CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
DECEMBER 18, 2006, 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 Charles Cross at 7:00 P.M.

MEMBERS PRESENT: Tinnin, Conley, Curtis, Cross, Isham, Major and Wells

MEMBERS ABSENT: None.

OTHERS PRESENT: Attorney R. Austin, C. Abbey, DPW Director, B. Whitman, Police Chief B. Whitman, and L. Young, Clerk's Office.

Isham moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: The Regular Council Meeting on November 20, 2006 at 7:00 p.m., and the Regular Council Meeting on December 4, 2006 at 7:00 P.M. Motion carried 7-0.

AUDIENCE PARTICIPATION:

The following residents addressed concerns dealing with the Council's interest in creating a Burton Senior Citizens Advisory Board and emphasized that the Council refrain from involving themselves in the functioning of the Center:

Ken Urban, 4421 Fenton
Pauline Dobis, 2100 E. Schumacher
John Pemberton, 1390 McEwen
Carrie Tinnin, 2181 Whittemore
Bud Legrande, 2105 E. Buder
Jean Johnson, 1462 Merle
Bob Gunther, 2294 Kenneth
Jean Webb, 1505 Friel
Martha Williston, 12106 Blackberry Creek
Don Sanderlin, 4460 Killarney
Russ Brown, 3365 Shannon

Pauline Dargel, 6119 Hugh, inquired about agenda item No.3. She urged that the ten new units at Burton Estates be no-step, single-family housing. She also inquired about agenda items No. 9 and No. 10 in relation to the cause of the monetary transfers.

COUNCIL DISCUSSION:

Mr. Cross set a Special Council Meeting for January 4, 2007 at 6:00 P.M. for Council appointment to replace Jamie Curtis.

Mr. Cross requested that letters be sent out to all applicants who previously applied for the vacant Council seat.

Council decided that there will not be interviews held for the applicants for the vacant Council seat.

Council decided to table agenda item No. 12, and send it to the Legislative Committee.

Mr. Curtis spoke in the defense of creating a Burton Senior Citizens Advisory Board.

Mr. Wells attempted to amend Mr. Isham's motion to send action item No. 12 to the Legislative Committee, but it died due to lack of support.

Mrs. Tinnin added items No. 13, 14, and 15 to the agenda.

Mr. Curtis added item No. 16 to the agenda.

Mr. Major added item No. 17 to the agenda.

Attorney Richard Austin suggested that item No. 17 be sent to the Legislative Committee for closer examination.

Mr. Wells commended Mr. Major for taking the proper steps towards having a resolution drafted in reference to agenda item No. 17.

Mr. Cross asked to pull item No. 4.

Mr. Curtis asked to pull item No. 3.

Mr. Wells asked to pull item No. 16.

Mr. Major asked to pull item No. 17, 9 and 10.

Mr. Isham asked to pull item No. 2.

Council agreed to pay up to $350.00 out of the Building Department budget, for the hire of a certified Structural Engineer to inspect the premises of 3155 Hemphill Rd., providing the owner brings the house up to building code as instructed by the Structural Engineer.

Mr. LaLonde agreed to pay all costs necessary to bring the premises of 3155 Hemphill Rd. up to code as instructed by the Structural Engineer.

Mr. Abbey stated that the City Council is starting a dangerous precedent, and doesn't have a problem with them paying for the Structural Engineer, but urged that they pay for it out of the Council's budget, due to the fact that a Structural Engineer is not budgeted and would require a transfer.

Council agreed to allow Mr. LaLonde up to sixty days to hire a Certified Structural Engineer and instructed him to have the Certified Structural Engineer bill the City of Burton and the will cut a check to the Certified Structural Engineer.

Mr. Isham stated that he could not, in good conscious, put either legal bill (items No. 2 and 11), equaling to $13,000 in Attorney fees, on the backs of the taxpayers. He also encouraged his colleagues to take a close look at this and think about the precedence they would be setting.

Mr. Curtis read a letter addressed to Mayor Charles Smiley in reference to the City of Burton vs. Charles Cross, file number OMF06-707, 708, 709.

Chief Whitman informed the Council that the Michigan Municipal League sent a revised copy of the model policies for Charters in 2003, containing Section 4.8, therefore negating the argument that Section 4.8 of the City Charter is archaic. He also stated that the Mayor does not have any control over criminal investigations. Chief Whitman affirmed that his policy within the City of Burton Police Department is that if anyone acts outside of the policy and commits a crime, they get their own attorney; they pay for it. He also feels that if that policy is good enough for his department and the employees of the City of Burton, then it is good enough for the City Council. Chief Whitman quoted an article from the Flint Journal that stated, "Deal reached in Cross case," pointing out the fact that the word "deal" in a Court case insinuates unlawful activity. He also pointed out the fact that the Mayor was the one who acted as the guardian of the City Charter. He also inquired as to who protects the City Charter.

