CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 16, 2010, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

Sarah LaRose from the Calvert Community Church led the Invocation and Councilwoman Ellen Ellenburg led the Pledge of Allegiance.

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

MEMBERS PRESENT: Ellenburg, Haskins, Heffner, Martinbianco, Smith, Wells and Zelenko.
MEMBERS ABSENT: None.
OTHERS PRESENT: Mayor C. Smiley; G. Kray, DPW Director; Attorney R. Austin and G. Webster, City Clerk.

Haskins moved and Zelenko seconded the following motion:

Approve and authorize the minutes of the following meeting: Regular Council Meeting on August 5, 2010 at 7:00 pm. Motion carried 7-0.

ADMINISTRATIVE REPORT:

The Mayor reported that boat races were held at Kelly Lake over the weekend. It was a successful event. There has been a lot of positive feed back on the event. He was pleased that Kelly Lake was utilized for all types of family activities.

The “Back to the Bricks” event is being held on S. Saginaw Street this week. Al Hatch and his committee are planning for a successful event. The Burton Chamber of Commerce and the Mayor will be stationed at the Hamilton Clinic on Saginaw Street Wednesday and Thursday evening. There will be venders and cars on display.

The Parks Commission is planning the fall Trick or Treat Trail event at Kelly Lake for Saturday, October 23, 2010 from 4:00-7:00 p.m. The Mayor was proud of the Council for participating in so many City events. He felt this was the greatest Council in his 19 years of service.

COMMITTEE REPORTS:

Mr. Heffner announced the first Music at the Mall presentation would be on Saturday, August 28, 2010 from 6-10 p.m. The Cruise Brothers will be playing. The Park Committee will sponsor this free event. The concerts will continue on Saturday nights through the month of September. He invited everyone to come out and enjoy the events.

AUDIENCE PARTICIPATION:

John Stapish, PO Box 190134, asked for a report on the dog shooting incident and the lady’s flowers being mowed down. He wanted to know if there was progress on these investigations.

Jim Craig, 6905 Hidden Trails, Parks Commission, said the boat races proved to be a successful event. There were more spectators at this event than the previous race. Community members biked and walked to the event. People were generally enthusiastic and appreciated the free family event at Kelly Lake. He felt this had a good positive effect on the community.

COUNCIL DISCUSSION:

Mrs. Ellenburg said the boat races were exciting and a lot of people attended. She said the spectators appreciated the food vender. In reference to Mr. Stapish's comments, she said the paper indicated the dog investigation was closed. She referred the mowing issue to Mr. Kray.

Mr. Kray said a young lady came in to DPW regarding the alleged wild flowers being mowed. He said the only photos he had were from the lawn contractors. He said the photos looked like weeds before the mowing and cut grass after the mowing. That is the only documentation he had. He received an email indicating she planned to pursue the matter. That was several weeks ago. He had no other information on this issue.

Mrs. Ellenburg and Mr. Smith attended a seminar in March on complete streets. It dealt with how to make communities more pleasant and friendly with biking and walking areas. The governor supports this issue. MDOT is willing to work with communities to achieve this goal. She said Burton would be conducting a walkablity audit with Dan Burden on Thursday, August 26, 2010 from 3:00-5:00 p.m. starting at the corner of Bristol and S. Saginaw St. There is no charge for his service. Dan Burden will do a presentation on this issue August 26, 2010 at 7:00 p.m. in the Council Chambers. All residences are welcomed to participate in the audit and presentation.

Moved by Martinbianco, seconded by Heffner to: Table Items 2, 3 and 4 and send them to the Finance Committee.

Mr. Martinbianco had several concerns with the billings. He questioned why these shortages were not addressed with year-end budget transfers. He didn't know if we owed the money or if the bills could be paid. The $187,000 transfer would greatly impact the $475,000 reserve. This represents approximately 1/3 of the balance. He said other projects needed to be done. According to our auditors General Fund would not withstand these types of expenditures. Therefore, he would not support the transfers at this time. He wanted more information from the Road Commission. He said the traffic signal at Belsay and Lapeer was not done properly. That was supposed to be a mirrored intersection. Someone owes us money on that project. He wants these items to go to the finance committee.

