CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
SEPTEMBER 15, 2008, 7:00 P.M., COUNCIL CHAMBERS
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Council Vice President Duane Haskins led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by Council President Tom Martinbianco at 7:10 p.m.

MEMBERS PRESENT: Conley, Ellenburg, Haskins, Heffner, Martinbianco, Tinnin and Zelenko.
MEMBERS ABSENT: None.
OTHERS PRESENT: Mayor C. Smiley; Attorney M. Joliat and G. Webster, City Clerk.

Haskins moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meeting: Regular Council Meeting on September 2, 2008 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

The Mayor said there were some problems due to the heavy rains. Vassar Rd was closed near the Elks, due to a wash out of the road. We are going out for bids to have this area repaired. In addition, there were some flooded basements and sewer backups. We are doing the best that we can to soften the impact to our residents.

Mr. Martinbianco wanted to know if there were any outstanding issues with the Genesee County Drain Commission. He understood there were some sewer interceptor problems. The Mayor planned to meet with the Drain Commissioner to discuss issues relating to heavy rainfalls. He said we want to plan for such events and alleviate some of the problems.

COMMITTEE REPORTS:

Mr. Heffner outlined the following calendar of events for the Park and Recreation Commission. On September 18th at 6:00 pm., the Parks Commission will hold a workshop to review their by-laws. In addition, there will be a workshop for the Halloween Trick or Treat Trail. This event is planned for October 25th at 5:30 p.m. at Kelly Lake.

The Back to School Bash will be held September 20th from 10:00 a.m. to 2:00 p.m. at City Hall.

The Parks and Recreation Commission will hold a workshop to discuss the 5-Year Plan on September 30th at 5:30 p.m. and October 1st at 5:30 p.m.

There will be a meeting scheduled in the near future to discuss the Cancer Survivor Park and the Police Fire Living Memorial.

Mrs. Ellenburg said the Friends of the Library plan to complete the painting project in October. She estimated that it would take six more hours to complete the work. She will contact Council once a date has been scheduled.

AUDIENCE PARTICIPATION:

Don Sanderlin, 2460 Killarney Park, participated in Good Neighbor Day by giving roses to his neighbors. He was surprised to see his picture in the paper regarding this issue.

Mr. Martinbianco acknowledged Mr. Welch for his ongoing community service. He has contributed to the annual Good Neighbor Day for many years. He has been a pillar of the community for a long time, including being the ZBA Chairman.

John Stapish, P.O. Box 190134, complained that the meeting did not start at 7:00 p.m. and that DPW workers were standing by Kmart for a half of hour. He reported flooding on Atherton Rd, Pringle and Manor Dr. He said more ditching work should be done on Belsay Rd.

Rick Fuhst, 1208 S. Genesee Rd., indicated that water was pooling on the shoulder of Kendall.

Gerald Johnston, 2050 Valley Forge, asked for clarification on the County tax sale of Burton properties that were not sold for a minimum bid of $16,350.00.

Mr. Martinbianco referenced the bid auction. Two of the 437 units were sold. The remaining parcels will be sent to a no minimum bid auction in October.

COUNCIL DISCUSSION:

Mrs. Tinnin wanted to know if any of the Pebble Creek properties were sold. She spoke regarding special assessment commitments.

Mrs. Tinnin moved and Mrs. Conley seconded the following motion to add as Item 6: Direct the City Clerk to send a correspondence to County Treasurer Dan Kildee requesting that he and/ or a representative from his department attend our next City Council meeting October 6, 2008 at 7:00 p.m. to give an overview and update on where the City stands as it relates to paybacks to the County revolving tax fund and sales options on the foreclosed Pebble Creek Properties.

Mrs. Zelenko questioned the need to add this motion as an agenda item. We could just ask the Mayor to contact Mr. Kildee and invite him to the meeting. Mr. Martinbianco agreed that the Mayor would probably initiate this meeting, if he were asked.

