CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
OCTOBER 15, 2007, 7:00 P.M., COUNCIL CHAMBERS
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Councilwoman Laurie Tinnin led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by Council President Gary Isham at 7:00 p.m.

MEMBERS PRESENT: Conley, Cross, Isham, LaDuke, Major, Tinnin and Wells.
MEMBERS ABSENT: None.
OTHERS PRESENT: D. Heidenberger, Assessor; Attorney R. Austin and G. Webster, City Clerk.

Cross moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Council Meeting on October 1, 2007 at 6:30 p.m. and the Regular Council Meeting on October 1, 2007 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mrs. Heidenberger referred to a petition she received from a resident opposing Zoning Case #305. Mr. Isham said this petition is in reference to the Second Reading of an Ordinance, Item 4.

Mr. Austin spoke regarding a petition to stop the conditional rezoning of Cernet. He said this petition was of no legal consequence. It is simply a way for citizens to express their feelings about the proposed rezoning. If this ordinance were adopted the residents do have the following legal options: Our Charter allows for a referendum petition with regard to ordinances being adopted by the Council. He referred to Sections 5.9, 5.10 and 5.11 as to how the petition process should be initiated. Another option was to appeal to the Circuit Court.

COMMITTEE REPORTS: None.

OLD BUSINESS:

Mr. Cross wanted Council to look at setting up an impound lot for towing. He thought this would bring in good revenue for the City.

AUDIENCE PARTICIPATION:

Robin Walton, 4160 Risedorph, wanted something done with the old Muffler Man at the Corner of Covert and Davison. The property has over grown trees, shrubs, signs, a trailer and graffiti has been painted on the walls. In addition, she wanted something done with the home at 4170 Risedorph. The home is run down, tagged, vacant and the foundation is cracked. The bank is trying to sell it and nothing has been done to improve it.

Roberta Compton, 5347 Lapeer Rd., said whenever she calls the City of Burton, she usually gets Gayle Webster. She seems to be the most knowledgeable. She is very friendly and directs me in

the right avenue. She wanted to thank Gayle Webster. She is very good at her job. She spoke in reference to the Council's attendance record. She hoped people took this into consideration when they vote. If elected officials are concerned about the City they need to attend the meetings.

Mr. Isham said that he missed two meetings, one for his father's funeral and one for another family member's funeral. Other than those meetings he has good attendance. He said let's get the facts right.

Warren Nimcheski, 2429 N. Genesee Rd., spoke in reference to the cement piles. He would not want to live next to this. He was concerned that the company had not complied with their site plan from 2001. Now, they wanted to rezone from M1 to M2 and they wanted more storage.

Robert Spose, 4090 Maplewood Meadows, spoke in support for funding the Cancer Park. He is a volunteer on the project. He wanted the drawings approved, so the City could apply for grants. He thought this was a positive project for the community.

Jennifer Morquecho, 2246 Rd Arrow, spoke in opposition to the rezoning for Cernet. She felt the company and the City had not abided by the rules. She said the residents have voiced their opinions at several meetings. She spoke in reference to the huge piles of cement on Dort Hwy. She said the rezoning would not be in the best interest of the City or the Master Plan. She said this company doesn't just operate in the winter. The current operations have a negative impact on the neighborhood. We do not want it to move north or Red Arrow Rd closer to our homes. The Council sees tax revenue and betterment. She sees the vote that determines her quality of life. This decision should not be taken lightly. She pleaded with Council not to vote because of their connection or friendship with these individuals. You have a duty to serve the City of Burton.

Debbie Eagan, 3328 Ogema, said the residents have repeatedly voiced their opinion, begged and pleaded not to rezone this property. They have proof of violations. She said Council seems to think if the piles were reduced by 15 feet everything would be wonderful. But if there are ten more acres of 25-foot piles, all that dust and noise will come 250 feet from her home. She said please don't rezone the property.

