CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
NOVEMBER 15, 2010, 7:00 P.M., COUNCIL CHAMBERS
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Councilwoman Paula Zelenko led the Invocation and the Pledge of Allegiance.

The Regular Meeting was called to order by President Steven Heffner at 7:25 p.m.

MEMBERS PRESENT: Ellenburg, Haskins, Heffner, Martinbianco, Smith, Wells and Zelenko.
MEMBERS ABSENT: None.
OTHERS PRESENT: D. Halstead, Fire Chief; A. Frost, DPW Representative; Attorney R. Austin and G. Webster, City Clerk.

Haskins moved and Zelenko seconded the following motion:

Approve and authorize the minutes of the Regular Council Meeting on November 4, 2010 at 7:00 p.m. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mrs. Webster announced that this was her last Regular Council Meeting. She planned to retire on December 31, 2010. Her last day to work will be December 10th, due to the utilization of her remaining sick and vacation days. She said it had been an honor to serve in the position of Burton City Clerk for 15 years. She has held that position longer than any other City Clerk. During this time, she has met and worked with many wonderful people. She was proud to be the only Clerk in Genesee County to achieve the highest-level designation of Master Municipal Clerk. She thanked Mr. Heffner for his acknowledgement of that distinction every time he said "Master Clerk Please Call The Roll". In addition, she thanked Council Members for their respect and support over the years. She was proud to say this Council has been a very positive role model for our community.

Chief Halstead was present to answer questions regarding Items 3 and 4 dealing with the Firework Permit. He announced that the bid opening for the Fire Station renovations would be held on November 22, 2010 at 1:00 p.m. at the Police/Fire facility. Everyone was welcome to attend.

Ms. Frost was available to answer any questions regarding Item 2 dealing with the CD Street Improvement Agreement.

COMMITTEE REPORTS:

Mrs. Zelenko said the Legislative Committee met to discuss issues dealing with the Medical Marijuana Act. Attorney Austin has drafted a proposed ordinance. Participants provided good insight on this topic. Another Legislative Meeting was set for November 30, 2010 at 5:00 p.m. to continue discussion on the proposed ordinance. Then it would be sent to the Planning Commission.

Mrs. Ellenburg said the Memorial Library has reopened after renovations. The library was painted and new carpet was installed. Everyone should visit the library and let them know you appreciated the hard work.

Mr. Haskins said Parks and Recreation would be holding Burton's Christmas Tree Lighting on December 2nd at 6:00 p.m. at the Police/ Fire Facility. Children's activities and Christmas carols are planned for the event. In addition, "Christmas at Courtland" would be held on December 3rd. Activities will include the Flint Master Singers and Christmas activities and crafts. He encouraged everyone to attend these two holiday events.

AUDIENCE PARTICIPATION:

Rick Fuhst, 1208 Genesee Rd., has a background in heating and cooling. He spoke regarding the geothermal heating unit that will be installed in the new fire station. He felt another type of furnace system would be more beneficial and economical for the City.

John Stapish, P.O. Box 190134, spoke regarding the costs associated with the fire station renovations. He said the firemen have not fixed the leaky roof at Station 2 and there are repairs needed at Station 1. In addition, he supported the firework applicant because he had an ATF permit. He felt we shouldn't charge additional fees.

COUNCIL DISCUSSION:

Mr. Wells received the Attorney's opinion on the selection of a new Mayor. He thought it was important to have someone work with the current Mayor. He said the Council has a unique opportunity to benefit the City. He suggested Council bring in an outside person immediately, someone with executive and financial experience that could make hard decisions. They could focus on City business without worrying about being reelected, someone that would be a strong community leader without political aspirations. They could bring a different perspective and help us through this transitional period. He said most Council members would be preoccupied with their campaigns next year.

Mrs. Ellenburg congratulated Gayle Webster on her retirement. She has always done a great job for the City. She has been at all the meetings and hasn't complained when they run long. Mrs. Ellenburg applauded Mrs. Webster's dedication and everything that she has done for Burton.

In reference to Mr. Fuhst's comments, Mrs. Ellenburg indicated that the new fire station would be a leader in environmental standards. Hopefully, it will qualify for grant money to install the new heating system. She suggested that Mr. Fuhst speak with Mr. Halstead and convey some of his good ideas.

Mrs. Ellenburg has heard a lot of controversy and concern regarding the marijuana issue. Some residents are concerned it will be in their backyards. She understood this would be discussed at a later meeting.

