. That has been the biggest hang-up in getting this ordinance to this point up till now.

Mr. Kray said this is completely separate from our Ordinance 52. This ordinance was designed to control the sewage coming out of the City of Burton and into the County's treatment plant. The County has to be able to control what is actually flowing into their plant so they can treat it to have a satisfactory affluence going out and influents coming in. It gives the County power to control the contamination or chemicals - anything that might be in that sewage. It is completely separate from our sewer ordinance that we use every day for tap-ins and sewer maintenance and stuff like that.

Mr. Haskins said he understands that part but there are 117 pages here and I wanted to know if that is the main nuts and bolts of it or is there a lot of other changes to it.

Mr. Austin said if you read it, and I have read it multiple times, it is redundancy; it is quite remarkable. I suppose it is all necessary. I am guessing that this document is actually authored by someone that works for the EPA.

Joe Goergen, Genesee County Drain Commissioner Office, Water & Waste Services, said the core document did come from the EPA, that is the basis of the document. We did have to do some negotiations with the MDEQ to get the language to work for us and for our communities, but essentially the core language and the requirements, the quality of discharges essentially a lot of detail of that as far as the kind of contaminants that are allowed to protection to the environment, the protection of collection sewer in transport and that sort of thing, and worker safety as well. So it does affect the DPW workers as well.

Mr. Haskins said this was just presented to us tonight. May I rely on your ingenuity to make sure?

Mr. Austin replied I have read it; Mr. Kray has read it and is comfortable with it. Mr. Marshke has read it and is comfortable with it. He suggests unless there are any specific objections to it, you might consider approving First Reading tonight, nothing happens till you approve it a second time. If approved tonight it will be on the agenda for Second Reading next time.

Mr. Haskins inquired if there was anything in here about sewer rates.
Mr. Austin replied no, nothing about rates. This essentially deals with what you are introducing into the sewer system and required to be treated by the County.

Mrs. Ellenburg said there are 36 municipalities in Genesee County and we are the only one that has not signed on to this. You could contact one of the municipalities to talk to them about it.

Mr. O'Keefe said we had about 40 minutes prior to this meeting to focus in on this. I had some of the same concerns Mr. Haskins did. I did have the availability to look at this prior. I got to page 10, it was all very technical. My big question was to Mr. Kray is this something we should be doing. Mr. Kray said this is separate from our other policy. Another thing that is noteworthy, the way Mr. Austin has positioned this in the book I think has saved a lot of space and time and effort on the City's behalf, and I think it is the right way to do that to try and amend 52 and make all the changes. It would be days or weeks or I don't know how long trying to do that because you would be trying to incorporate 2 different things into one. The one is more of a functional one where this one we probably may never even look at it again. I think with that 40 minute discussion prior to this meeting and it is only the First Reading, I feel very comfortable voting yes on this.

Mr. Martinbianco said basically we are looking at a document that was adopted on November 21, 2006 by the County Board of Commissioners, and it is boiler plate language by and large, and it has been brought before other municipalities who have not found fault with how they have incorporated it into their system. You are suggesting we treat it as a special ordinance, not as a subdivision or part of our own sewer ordinance.

Mr. Austin said a stand-alone Special Ordinance.

Mr. Martinbianco said this thing has been boiling around for a better share of 6 years and we are just getting approached.

Mr. Austin said we have been approached many times.

Mr. Martinbianco questioned why our reluctance in the past to sign it.

Mr. Austin said former Mayor Smiley was concerned. This document and the interjurisdictional agreement that you will be asked to review at the next meeting, Mayor Smiley had reservations regarding the authority the county is given to shut down an on-going business without even so much as notice to the City. That authority is in there. If the County determines that something is being introduced into the system improperly or illegally they can go in and shut the business down. During the course of our Legislative Meeting we asked the representative from the County how many times since the adoption of this ordinance they have done it and the answer is none – they have never done that. That was Mayor Smiley's big reservation regarding this thing.

Mr. Martinbianco said we are not the first responding party if that should have or could have ever happened, they would not have notified us first to secure that facility but they would take it upon themselves but absent that authority that would have been our responsibility to do, and/or our liability if something would have been negatively happen they could have said negligence on our part.

Mr. Austin said as I understand it, from other discussions I have had with County officials including Mr. Wright, in the event they come aware of a problem, the first thing they will do is notify our DPW and work together with our DPW and work with the offender to get them to voluntarily stop. Let's say it is a restaurant introducing grease into the system directly without any kind of pre-treatment, they could come in and shut them down, but the First call to our DPW and our DPW will probably go out and make contact with the business.

Mr. Martinbianco said not to further complicate the issue using the example you just illustrated, how closely will the Drain Office work with the Health Department in remediating any of those. You may be talking about a health hazard and maybe the Health Department already has the kudos to be able to take care of it.

Mr. Austin said the representative from the County may be able to properly address that.

Mr. Goergen stated we do work with the Health Department on those issues. Your DPW is going to know the restaurants that are discharging excess quantities of grease before we actually are because it is going to be comparing your system. The specifics in the ordinance talk about how many parts per million of grease they can discharge and that excess then we would work with your DPW and try to bring them under control. The Health Department would be notified an included in that investigation as well.