Kevin Pilon, 2228 Red Arrow, strongly opposed the rezoning. He wanted to know if Council knew the definition of insanity. Doing the same thing over and over and expecting different results. He said they have done this before and he expects they will do it again. He wondered what they were thinking. How many violations do they get? Do they keep getting to do wrong and be rewarded with more. He said this was wrong for the neighborhood. He wanted Council members to see the dust and living conditions. He felt the rezoning would make things worst. He said Council members are supposed to care and support the residents, or is this just about business.

Jamie Boggs, 3344 Cheyenne, opposed the rezoning. She felt the Council members should vote in the best interest of the residents. She hoped the residents would take this action into consideration in the next election.

Mary Younglove, 1021 Hemphill, said these residents have worked very hard to stop this rezoning. It should be stopped. There are people that live on her street that cannot go outside without a mask because of the dust. It is getting worst. She was concerned for the health of the people in the area.

Rick Fuhst, 1208 Genesee, felt the cement plant should be built away from the residential area. He opposed funding for the cancer park. He wanted to know who would maintain the park. He didn't think it should be funded out of taxpayers' money.

Al Hardy, 6215 Sandy Lane, spoke regarding a letter that was written against him attempting to violate his civil rights. A Council member asked for him to be fired. Mr. Isham said this wasn't the venue for that to be discussed. Mr. Hardy said this was a public meeting. He wanted to discuss the letter written by a public official against a public servant. Mr. Isham suggested he take it to an attorney to pursue any legal issues. Mr. Hardy wanted the Council to take disciplinary action against the council member responsible for writing the letter. If not, he felt they were endorsing the letter. Mr. Hardy indicated that he was still on the fire department.

John Stapish, PO Box 190134, spoke in opposition to spending $4,550 on drawings for the park. He thought the DPW could do this work. He wanted to know about the employees' education program that was being paid by the City. He said this all comes out of the Mayor's Office. He wanted to know how many people have benefited from the program and if it was part of their wages. Mr. Isham said that this was part of the city employees' collective bargaining agreement.

Claude Arnett, 3308 Cheyenne, wanted to know how many council members went to the Cernet site. He wanted to know if everything was in compliance. If not, was DPW contacted? DPW was supposed to be enforcing the requirements. He felt the homes in this area have lost value.

Five members of the Council visited the Cernet site. In 2001 the Zoning Board required certain commitments. These requirements have not been completed. Mr. Isham suggested the residents speak with the DPW Director and the Mayor to have the requirements enforced.

Jan Bolen, 1169 Howe Rd., wanted to know why the violations of this company have not been addressed. She received a violation for having a trailer in the front yard. She felt she was being retaliated against. This ordinance should be revoked. She opposed a cancer victim park. The park should be dedicated to all diseases. She was disappointed in the Mayor for his lack of attendance.

Pauline Dargel, 6119 Hugh, spoke in opposition to the conditional rezoning. She said a site plan review could not be incorporated within the conditional zoning. In Ordinance 19 there are provisions for a site plan review. This needs to be done. She wanted to know when the old Palace Gardens was going to be addressed. It was tagged in 2006 and nothing has been done. She wanted a report on this property. The Liquor Control Board told her the license was in escrow. This too has an expiration date. Mr. Cross said the Council has asked for something to be done with the old Palace Gardens.

COUNCIL DISCUSSION:

Mrs. Tinnin opposed the rezoning of the Cernet property. She felt there should not be more intense zoning next to a residential area. She said the non-involvement of some council members think what the applicant has requested is fine. But we are public servants of the people. She hoped they

would make the right decision for the sake of the people in this neighborhood. She felt friendships were getting involved. The company needs to take the responsibility for the violations on the site plan. She didn't think they should be rewarded for the non-compliance.

Mr. Cross wanted to know if an air quality study had been conducted during operations. He said the study should be done by an outside independent agency. He was concerned with the health of the residents in the area. They need good air quality and environmental life that we promised when we took office. He opposed the rezoning on this site.

Mr. Cross wanted to know if Mr. Hardy had permission from the Fire Chief to put that letter in the newspaper and come to the meeting. He said under Section 6 of Rules and Regulations, members should not release information concerning an incident, fire department functions or business without approval of the Fire Chief.