Mr. Martinbianco said medical marijuana was one of those issues that would require a lot of discussion. He said there has been so much controversy on the topic in Dryden. They are dealing with mitigating State law and how that impacts local legislation. He will be waiting to hear how that turns out.

In response to Mr. Wells' comments, Mr. Martinbianco would consider other scenarios. In reference to the Attorney's opinion, he said this appointment could only happen when the vacancy occurs. He said the selection would take place within ten days. He was concerned if Council took action prior to the vacancy the Mayor could veto the action. He felt there were many challenges ahead. He indicated that we had a damaging fiscal year for 2010-2011. He felt the next fiscal year would pale by comparison. There will be some difficult financial decisions. We will need a strong person to carry the City through the transitional period.

Mr. Martinbianco asked for clarification on the fire station bids. Mr. Halstead said the bids included alternate projects. Project A dealt with just the fire station. Project B included the fire station and both of the renovations and Project C dealt with just the renovations.

Mr. Martinbianco thanked Mrs. Webster for her service. He appreciated that. He said she has been very professional and gracious during her years of service.

Mr. Martinbianco asked Mrs. Webster to convey two problem areas to DPW. He said there was a bad dip in the shoulder on Belsay Rd. near the south exit at Station 2. There is a big hole at that location. In addition, he has expressed to Mr. Kray the bump situation along Belsay Rd. The sewer lifts that go under Belsay Rd have caused it to buckle up in several areas. This has created some pretty severe speed bumps. This does not help our fire trucks traveling on Belsay Rd. He said there was a program to ground out the bumps. The Road Commission remedied this situation on Belsay Rd in Genesee Twp. He said this situation should be remedied before winter. This could be a potential safety hazard during icy conditions, causing someone to lose control of their vehicle. Mrs. Webster will pass this information on to a DPW.

Mr. Smith spoke in reference to the Mayor's replacement as outlined in the Charter. He said more than likely the next Mayor would be chosen from the Council.

Mr. Austin said the Charter envisions the person would be selected from the Council. There is an alternative provision that states, if this is not done, Council has 30 days to select someone that is not a member of the Council.

Mr. Smith said a number of people on the Council envision being the next Mayor. He suggested interested parties should job shadow the Mayor. He felt this would be beneficial during the transition period. He said the new Mayor would have to make some real tuff choices. He felt the successor needed to talk to the Mayor and the Administration about future expectations. If someone wants this job, they should show some initiative. He wanted to know if this would violate the Charter. Mr. Austin said this would not be in conflict of the Charter.

Mr. Martinbianco referenced 4.8 of the Charter. The current Mayor does not want the Council to interfere with administrative service. If a Council member resigned, that person could then work with the Mayor and Administration without conflict. Mr. Martinbianco felt the Mayor should resign December 5th, the resignation could be accepted and a new successor could be put in place. He could then donate his time to help with the transition. This would prove to be beneficial to the City.

Mr. Wells thanked Mrs. Webster for all her help. When he first started and even now, if he goes into the Clerk's Office and has questions, she is available to help. She has always been a great help to him. He appreciated everything that she done. If there is anything he can do for her, she should just let him know. He thanked her very much.

Mr. Wells felt the Council worked well together. If one of them were selected to become interim Mayor, that person would automatically start their campaign. He felt the successor's life would be miserable. The potential candidates would be at every meeting bashing that person. He said there would be no focus on City business. We have an opportunity to select a qualified outside person like Flint, someone with no political aspirations to run. They could look at the City from a different perspective. Hopefully, this would have a positive effect on the City as we go through a difficult transition period. The residents deserve this, not the political infighting he has predicted.

For the last year, Mrs. Ellenburg felt it would be in the best interest of the City to select a qualified outside person for interim Mayor, like the City of Flint. She felt as a body the Council worked well together. The residents know this. If one of the Council members were selected, it would cause friction. We are a unit. We try to find the answers. She felt it was in the best interest of the City to bring in a qualified person during the transition period. They could make the hard decisions and clean up whatever needed to be done. She felt the successor should shadow the Mayor. They should contact him and see what the job entails. She said it would be difficult for a Council member to assume the Mayor's responsibilities at this time. Mr. Austin would be happy to answer any question regarding the interim Mayor and the Charter.

In regard to item 3 on the agenda, Mr. Austin said Mr. Threet was present to answer questions regarding his application, training and experience. The State statute charges the Council with making certain factual determinations before approving a permit. Mr. Halstead has reviewed the permit and is available to answer any questions regarding this issue.