Mr. Heffner agreed with Mr. Martinbianco on these issues. He just received an itemized list on the Davison Rd project. He did not want to vote blindly on transfers totaling $187,000. The bill is not due until September 30th. He felt the items should be tabled.

A vote was taken on the tabling motion. The motion failed 5-2, with Ellenburg, Haskins, Smith, Wells and Zelenko voting no.

A lengthy discussion pursued on the road commission billings. Mr. Martinbianco said there are many streets that need to be repaired. Mr. Wells would like more information on the road billings. He did some research on this issue before the meeting. He suggested other members do the same. Mr. Martinbianco said he did not have the billing invoices in advance of the meeting. He thought this discussion should have been held during budget workshops. He wanted to discuss this issue with the Controller. Mr. Wells said all members of the Council need an itemized list of the invoices.

Mr. Kray apologized for not distributing all the information to the Council. He explained details on the Davison Road billing. The total portion of the overrun was $88,113. He believed the job was managed well and we owe the money. The money is due by September 30th. Mr. Kray did not have specific documentation on Items 2 or 3.

The Mayor said Council tabled the transfer for the Davison Rd project on June 18, 2007. Mr. Martinbianco said there was no consensus by the Council in 2007 to proceed with the financial obligation of this issue. The Mayor said this has been an ongoing issue since 2007. It is not unusual for the County Road Commission to bill us well after the projects have been completed. After discussions with the Road Commission, the Mayor agreed to pay these outstanding bills by September 30th. We have to address this issue. The Mayor said agenda packets were given to Council Thursday evening. Research could have been initiated before the meeting. Mr. Martinbianco was unable to contact Mrs. Foster before the meeting. He suggested sending the past billings to the finance committee.

Mr. Wells requested more documentation from the County on the billings. In the past, projects have had a 5-10% overrun. He said nobody ever questioned that. Now we need to question these things.

Mrs. Zelenko said it was not unusual for MDOT to send a final road bill to the County several years after the project was finished. Then the County sends a bill to the City for payment. She thought the initial bill was higher and Mr. Kray negotiated the bill lower.

Mr. Smith asked for clarification on the City's responsibility to pay these bills. Mr. Austin did not have any information on these bills. He said these are apparently old bills and the Mayor gave his word they would be paid by September 30th. He felt there was time to address this issue. He said the County doesn't have any more money than we have to litigate overages on these projects. Nobody wants to go to litigation. He would probably be contacted to have these things resolved. He didn't want the City to spend additional money on legal fees. He suggested these issues be addressed by Mr. Kray to determine if the charges were just and responsible.

Mr. Kray has reviewed the contracts and work. He believes the overruns were reasonable and the City would end up paying the bill. Council members wanted more information before taking action. Mr. Kray will provide Council with more information on the billings. Mr. Haskins had discussed the billings with Mr. Kray and the Mayor in advance of the meeting. He felt the City did owe the money.

Mrs. Zelenko suggested this issue go to the Finance Committee because the budget may need to be adjusted before paying this expenditure. Mrs. Ellenburg said the Mayor indicated that we have an unpaid bill. He made sure we did not have to pay interest, penalties or fees on the unpaid bills. In two weeks we are still going to owe the same bills. She felt we should pay the bills.

Mr. Martinbianco did not receive information on these billings, while other members of the Council did. He felt pertinent information should be shared equally with all members of the Council. He wanted to see details on these expenditures. This was not addressed in the recent budget.

Mrs. Zelenko suggested sending this issue to the finance committee. She wanted to know how this would impact the budget and what amendments would need to be made. We need to look at upcoming road projects that are scheduled and determine if adjustments should be made. We might have to reprioritize upcoming projects.

Moved by Zelenko, seconded by Haskins to: Postpone Items 2, 3 and 4 until the next Regular Council Meeting of September 7, 2010. Motion carried 7-0.