Mrs. Tinnin wanted the code enforcer to look at 4170 Risedorph. She would like a status report on this property. She wanted a status report on the old Palace Garden property.

Mrs. Tinnin spoke in opposition to the ribbon cutting at the cancer park. She said we do not know how the park would be developed or funded. This did not come before the Council at budget time. A project line has not been set up to accept the donations. How is this being recorded? She said it was important to have volunteers when we do go forward with this project. We need to prioritize projects. We plan to add fire station buildings that are badly needed. These projects need to go through the budget process to determine if they will go forward. This is not political. This is the right way to do it.

Mr. Wells shoveled the rocks off of Atherton road twice and they keep coming back. This is causing wear and tear on the road. He said it was dangerous to shovel the rocks.

Mr. Wells spoke regarding attendance. He said council members were trying to do the best they could. He missed a meeting when he was hospitalized and on vacation. He takes his vacations around his work schedule.

Mr. Wells spoke in support of the cancer park. He thought it would be a positive project for the community. These parks are being built across the nation. He said it would cost $4,000 to do the engineering. There are volunteers and local businesses that want to help with the park. He was more concerned that we paid the auditor over $2,000 to attend the last meeting and talk about the budget. In his opinion, that was a waste of money.

Mr. Wells didn't think there was anything the Council could do about Mr. Hardy's issue. He wanted to stay out of it. He said there were other avenues to deal with this matter.
In reference to the Mayor's attendance, Mr. Wells said at one point the Mayor was banished from the meetings. He was the sounding board. He said this is the business meeting of the City Council. The Charter does not require the Mayor to be present at the meetings. He suggested the Council contact the Mayor regarding agenda items. They should not come Monday night and start firing questions without doing their homework.

A brief discussion was held in reference to the Cernet rezoning. Mrs. Tinnin plans on helping the people by not voting for a more intense zoning. Mr. Wells said the rezoning and the requirements in the agreement would actually help the neighborhood. If the company does not comply with the requirements, we could revoke the zoning. He said some of the dust is due to the dirt roads. The Council plans to pave those roads in the future.

Mr. LaDuke would like Item 2 addressed by the finance committee. He cannot believe that the auditor charged over $2,175 to attend the meeting. He needed more information. If they charge that much to attend a meeting, then we should look at finding a new auditing firm. Mrs. Tinnin distributed more information on this topic.

Moved by LaDuke, seconded by Wells to: Table Item 2 and send it to the finance committee.
Carried by consensus of the Council.

Mrs. Heidenberger said Soroc Products no longer exists in the manner that their abatement was granted. They sold the company in February 2007. She has contacted the new owner to let him know there was an IFT on the property. She gave him all the documentation that was needed if they wish to pursue a transfer of the IFT. She asked that the current abatement be revoked. Mr. Cross wanted to know if Soroc Products hired more employees, as they indicated they would. Mrs. Heidenberger will check to see if more people were hired.

In reference to Item 4, Mr. LaDuke was concerned that the work was done before it was on the agenda. He wanted to know why the DPW employees couldn't have done this project.

Moved by LaDuke, seconded by Major to: Table Item 4.
Carried by consensus of the Council.

Mr. Wells said in order to apply for grants the City would need to contribute to the park. Many people are volunteering to help with this project. Mrs. Tinnin wanted to know about the $1,200 in donations and tools. She said there has not been a line item set up to accommodate any funding. Mr. Isham wanted clarification on whether the donation was made to the Parks & Recreation, the focus group or the City. Mr. Wells said the donation went to the park project. Mr. Cross said there was no budget or line item set up to accommodate this project.

Moved by Cross, seconded by Major to: Table Item 8 until Council receives more clarification.
Motion carried 6-1, with Wells voting no.

Moved by Major, seconded by Cross to: Table Item 9.
Carried by consensus of the Council.
In regards to Item 10, Mr. LaDuke said these are the final budget transfers due to the line item budget. Now that the line item budget was eliminated, we shouldn't see these types of transfers.