Mr. Austin said Gayle Webster has always been a pleasant, cheerful, accommodating person to work with. If she didn't have an answer, she would drop whatever she was doing and do whatever she had to do to get the answer. He appreciated her service.

Mr. Haskins thanked Mrs. Webster for everything she has done and continues to do for Council. We can only hope who ever fills the large shoes of Madame Master Clerk, will do their do diligence and treat Council as well as she did. He said she would be missed. He wanted to personally thank her for all she has done. He appreciated it. He told her to enjoy her retirement. In regards to Mr. Stapish's comments, Mr. Haskins thanked him for reiterating work was needed at the fire stations. Mr. Haskins felt we should do the work right the first time. He said thanks for your support. Mr. Haskins said there has been some good discussion on job shadowing and finding a successor. There are things we need to do to benefit our residents and the City as a whole. He felt job shadowing worked in most professions. However, it would be difficult to observe and comprehend the scope of the Mayor's responsibilities in just a few days. He thought it would be beneficial to hire an outside person during the transitional period. He would take that idea under consideration. If a Councilperson were appointed, they would worry about being re-elected.

Mr. Haskins stated further if they didn't do a good job, they would not be elected. He said the person that takes that position would take a lot of heat for months. He wanted to know if Council could make a motion to have someone job shadow the Mayor.

Mr. Austin clarified that a motion to ask Councilperson Jones to shadow the Mayor until December 31st would be appropriate. This would be a precursor to a formal vote after December 31st. He does not have a problem with that. Council could not appointment someone to fill the vacancy until after December 31st. Mr. Austin said job shadowing the Mayor would not violate the Charter. He didn't think the Mayor would mind working with a Council member in this fashion.

Mr. Martinbianco asked if Items 3 and 4 should be reversed. He said the fee structure was set in Item 4 after the approval of the application. Mr. Austin said that Mr. Threet submitted his application before a procedure was in place. He created a procedure and then the fee schedule. Therefore, Mr. Threet will not be charged. He said the application was time consuming and the Fire Chief was involved. He suggested a fee of $150.00. It was up to the Council to decide if that was a fair amount. Mr. Martinbianco said we were out $1,000 with Attorney fees and the administrative review. This was handled by the ATF. He questioned why the City would deal with it.

Mr. Austin said the ATF has a separate process. However, they will not render a decision on Mr. Threet's application until the local government acts. In the future, firework permits will come before this body for approval. He said this packet provides a step-by-step procedure for dealing with issue.

Mrs. Zelenko said it has been a distinct pleasure to know Gayle Webster, professionally and personally, as well. We are going to miss her. She thanked Mrs. Webster for her commitment and dedication to this community. She has gone over and above the call of duty in the position of City Clerk. Mrs. Zelenko said we are going to miss her. Thank you and congratulations. In reference to choosing the next Mayor, Mrs. Zelenko said the Council should go strictly by the Charter.

Mr. Heffner agreed with Mr. Martinbianco and Mrs. Zelenko. Ultimately the Charter is going to dedicate the way the Mayor's appointment will be completed. He said Council has 10-days after the Mayor vacates office to appoint a replacement.

Mr. Heffner said the Mayor should consider resigning a few days early. This would give his successor time to work with him. Then the Mayor could shadow the new appointee. He has been the Mayor for 19 years. He didn't think the Mayor would have a problem doing that.

Mr. Haskins said the Charter was specific. We have to realize the Mayor signs the checks. He said this might present a problem with payroll and the payment of bills. He said there are many things to consider.

Mrs. Zelenko said the Mayor's resignation is effective December 31st at midnight. There would a meeting January 3, 2011. This shouldn't be a problem within two days.

Mr. Martinbianco said as long as there were two signatories in place everything should be fine. The Treasurer is not going anywhere and they would be appointing a Mayor. The new Mayor would have time to select an interim or permanent City Clerk with approval of the Council.

The Attorney spoke on the possibility of a vacant Council position. The Charter envisions that Council would select a member of their board to replace the Mayor. He suggested Council solicit resumes for the potential vacancy.

Moved by Ellenburg, Seconded by Smith to: Add to the agenda as Item 5 to approve and authorize the Council to advertise and accept applications in the event there is an opening created by the appointment of the Mayor.

Mrs. Ellenburg suggested this be advertised in the local paper. She said Mrs. Webster would be able to help. She has done this with other vacancies.