Attorney Richard Austin stated that if the City Charter were to ever come under attack by any outside force, agency or individual in a Court of law, he would be the one to defend the City and uphold the laws as stated in the Charter.

Mr. Wells asked Mr. Cross if the judge ruled in favor of the City of Burton paying his attorney fees.

Mr. Cross replied that no ruling was made.

Mr. Wells stated that he would like to see an itemized bill of Mr. Cross' attorney fees.

Mrs. Conley inquired as to why Mayor Smiley was not present at the meeting to answer questions regarding City of Burton V. Charles Cross, file number OMF06-707, 708, 709.

Chief Whitman stated that he is the complainant in the case of City of Burton V. Charles Cross, file number OMF06-707, 708, 709, not Mayor Smiley. He also said that he was acting under the advice of the Prosecutor of Genesee County, and went to the Michigan State Police.

Discussion was held regarding 4.8 of the Burton City Charter.

Discussion was held regarding agenda item No. 2.

Mr. Cross called for a short recess.

Meeting was called back to order.

Attorney Richard Austin voiced his concerns regarding the selection of an alternate attorney to act in the place of City Attorney, in the event of a conflict of interest.

Mr. Cross said that it should be in his Attorney guidelines.

Council spoke in reference to appointing a new Legislative Chair. Mr. Cross decided to wait until Mr. Curtis' replacement was selected.

Mr. Cross passed the gavel in order to read an article from the Flint Journal dated December 14, 2006.

Further discussion was held regarding agenda item No. 2.

Attorney Austin advised that Mr. Cross may vote on action item No. 2.

Discussion was held regarding agenda item No. 3. It was sent to Legislative Committee.

Discussion was held regarding agenda item No. 9 and 10.

Mr. Holzer spoke regarding the benefits of monthly water billing.

Discussion was held regarding agenda item No. 17.

Council approved the consent agenda.

Discussion was held on agenda item No. 13 regarding a line item budget for the offices of the Controller and Mayor effective January 1, 2007.

Mr. Curtis read his resignation from Burton City Council.

Mr. Isham moved and Mr. Major supported the resignation of Mr. Curtis. Motion carried 7-0.

By consensus of the Council, Mr. Cross presented Mr. Curtis with a plaque and a key to the City.

COUNCIL DISCUSSION ACTION:

Moved by Isham and seconded by Curtis to: Send action item No. 12 to the Legislative Committee at the earliest possible date. Motion carried 6-1.

Moved by Tinnin and seconded by Conley to add No. 13 to the agenda to: Approve and authorize a line item budget for Controller's Office and Mayor's Office effective January 1, 2007. Motion carried 7-0.

Moved by Tinnin and seconded by Curtis to add No. 14 to the agenda to: Approve and authorize a transfer of $15, 885 from Salaries Permanent and $6,590 from Fringe Benefits to Water Unappropriated Surplus for the remaining seven months. Motion carried 7-0.

Moved by Tinnin and seconded by Curtis to add No. 15 to the agenda to: Approve and authorize a transfer of $15,885 from Salaries Permanent and $6,590 from Fringe Benefits to Sewer Unappropriated Surplus. Motion carried 7-0.

Charles Cross abstained from voting on action item No. 16 with consensus of the Council.

Moved by Curtis and seconded by Major to add No. 16 to the agenda to: Approve and authorize the attorney billing of Dennis Lazar in the amount of $10,000 for litigation of the City of Burton V. Charles Cross, file number OMF06-707, 708, 709. Motion carried 5-1, with Wells voting no.

Moved by Major and seconded by Conley to add No. 17 to the agenda to: Approve and authorize R. Austin, City Attorney, to draft a resolution for a criminal ordinance, for first reading on January 15, 2007, that would prohibit the Mayor from having access to personnel files and sensitive financial information of present and past employees, elected or hired, that would or could be used for his or her own personal gratification or political gain. This is to be referred to the Legislative Committee. Motion carried 7-0.

Mr. Major moved and Mrs. Tinnin supported the amendment of item No. 13 to approve and authorize a line item budget, including salary and fringe benefits for administration and hourly employees for the offices of the Controller and the Mayor. Motion carried 7-0.