Mr. Wells spoke in reference to the Cost Abatement of Unsanitary Conditions Ordinance. He said this was a result of the stray cat problems we were having. This will help clean up some of the houses. A committee has been formed to help take care of the cat problems.

Mr. Wells felt the tobacco ordinance was too restrictive. He suggested giving the employees an authorized designated area to smoke.

Mrs. Conley called several communities regarding no smoking regulations. They cannot smoke in the building and cars. They all have designated smoking areas.

Mr. LaDuke supported the smoking ordinance without a designated smoking area. He thought this was a step in the right direction.

Mrs. Tinnin thought a smoking ordinance was a good idea for health reasons. However, she felt we needed a designated enclosed area for the smokers so it's not in the sight of the public. It will cost some money.

Mr. LaDuke said it was ironic that we denied a cancer park and then we want to build a room for them to smoke. He thought this made no sense. He thought there was a lost of productivity from employees that stand around and smoke. Mrs. Tinnin said the employees do have the right to take breaks. She said the ordinance was too restrictive.

Mr. Austin reviewed the ordinance dated October 3, 2007. Council members wanted to know where the designated areas would be. How far from the doors they could smoke? Mr. Austin will prepare an amended version of the ordinance. He said this should be considered as the first reading tonight. It will have to come back for a second reading.

Moved by Wells, seconded by Cross to: Amend the Ordinance to Prohibit the Use of Tobacco Products by adding designated smoking areas by resolution of the Council.
Carried 4-3, with LaDuke, Major and Isham voting no.

Mr. Austin clarified the hunting ordinance. Currently, hunting is outlawed in the City. This is more restrictive than the state statue. He said the new ordinance allows hunting 450 feet from a structure.

In reference to Zoning Ordinance 305, Mr. Iamarino, 5500 S. Saginaw, clarified that the DEQ permit was an annual inspection by the environmental air quality division that must be in place. Mr. Zito has now purchased his own certified equipment to do the air quality check.

Mr. LaDuke said this problem was not going away. These requirements will help. They are still going to crush and they will still have noise. This will help control the situation. The Council and Administration should do a better job to monitor the company and make sure the site plan is done.

Mr. Cross was concerned that this would move things closer to the homes. They are already feeling the effects of the crushing.

Mr. Wells said stipulations have been put on the business. Governmental agencies are involved to make sure the air and water quality are environmentally correct. There is a date in which they have to comply or we will take away the zoning.

Mr. Austin said we are operating under a new statue. No one has revoked zoning under this conditional rezoning statue. If we were to do that, we would give notice and hold a hearing. We would have to vote to revert back to the M-1 zoning status. We would begin enforcement proceeding as though they were in violation of the M-1 zoning requirements. This would be done by issuance of an appearance ticket or in this case due to the magnitude of the violation, we would go to Circuit Court. We would ask that the nuisance be abated immediately.

COUNCIL DISCUSSION ACTION:

Moved by LaDuke, seconded by Wells to: Table Item 2 and send it to the finance committee.
Carried by consensus of the Council.

Moved by LaDuke, seconded by Major to: Table Item 4.
Carried by consensus of the Council.

Moved by Cross, seconded by Major to: Table Item 8.
Motion carried 6-1, with Wells voting no.

Moved by Major, seconded by Cross to: Table Item 9.
Carried by consensus of the Council.

Moved by Wells, seconded by Cross to: Amend the Ordinance to Prohibit the Use of Tobacco Products by adding designated smoking areas by resolution of the Council. The motion carried 4-3, with LaDuke, Major and Isham voting no.

COUNCIL ACTION:

Cross moved and Major seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from September 26, 2007 through October 10, 2007 in the amount of $7,076.30.

Motion carried 7-0.

Motion was tabled and sent to the finance committee.

2. Approve and authorize a transfer of funds in the amount of $2,175 from General Fund - Contingency to General Fund-Council-Contractual Services. (Professional Services Rendered for Plante & Moran, P.C. on October 1, 2007).

