CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 20, 2007, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

Council Vice President Jeff Major led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by Council Vice President Jeff Major at 7:00 p.m.

MEMBERS PRESENT: Conley, Cross, LaDuke, Major, Tinnin and Wells.
MEMBERS ABSENT: Isham.
OTHERS PRESENT: D. Halstead, Fire Chief; G. Kray, DPW Director; B. Whitman, Police Chief; Attorney R. Austin and G. Webster, City Clerk.

Mr. Major indicated that Mr. Isham was unable to attend due to family obligations.

Mr. Major recognized State Representative Ted Hammon and County Commissioner Jamie Curtis.

Cross moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on August 1, 2007 at 5:00 p.m., Special Council Meeting on August 2, 2007 at 5:00 p.m., Special Council Meeting on August 3, 2007 at 5:00 p.m. Regular Council Meeting on August 6, 2007 at 6:00 p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT:

The Mayor's Administrative Report was distributed to Council.

COMMITTEE REPORTS:

Mr. Wells planned to hold a legislative meeting to address a proposed cat ordinance and smoking ordinance. Chief Whitman said our ordinances do not specifically address cat issues. He spoke with animal control and was told they did not have any enforcement authority on this matter. They did plan to look into the situation.

AUDIENCE PARTICIPATION:

Jim Douglas, 4111 Maplewood Meadows, suggested Mayoral and Council candidates hold a debate in the Council Chambers. He said candidates should be running in the best interest of the City, not just for council benefits.

Don Sanderlin, 4460 Killarney Park, wanted someone to contact Meijers to see if they would install a left hand turn signal on Center Rd. He supported the addition of sidewalks on Center Rd. He wanted trees trimmed at Maple Rd. and Killarney Park next to the bridge area.

Rick Fuhst, 1208 Genesee Rd., asked for clarification on the ditching that was being done on Atherton Rd. He wanted to know the status of the County wide wireless Internet project. He felt the City would benefit from this endeavor.

Pauline Dargel, 6119 Hugh St., spoke on the following topics: the Mayor's absence, the City Hall lift, the proposed Fire Station improvements, adding a civil defense siren in the southeast section of the City, Ordinance 68C, the second reading of the Sidewalk Ordinance and contractual rezoning concerning Cernet/Zito.

Jennifer Morquecho, 2246 Red Arrow, spoke regarding the paving of all gravel roads. She felt paving projects should be initiated by a majority of petition signatures. She wanted to know how many times an issue could come before the Zoning Board. She requested sign and site plan violations be addressed with Cernet/Zito.

Jim Cookenmaster, 2302 Forest Crk., requested something be done with the unsightly Palace Gardens on Dort Hwy.

John Stapish, P.O. Box 190134, asked for a status report regarding the poor service of DPW workers. He spoke regarding the cement wall that was removed from his property. He said there was crushed limestone on the new pavement on Atherton Rd.

Jan Bolen, 1169 Howe Rd, felt the water quality at Kelly Lake should be tested. She complained that foliage, brush and trees were removed from a man's property next to Kelly Lake. She wanted to know who ordered this to be done. She felt the new cancer park should be dedicated to people with all types of diseases, not just cancer.

COUNCIL DISCUSSION:

Mr. LaDuke suggested a section be added to the agenda that would address old business items. He said many items are discussed, but not resolved. He asked that a written status report be given to Council.

Mr. LaDuke spoke in reference to Ordinance 68 C. Some changes were made to that document. The Attorney informed him that the no council member could have their benefits adjusted until their term of office expires. The Administrator's benefits will mirror the Teamsters union contract.

Mr. LaDuke moved to add to the agenda: Approve and authorize the elimination of the line item budget as it relates to salary and fringes for individuals in an adopted departmental budget, with only those positions approved in the budget being funded on a departmental basis. He felt the elimination of the line item budget would help alleviate the extra workload in the Controller's Office. If additional staffing is needed, it should be sent to finance committee for review.

Mr. LaDuke asked for an update on the Porrett litigation. Mr. Cross wanted an update on all pending litigation.

Mr. LaDuke moved and Mr. Cross seconded the following motion to: Approve and authorize Council to go into Executive Session to discuss all pending litigation after council action.
Mr. Austin indicated that Mr. Joliat was handling the Porrett litigation. Council members need to contact Mr. Joilet in reference to this case. Mr. Austin had provided a complete quarterly report on all pending litigation. If anyone had questions, they should contact him.

Mr. Cross was not aware of the litigation update, because he was out of town. The motion concerning the executive session was removed.

Mr. Austin said budget amendments should be reduced to writing with consultation from Mrs. Foster before any action is taken. He has asked Mrs. Foster for a written report before writing his opinions.

In reference to the recent pay increase, Mr. Cross wanted to know if Mr. LaDuke had pulled the payroll reports. He has not received the payroll reports. The Mayor told him that Mrs. Foster's pay raise had been rescinded.

The motion concerning the line item budget was removed. Issues dealing with the line item budget were sent to the finance committee.