Mrs. Webster said she would have something in the file. There was a small notice put in the paper asking people to submit a resume or letter of intent. She questioned why we post an ad for the possibility of a potential vacancy.

Mr. Haskins said that Mrs. Webster made a valid point. We don't even know if there is going to be a Council vacancy. He said anyone interested in the Council seat would know there was a vacancy, regardless of the posting. The last time we had a vacancy on the City Council there were eighteen applicants. He thought this would be a little premature. Mr. Heffner agreed with those comments. Mrs. Webster agreed with those comments. She was sure there would be a line up for the position immediately.

Mrs. Zelenko thought it was a little premature to advertise for a Council position. In the advent there was a vacancy, there are still six members to continue that meeting. You could appoint a new Councilmember at the following meeting. The motion was redrawn.

In reference to Item 2, Mrs. Zelenko asked clarification on the eligibility of the Clarice St paving.

Ms. Frost said there were not enough income surveys turned in to approve the Clarice St paving project. She said DPW made three attempts to obtain the income surveys. Mr. Wells said we went above and beyond to try and get that street paved. We even involved the school board to get people to turn in their information and they wouldn't. He didn't know why anyone wouldn't want a free road. We have to use the money with in a certain time frame. Hopefully, we can do something to have that road paved next year.

Mrs. Ellenburg asked for clarification on the 90% requirement for the income surveys. Ms. Frost said HUD sets the requirement standard and the County Planning Commission enforces it with the City. Only low-income areas are eligible for CD dollars.

Mr. Haskins said if the CD dollars do become available in the future. He would like DeCamp to be kept in mind for paving. It is the only street in the subdivision that is not paved. DeCamp is located on the west side of Grand Traverse.

In reference to Items 3 and 4, Mr. Haskins asked for Mr. Halstead's input on the firework application.

Mr. Halstead had some questions for Mr. Threet regarding the firework display. He said the resolution does not directly apply to this individual. Once the resolution is established, it is up to him to follow the resolution, as written. This resolution would apply to anyone in the future that would want a pyrotechnic display.

Mr. Martinbianco asked for clarification on the firework display resolution. Mr. Austin said anyone wanting a display would need to submit an application and a letter detailing their knowledge of fireworks. The permit requires that Council approve a resolution under state law.

Mr. Halstead questioned Mr. Threet on the location of the display. The fire department will come out and inspect the site. He was concerned with the large amount of fireworks that would be set off. He said there should be some consideration of potential traffic problems on the street. There was a discussion regarding the time schedule of the display. Mr. Halstead was concerned this would create a potential fire hazard to the area. He said even the larger aerial shells have fallen to the ground and burned holes in tents. He wanted to know what the neighbors thought about the large displays. He said the fire trucks should be on stand by for the display. Mrs. Ellenburg asked for clarification on the hours of operation.

Mr. Threet, 5158 Lippincott, said the launching area was all dirt. He planned to do the display within an hour after dusk on July 9, 2011. The hours of operation refers to the BATF license. This is when he would be available for inspections. He will be using aerial shells because they go higher in the sky and are safer because. He said the fall out is minimal. He said most of the neighbors come and enjoy his displays. He hasn't had any complaints. Wolverine will store his fireworks. He has been working with fireworks for 15 years. Mr. Halstead wanted to know where the mortars were coming from. Mr. Threet said all mortars have to be identified through federal licensing. He will be getting the tubes from Wolverine. Mr. Halstead planned to inspect the site, mortars, tubes and other firework items before the display.

COUNCIL ACTION:

Haskins moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from October 27, 2010 through November 10, 2010 in the amount of $6,959.25.

Motion carried 7-0.

Haskins moved and Smith seconded the following motion:

2. Approve and authorize to amend the scope of the 2010 Community Development Block Grant

street improvement agreement from Clarice Street Paving, Center to Atherton to the Buder Avenue Paving, Fern to School Entrance.

Motion carried 7-0.

Martinbianco moved and Zelenko seconded the following motion:

3. Approve and authorize a Resolution Approving Permit for Fireworks Display for Jeffrey Threet, 5158 Lippincott Blvd., Burton, MI 48519, as written.

Motion carried 7-0.

Haskins moved and Ellenburg seconded the following motion:

4. Approve and authorize a Resolution Establishing a Fee for Fireworks Application, as written.

Motion carried 7-0.

Meeting adjourned at 8:45 p.m.

Gayle K. Webster, MMC
City Clerk