Mr. Martinbianco said I guess it will take a little bit more reading and more digesting to figure out the rest of the implications.

Mr. Martinbianco said he has a concern about the closure of Kelly Lake. I have had many people come by who just enjoy coming there and they know enough not to swim in there. But they like the serene area and to be able to sit on one of the park benches and look over and see the wildlife even though it is the geese that is causing part of the problem, and enjoy that area over there. They can't do that if it is locked up. Can't we post swim at your own risk.

Ms. Warren said she posted it several times and people go in there and pull the signs down and then proceeding on. I think it was the assistance of the neighborhood and the community residents around there that kind of finally pushed why don't you just shut the gates and lock them that kind of forced that issue. Mrs. Bigsby is out of the office today so hopefully tomorrow we will have a better answer on where we are now that we are into a new month maybe we can start with a new clean slate about our average. We had been posting notices quite frequently every day and they were torn down. I will take your concern to her tomorrow.

Mr. Marshke asked if everyone understands why the e-coli levels are where they are at. It is mainly due to the geese out there. There is an astronomical amount of feces on the ground out there. When we have a rain event it washes into the lake and the e-coli levels spikes. Any organic matter that gets into the lake with sunlight will elevate those levels. Until you remedy that problem it could be like this every summer as long as the geese are there and the feces are there, it is going to wash into the lake.

Mr. Martinbianco asked if there were any inquiries with the DNR as to what we might be able to do to mitigate the geese.

Mr. Kray said after we closed Kelly Lake and locked the gate, the e-coli levels started to go down. There is no one there to feed the geese so they go elsewhere to get their handouts. If we can get people to stop feeding the geese - that is one of the issues.

Mr. O'Keefe said in our rule of rules on Kelly Lake that is posted, is not feeding the birds listed there.

Mr. Kray said he will talk to the Mayor about it; that would be something good. Keeping those levels low, everyone benefits.

Mr. O'Keefe said he has a similar problem. If people don't feed the birds, they don't come and will go elsewhere. If we made it a rule of the park that birds could not be fed, it is hard to enforce but at least it is there.

Mr. Martinbianco said whatever we could do to help mitigate that and get rid of the problem and move forward to get it open in time for Guns & Hoses event.

Mr. Heffner asked who is on board with us for that event.

Mr. Martinbianco asked who will help cook.
Mrs. Ellenburg stated she would cook.

Mr. Haskins said he will be with the Fire Department.

Mr. O'Keefe said he is on vacation. Mr. Austin is checking his schedule. He may fill in for me on that date.

Mr. Haskins said he has way more seniority with the Fire Department then he does Council. He didn't know anything about it till the Fire Department told me.

Mr. Martinbianco said we at least have a partial team and maybe more.

COUNCIL ACTION:

Haskins moved and O'Keefe seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 10, 2013 through July 31, 2013, in the amount of $7,944.00.

Motion carried 6-0.

Haskins moved and O'Keefe seconded the following motion:

2. Approve and authorize a Resolution Authorizing Sale of 2263 Parkwood Avenue, Burton, MI, 48529, Parcel #59-32-501-118, to give first approval (of two approvals) for the sale of this parcel to Stanley Rykulski, Jr., a married man, for the sum of $2,200.00 cash or its equivalent and authorizing the Mayor and the Clerk to execute any and all documents to effectuate this sale.

Motion carried 6-0.

Heffner moved and Ellenburg seconded the following motion:

3. Approve and authorize the Acceptance of a Paving Petition for Amy Street from Lippincott to Lapeer in Section 15, using open ditch paving standards.

Motion carried 6-0.

Heffner moved and O'Keefe seconded the following motion:

4. Approve and authorize to improve Amy Street from Lippincott to Lapeer by asphalt paving including required ditching.

Motion carried 6-0.

Heffner moved and Ellenburg seconded the following motion:

5. Approve and authorize that improvement to Amy Street from Lippincott to Lapeer to be assessed against the lands and premises as indicated in Chapter 150.

    A. Proceed with district for improvement of asphalt paving including required ditching.
    B. Place Preliminary district maps and cost estimates on file with the Clerk's Office for examination.
    C. Determine improvement to be necessary.
    D. Accept cost estimate.

Motion carried 6-0.

Haskins moved and O'Keefe seconded the following motion:

6. Approve and authorize the City Clerk to set a First Public Hearing for Amy Street Paving (Lippincott to Lapeer), Project #13-008-P, for Tuesday, September 3, 2013, at 6:30 p.m. at City Hall, or any later date of City Council choice; (a minimum of fourteen (14) days is required between this Council meeting and the proposed public hearing. Public notices and letters to residents will be sent as appropriate.

Motion carried 6-0.

INTRODUCTION OF AN ORDINANCE:

Ellenburg moved and O'Keefe seconded the following motion:

1. Approve First Reading of Sewer Use Ordinance 13-____52.104.

Motion carried 6-0.

Meeting adjourned at 7:46 p.m.

Julie Adams, City Clerk