Discussion was held in reference to Item 9. Mr. Cross felt it would be a violation of the City Charter to act on this because Council established a citizens committee to review the Fire Station improvements. They had not met. Mr. Halstead said a building committee did meet. The committee was made up of citizens at large, fire fighters, Gary Isham and himself. Mr. Isham wanted to move this forward and had it put on the agenda. The money is in the budget. Council members would like to see other architect firms make a presentation. Some wanted the Fire Department needs assessed. They wanted to visit other sites to see what has recently been done. Council members felt there was plenty of time to address this issue because the bond did not expire until 2008. It was mentioned that there has been movement, in conjunction with the County, to consolidate fire departments in the state to save money.

Mrs. Tinnin indicated that the minutes of the Regular Council Meeting of July 16, 2007 reflected that Mr. Cross was asked to oversee the fire station improvement committee. He accepted that position. She said a motion was made to table the fire station improvements until Council received a report from the committee regarding fire station needs and building renovations.

Mr. Wells felt the fire station improvements should be discussed and then tabled if necessary.

The Chairman removed Item 9 regarding fire station improvements from the agenda.

Mrs. Conley moved and Mr. LaDuke supported the motion to add to the agenda as Item 10: Approve and authorize the County to collect all outstanding personal property taxes for the City.

Discussion was held in reference to the county collecting all outstanding personal property taxes. Mrs. Tinnin did not want to contract out somebody's job. Mr. Wells felt the Council should meet with Mrs. Piske to discuss this issue. She has made it a goal to collect those taxes.

Mr. Austin met with the Treasurer to discuss methods of collecting these taxes. She is making an effort to do this. He did not know if it would be beneficial for the County to collect taxes or not. He felt that Mrs. Piske's input should be sought on this matter. It needed to be determined what percentage of the delinquent taxes were being collected. Mr. Major said this information should be reported to the Council.

Mr. Whitman spoke in support of Mrs. Piske efforts to collect taxes. She was working with Mr. Hamilton to determine a lock up procedure and enforcement. She was awaiting his legal opinion.

Mr. LaDuke said the issue wasn't being resolved. If this service is free, why not use it. Mr. Major said Flint has found it to be an acceptable procedure. Mrs. Tinnin felt the Treasurer should be contacted first. She did not want to run local businesses out of the City. She felt we needed some type of local control.

Mr. Curtis said the County would administer the collection and all back taxes would return to Burton. There would be no out of pocket cost to the City. It would free up the Treasurer Department. This is being done in other counties.

The motion regarding the collection of taxes was withdrew and sent to the Finance Committee.

Mrs. Tinnin had concerns with the proposed Ordinance 68 C. She said Section F was incorrect. She said employees couldn't be part of a defined contribution plan. They are not 60% funded. She questioned whether the Council members could give up benefits. Mr. LaDuke wanted to move Ordinance 68 C forward. It has not been addressed since 2005. He couldn't really find anything productive the Council has done in the last year and a half. Things aren't getting done. The ordinance was sent back to the finance committee.

Mr. Austin said elected official's benefits including salary and fringes couldn't be reduced during that that term of office. The salary commission does meet on odd years to set salaries. There can be no decrease in salary or benefits during a term of office. There is an attorney general's opinion on this issue.

In response to Mrs. Morquecho's comments, Mr. Cross said the Council did vote 7-0 to pave the remaining gravel roads. There will be public hearings on these districts. If residents show up in force, we will turn it down. Mr. Kray felt the first street paving districts would not come before Council until 2008. Districts will be set up with similar work types and locations.

There was a brief discussion in reference to how many times an applicant could bring the same case before the zoning board. Mr. Austin indicated that there was no limit on how many times an applicant could bring their case before the zoning board.

In response to Mr. Cookingmaster, Mr. Cross wanted to know what was being done with the Palace Garden site. The building is unsightly and should be tagged. He wanted a report back on this property. Mr. Kray will look into this issue.

In response to Mr. Stapish's comments, Mr. Cross wanted the limestone on Atherton Rd cleaned up. Mr. Gray will check into this matter.

In reference to the ditching being done on Atherton Rd., Mr. Kray said they were going to include all the ditching into the road project. However, there was not enough funding available to do that. We are doing segments that were not included in the project. We did not pay twice for these projects.

Discussion was held in reference to the water quality and recent electrical work at Kelly Lake. Mr. Holzer indicated that the water has been tested for E-colli and the numbers have come back good. He plans to test this water on a regular basis along with other water samples. He said electrical power was added to the pavilion. There was some clearing done so work could be completed. All work was down on City property. Mr. Wells said it was important to get the truth and find out all the facts on many of these issues.

The Council agreed to add old business to the agenda after committee reports. Many felt issues were not being resolved. They would like a report on these issues. The Chairman is to provide the Clerk with a list of old business. Mr. Wells suggested that council members follow up on some of these issues for our residents/customers. Mr. Kray said when some one comes into the DPW with a complaint the information will be documented. This will leave a paper trail.