A Finance Meeting was set for September 1, 2010 at 4:00 p.m. for the purpose of discussion of County Road Commission billings. Mr. Kray will provide more information on this issue.

Mr. Martinbianco wanted to know if the street sweeping contract had gone out for bid. The Mayor said this extension would maintain the existing 2008 price. Mr. Kray said the contract price was two years old. He agreed to hold his price. Mr. Wells asked for clarification on three cleanings. He suggested we negotiate one cleaning to save money. He wanted the contract re-bid for one cleaning. The Mayor indicated that the contract called for a maximum of up to three cleanings. We normally do one or two. We have cut back on sweeping. The total amount of the contract includes up to three sweepings. The City only pays for each individual sweeping, not the full contract. In addition, Mr. Kray said the contract allows for emergency contingencies. The City rarely uses these services.

In reference to Item 6, Mr. Crystal made a few comments on purchasing the property in Trail Ridge to build a home. He put a bid in on the property for $30,000. He asked Council to support his endeavor. He wanted to move back to Burton. Council members were pleased that people wanted to come back to Burton and hopefully revitalize some of these vacant properties.

Mr. Austin spoke regarding the motion to table vs. the motion to postpone items. He said a motion to table was an extreme motion. There is no discussion on this motion. It is used in circumstances when something would be harmful or jeopardize issues of a sensitive nature. The appropriate action would be a postponement motion, which would postpone action indefinitely or to a date certain. That does not cut off debate. A super majority is generally required to cut off debate. That is why the tabling motion is out of the ordinary. Normally, such motions to remove agenda items would be to postpone indefinitely or to a certain date. That motion requires a seconded and is debatable.

COUNCIL DISCUSSION ACTION:

Moved by Martinbianco, seconded by Heffner to: Table Items 2, 3 and 4 and send them to the Finance Committee. Motion failed 5-2, with Ellenburg, Haskins, Smith, Wells and Zelenko voting no.

Moved by Zelenko, seconded by Haskins to: Postpone Items 2, 3 and 4 until the next Regular Council Meeting of September 7, 2010. Motion carried 7-0.

COUNCIL ACTION:

Haskins moved and Zelenko seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 28, 2010 through August 11, 2010 in the amount of $4,104.75.

Motion carried 7-0.

Postponed until the next Regular Council Meeting of September 7, 2010.

2. Approve and authorize a transfer of funds in the amount of $63,181 to Major Street Construction – Belsay Road (Atherton to Lapeer) & (Davison to Potter) from Major Street Contingency.

Postponed until the next Regular Council Meeting of September 7, 2010.

3. Approve and authorize a transfer of funds in the amount of $36,124 to Major Street Construction – Genesee at Court intersection from Major Street Contingency.

Postponed until the next Regular Council Meeting of September 7, 2010.

4. Approve and authorize a transfer of funds in the amount of $88,113 to Major Street Construction – Davison Road (Belsay to Vassar) from Major Street Contingency.

Haskins moved and Zelenko seconded the following motion:

5. Approve and authorize the acceptance of the low bid and to allow the Mayor and Clerk to enter into a contract, contingent upon the approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton and its City Council with Hatch Enterprises, Inc. 2932 Corunna Rd. Flint, MI 48503, for the extension for 2010 street sweeping program, in the amount of $61,115.84.

Motion carried 7-0.

Haskins moved and Martinbianco seconded the following motion:

6. Approve and authorize the Resolution of Intent To Sell Real Estate and Authorizing Sale to give tentative approval for the sale of the property described as Lot 37 of Trail Ridge Estates to Willard Crystal and Linda Crystal, his wife, for the sum of thirty thousand and 00/100 Dollars ($30,000.00), and place the Resolution on the Council agenda for September 20, 2010, for final adoption per City Charter Section 11.3(a)(1).

Motion carried 7-0.

MEETING ADJOURNED AT 8:20 P.M.

Gayle K. Webster, MMC
City Clerk