Mrs. Tinnin wanted to add the motion to the agenda. She wanted to know if Council was interested in Pebble Creek and what options were available. Mr. Martinbianco wanted to know if Mrs. Tinnin was only concerned with the Pebble Creek property and not the other 330 properties. She indicated that she wasn’t interested in the other properties. There was a difference, because Pebble Creek had been bonded in the City name. A vote was taken on the motion to invite Mr. Kildee to the next meeting. The motion carried 7-0.

Mr. Martinbianco said we are going to have to make some decisions in the near future on what should be done with the Pebble Creek property. In addition, we should not minimize the other 330 properties that have to be dealt with.

Mrs. Conley wanted Mr. Kildee to come to the meeting to provide more information. She didn't even know the land was going to the auction. She read about it in the paper. This should have been discussed with the Council. She knew that the County had been paying the bond payments. She wanted to know if we needed to pay them back. Mr. Martinbianco noted that property foreclosures have impacted many communities in the County.

Mrs. Tinnin set a Legislative Meeting for October 6, 2008 at 6:00 p.m. for the following purpose: 1. Discussion and possible action of the Subdivision Control Act to establish criteria and safeguards to protect the City of Burton form financial loss due to developers not fulfilling their obligations to finish all stages of paving prior to the City taking over responsibility of these roads into the City's road system. 2. Establish language preventing a developer or a corporation seeking profit from utilizing the City's special assessment petition process enabling them to achieve financial gain from the City bonding on their behalf of the City's good faith and credit.

Mrs. Tinnin wanted clarification on Ordinance 41 and the Subdivision Control Act. Mr. Martinbianco suggested the proposed ordinance be expanded to include the developer's specific guarantees or performance covering the whole development of a subdivision, not just paving. In addition, he suggested she refer to an enterprise, which may or may not be profitable, as oppose to a for profit entity. Mrs. Tinnin planned on contacting Mr. Austin for guidance on the wording of this ordinance. Mr. Joliat said if the ordinance was in place, it should be included in the codified ordinance book. He will discuss this matter with Mr. Austin.

Mr. Haskins and Mr. Heffner attended the Powers Football game Friday evening. Mr. Haskins wanted to analyze the noise problem from the speaker system. From the parking lot, he could barely hear the announcements. He approached the gate and met Pat Hinds, the Athletic Director. Mr. Haskins asked if the volume had been turned down on the speaker system. It didn't seem too bad. Mr. Hinds said the volume had not been turned down. They hold it at a level 3. In addition, Mr. Haskins verified that security was present at the game. There were at least 10 off duty or retired police officers present. They were present in the parking lot, at the gate and during the game. He felt the crowd and the band were louder than the sound system. He didn't know what to do to appease the residents in the area. He didn't feel the speaker system was too loud. Mr. Martinbianco thanked Mr. Haskins and Mr. Heffner for checking into this situation.

In reference to the Attorney Billing, Mrs. Tinnin questioned the Sunday, 8-31-08 billing date. Mr. Joliat pointed out that this was an E-Mail correspondence.

In regards to Item 2, Mrs. Conley wanted to know if the contract had been bid out.

Mr. Martinbianco opposed the approval of any extensions to existing contracts. He said very few of us were here when the original contract was approved. Everyone has indicated that the janitorial company has provided immaculate service. That does not excuse our obligation and responsibility for making the right choices on behalf of the residents. There are other companies that do this work. He wanted to get the best price available.

Mrs. Zelenko said we do have a history of extending contracts. We have extended AT&T and Midnight Alarm in the past. Consideration should be given when costs remain the same. They have been doing a very good job. She wanted to keep the service going. She did not want to make a habit of extending contracts. At times we do need to go out for bids. Under this circumstance, she felt Council needed to move forward.

Mr. Martinbianco didn't want to set precedence for the extension of contracts. There might be other companies that want to extend contracts. In this day and age of competitive service, we owe our taxpayers at least that much.