Mr. Wells referenced the difficulty with the line item budget. Mr. Whitman spoke concerning multiple problems that have been created due to the adoption of a line item budget. Some of the problems revolve around over time, health insurance needs, issues dealing with grant reimbursements and seniority shift preference rotation. As a result, this will lead to more grievances. This department is involved with emergency situations that are beyond the control of the budget restraints.

Mr. LaDuke was willing to work with the Mayor on budget issues, however he must follow the intent of budget.

Mrs. Tinnin opposed the content of the Administrative Report. It did not reflect that Mayor was making an effort to work with the City Council.

Mr. Austin spoke on complicated issues relating to the implementation of a line item budget. This effects every department. He asked Mrs. Foster to provide him a written report on some of these issues. He suggested any budget amendments be reduced to writing. This would give everyone a clear understanding of what’s being done.

Mrs. Tinnin wanted to review the check registers from June and July.

Mr. Kray indicated that the DPW does have full time code enforcement in place.

Council members want the trees trimmed at the intersections of Belsay/Potter and Lapeer/Kettering.

Mrs. Tinnin said the man on Cheyenne is still waiting for his ditching.

Mr. Austin has been in contact with the DOJ on several occasions. He said the lift has met with all requirements. If maintenance is needed then it should be repaired. From a procedural stand point he felt the City was in full compliance with ADA issues.

Mr. Holzer said the lift has been repaired. It is a priority. He will contact the elevator service if there are any problems.

The next Regular Council Meeting will be held Tuesday, September 4, 2007 due to the Labor Holiday.

A Finance Committee Meeting was set for Tuesday, August 28, 2007 at 4:15 p.m. The collection of delinquent personal property taxes was referred to the committee.

COUNCIL ACTION:

Cross moved and Conley seconded the following motion:

Approve and authorize the Regular Council Consent Agenda items 1-8 for August 20, 2007.
Motion carried 6-0.

Cross moved and Conley seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 31, 2007 through August 14, 2007 in the amount of $6,345.25.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

2. Approve and authorize Nelson George to purchase five (5) years of MERS pension generic service time. The total cost of $21,495.00 will be at the employee's expense.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

3. Approve and authorize Ralph LaDuke as the delegate to the Annual MML Convention to be held in Acme, Michigan at the Grand Traverse Resort, September 18 –20, 2007.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

4. Approve and authorize Charles Smiley as the alternate delegate to the Annual MML Convention to be held in Acme, Michigan at the Grand Traverse Resort September 18-20, 2007.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

5. Approve and authorize the setting of a 2nd Public Hearing for ZC #304 (Ordinance 19 Text Change, Handicapped Ramps) on Monday, September 17, 2007 at 6:30 p.m.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

6. Approve and authorize the Mayor and City Clerk on behalf of the City Council to execute a

"Preliminary Engineering Contract" with Kraft Engineering & Surveying, Inc. for the design of the proposed reconstruction of Center Road from Lapeer Road to Court Street (DPW Job #07-005-P / FAUS Project / 2006-08 T.I.P.) at a not to exceed cost of $72,600.00 contingent upon approval of the City Controller.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

7. Approve and authorize the City Controller to transfer $72,600.00 from 2007/08 Major Street Unappropriated Surplus to DPW Job #07-005-P for the design engineering.

Motion carried 6-0.

Cross moved and Conley seconded the following motion:

8. Approve and authorize the acceptance of the Report to the Burton City Council on Investigation of Potential Nuisance or Hazardous Condition of Premises on the following properties located in the City of Burton and set a Public Hearing date and time to consider any objections and / or favorable comments relative to the referenced premises. These public hearings can be scheduled at various times below on Monday, September 17, 2007, should the Council find this favorable or any other date and time Council prefers, allowing 20 days notice to property taxpayers for the scheduled hearings. Monday, September 17, 2007, 3205 Shaw at 5:15 p.m., 2134 Kenneth at 5:30 p.m., 5315 Lapeer at 5:45 p.m., 1352 Allen at 6:00 p.m. 1348 Allen at 6:15 p.m.

Motion carried 6-0.

Removed from the agenda.

9. Approve and authorize the Mayor and City Clerk to enter into an agreement with THA Architects Engineer for the architectural design phase of the fire station improvements / expansion project.

INTRODUCTION OF AN ORDINANCE:

Removed from the agenda and sent to Finance Committee.

1. Approve and authorize the Introduction of an Ordinance No. 68-29 C, as amended, amending Ordinance No. 68 C, Compensation for Administrative Officers of the City of Burton.

SECOND READING OF AN ORDINANCE:

LaDuke moved and Wells seconded the following motion:

1. Approve and authorize the Second Reading of an Ordinance, amending Ordinance No. 19, Section 5.37, sidewalk provisions.

Motion carried 6-0.

Meeting adjourned at 9:20 p.m.

Gayle Webster, CMC
City Clerk