LaDuke moved and Cross seconded the following motion:

3. Approve and authorize a request that the Michigan State Tax Commission take action to revoke Industrial Facilities Exemption Certificate for Soroc Products, Number 04-055, effective as of December 30, 2007.

Motion carried 7-0.

Motion was tabled.

4. Approve and authorize the City of Burton to enter into a contract with CHMP, Inc., 5198 Territorial Rd., Grand Blanc, MI 48439, for the construction staking of proposed sidewalks along the east side of Center Rd. from Atherton Rd. to Lippincott Blvd. These services will be performed at a fixed price of $4,850.00.

LaDuke moved and Tinnin seconded the following motion:

5. Approve and authorize the low bid and purchase of a large bore watermain tapping machine from Etna Supply Company in the amount of $38,077.50. (Funding for this unit has been included in the Water Capital Equipment line within the new budget).

Motion carried 7-0.

LaDuke moved and Conley seconded the following motion

6. Approve and authorize the Mayor and City Clerk to execute the authorization for:
   1) The installation of one (1) streetlight at 2173 S. Center Rd. at a cost to the City of $100.00.

Motion carried 7-0.

Cross moved and Tinnin seconded the following motion:

7. Approve and authorize the acceptance of the low bids and allow the Mayor and Clerk to enter into a contract, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton with Efficient Demolition, 6139
   Potter, Davison, MI 48423 in the demolition amount of the following:
   1) 3205 Shaw $4,540.00 2) 2134 Kenneth $5,320.00

Motion carried 7-0.

Motion was tabled.

8. Approve and authorize the Mayor and Clerk to enter into a contract with CHMP for Conceptual Design Proposal in the amount of $4,550.00 for the project known as: Cancer Survivor Park.

Motion was tabled.

9. Approve and authorize a transfer of $4,550.00 from General Fund Unappropriated Surplus to General Fund-Parks and Recreation-Cancer Survivor Park, to enter into a contract with CHMP for Conceptual Design Proposal for the project known as: Cancer Survivor Park.

LaDuke moved and Tinnin seconded the following motion:

10. Approve and authorize the budget transfers and wage / fringe reallocations outlined in

Addendum #1.
Motion carried 7-0.

INTRODUCTION OF AN ORDINANCE:

Wells moved and Tinnin seconded the following motion:

1. Approve and authorize the Introduction of an Ordinance for Cost Abatement of Unsanitary Conditions.

Motion carried 7-0.

SECOND READING OF AN ORDINANCE:

Wells moved and Cross seconded the following motion as amended:

1. Approve and authorize the First Reading of an Ordinance, an Ordinance to Prohibit the Use of Tobacco Products in City Buildings and Vehicles and Upon Land Owned by the City Except Where Specifically Designated by Resolution.

Motion carried 4-3, with LaDuke, Major and Isham voting no.

Cross moved and Tinnin seconded the following motion:

2. Approve and authorize the Second Reading of an Ordinance, an Ordinance to Establish A Collective Bargaining Authority to Negotiate All Union Collective Bargaining Agreements on Behalf of the City of Burton as the Employer

Motion carried 5-2, with LaDuke and Wells voting no.

Cross moved and Wells seconded the following motion:

3. Approve and authorize the Second Reading of an Ordinance, an Ordinance to Regulate the Discharge of Firearms Within the City of Burton and Providing Penalties for the Violation Thereof.

Motion carried 5-2, with Conley and LaDuke voting no.

Major moved and LaDuke seconded the following motion:

4. Approve and authorize the Second Reading of an Ordinance for ZC #305, 2385 Red Arrow, Part of #59-29-400-022, by Cernet Co., LLC, 8033 Fenton Rd., Grand Blanc, MI 48439, for change of zoning from M-1 to M-2, to include the October 1, 2007 memorandum with # 11 added that site improvements will be completed by December 31, 2008.

Motion failed 4-3, with Conley, Cross, Isham and Tinnin voting no.

Meeting adjourned at 8:55 p.m.

Gayle Webster, CMC
City Clerk