In reference to Item 5, Mr. Martinbianco asked for clarification on authorizing the construction contract with MDOT. He wanted to know if they would be the responsible party for taking the bids. Mayor Smiley indicated that he rejected the three bids because they were too high. In today's economy, he thought the bids would come in lower. MDOT knows the bids were rejected. In order for us to maintain the window of opportunity for the project, we have to approve this portion. Hopefully, the bids in the spring will be more realistic. This does not obligate us to the project.

In regards to Item 6, Mr. Haskins wanted to know why Mrs. Tinnin was just concerned with Pebble Creek when there are 400 properties at stake.

Mrs. Tinnin said we have a $3 million special assessment bond on those properties in Pebble Creek. We are obligated to pay those special assessments. The other properties just have unpaid taxes. We don't have special assessments on them.

Mrs. Webster questioned if it was appropriate for the City Clerk to send the letter to Mr. Kildee. Mr. Martinbianco indicated that the Council couldn't direct the City Clerk to do this. That had to come through the Administration. This has been done by the resolve of the City Council. He asked the Attorney if it was appropriate to have the City Clerk send the correspondence. Mr. Martinbianco felt it was appropriate to send it on behalf of the City Council, as oppose to the Mayor.

COUNCIL DISCUSSION ACTION:

Moved by Tinnin, Seconded by Conley to add as Item 6 to: Direct the City Clerk to send a correspondence to County Treasurer Dan Kildee requesting that he and/ or a representative from his department attend our next City Council meeting October 6, 2008 at 7:00 p.m. to give an overview and update on where the city stands as it relates to paybacks to the County revolving tax fund and sales options on the foreclosed Pebble Creek Properties. The motion carried 7-0.

COUNCIL ACTION:

Zelenko moved and Heffner seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from August 27, 2008 through September 10, 2008 in the amount of $5,767.70.

Motion carried 7-0.

Haskins moved and Zelenko seconded the following motion:

2. Approve and authorize a 3 year extension of the janitorial contract with Michigan Merchants Janitorial Supply & Service, PO Box 91, Mt. Morris, MI 48458, in the amount of $4,491.00 per month.

Motion carried 4-3, with Conley, Martinbianco and Tinnin voting no.

Haskins moved and Zelenko seconded the following motion:

3. Approve and authorize the adoption of MERS B-4 benefit multiplier, effective July 1, 2005, for Division 20 – Sergeants Jr.

Motion carried 7-0.

Haskins moved and Tinnin seconded the following motion:

4. 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 property 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. This public hearing can be scheduled at various times below on Monday, October 20, 2008, should the Council find this favorable or any other date and time Council prefers, allowing 20 days notice to property taxpayers for the scheduled hearing.

<u>Monday, October 20, 2008</u>
5053 E. Court St. at 6:30 p.m.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

5. Approve and authorize the Mayor and City Clerk to execute a construction contract with the Michigan Department of Transportation for hot mix asphalt cold milling and resurfacing work along Center Road from Lapeer Road to Court St; including earth work, pavement repair, concrete curb and gutter and storm sewer work; and all together necessary related work. DPW project number 07-005-P. (MDOT CS STU 25402, Job No. 103166, Project No. STP 0825 (034), Federal Item Nos. HH 5541, CFDA No. 20.205, Contract No. 08-5338) at an estimated cost of $736,000.00 of which the City of Burton's share will be approximately $155,000.00 contingent upon approval of the City Controller.

Motion carried 7-0.

Tinnin moved and Conley seconded the following motion:

6. Direct the City Clerk to send a correspondence to County Treasurer Dan Kildee requesting that he and/ or a representative from his department attend our next City Council meeting

October 6, 2008 at 7:00 p.m. to give an overview and update on where the city stands as it relates to paybacks to the County revolving tax fund and sales options on the foreclosed Pebble Creek Properties.

Motion carried 6-1, with Haskins voting no.

Meeting adjourned at 8:00 p.m.

Gayle Webster, CMC
City Clerk