COUNCIL ACTION:

Curtis moved and Isham seconded the following motion:

Approve and authorize the Regular Council Consent Agenda items 1, 5, 6, 7, 8,11, 13, 14, 15 for December 18, 2006. Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from November 29, 2006 through December 13, 2006 in the amount of $5,378.42.

Motion carried 7-0.

Curtis moved and Major seconded the following motion:

2. Approve and authorize the final Attorney Billing for F. Jack Belzer, P.C. from July 16, 2006 through December 7, 2006 in the amount of $2,997.50, for litigation of the City of Burton vs. Charles Cross, File No.'s OMF06-707, 708, 709.

Motion carried 5-2 with Isham and Wells voting no.

Curtis moved and Tinnin seconded the following motion:

3. Approve and authorize a resolution supporting a Genesee County HOME Program Project. This is to be referred to the Legislative Committee.

Motion carried 7-0.

Curtis moved and Major seconded the following motion:

4. Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises of 3155 Hemphill Rd. to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to:

   Postpone any further action for 60 days, based on the following circumstances:
   The City of Burton will pay up to $350.00, out of the Building Department fund, for the hire of a Certified Structural Engineer, providing the owner brings house up to building code as instructed by the Structural Engineer.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

5. Approve and authorize the Agreement with the Genesee County Land Bank regarding the demolition of the property located at 1269 Forest Avenue and the reimbursement of costs upon the sale of the property, and authorize the Mayor and the Clerk to execute the Agreement on behalf of the City.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

6. Approve and authorize Rowe, Inc., 6211 Taylor Dr, Flint, Michigan 48507, to inspect the following bridges as required by MDOT: Davison Road over the Kearsley Creek, Genesee Road over the Gilkey Creek, Genesee Road over the Gilkey Creek II, Belsay Road over the Kearsley Creek, Term Street over the Thread Creek, Lippincott Blvd. over the Gilkey Creek,and Greenly Street Pedestrian Bridge over Bristol Road. These inspections will be

performed at $350.00 per bridge, with costs to be paid for out of the 2006/07 Major Street Surface Contractual Services Budget.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

7. Approve and authorize the Department of Public Works on behalf of the City of Burton and its City Council, authority to apply to the Michigan Department of Transportation (M-DOT) for the annual State trunkline right-of-way permit and/or necessary right-of-way permits for public purposes by the Department of Public Works personnel as: Charles G. Abbey, DPW Director, Gregory A. Kray, Deputy DPW Director, Mark Eickoff, Street Superintendent, Peter Wingblad, Civil Engineering Tech., and Mike Holzer, Public Utilities Supervisor.

Motion carried 7-0.

Curtis moved and Isham seconded the following motion:

8. Approve and authorize Peter Wingblad to purchase two (2) years of MERS pension generic service time. The total cost of $15,882 will be at the employee's expense.

Motion carried 7-0.

Major moved and Curtis seconded the following motion:

9. Approve and authorize the transfer of $10,000.00 from the 2006/07 Water Unappropriated Surplus to the Contractual Service line item.

Motion carried 7-0.

Major moved and Curtis seconded the following motion:

10. Approve and authorize the transfer of $70,000.00 from the 2006/07 Water Unappropriated Surplus to the pipe and fittings line item.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

11. Approve and authorize transfer of funds in the amount of $8,398 from Police Unappropriated Surplus to the Information Technology Fund for the purchase of equipment necessary for Kronos project.

Motion 7-0.

Isham moved and Curtis seconded the following motion:

12. Approve and authorize the creation of a Burton Senior Citizens Advisory Board pursuant to Section 6.11 of the City Charter, and approve and adoption of the By-Laws of the Burton Senior Citizens Advisory Board as presented. This is to be referred to the Legislative Committee.

Motion carried 6-1 with Wells voting no.

Major moved and Tinnin seconded the following motion as amended:

13. Approve and authorize a line item budget, including salary and fringe benefits for Administrative and hourly employees for the offices of the Controller and the Mayor; to be effective January 1, 2007.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

14. Approve and authorize a transfer of $15,885 from Salaries Permanent and $6,590 from Fringe Benefits to Water Unappropriated Surplus for the remaining seven months.

Motion carried 7-0.

Isham moved and Curtis seconded the following motion:

15. Approve and authorize a transfer $15,885 from Salaries Permanent and $6,590 from Fringe Benefits to Sewer Unappropriated Surplus. Motion carried 7-0.

Curtis moved and Major seconded the following motion:

16. Approve and authorize the attorney billing of Dennis Lazar in the amount of $10,000 for litigation of the City of Burton V. Charles Cross, file number OMF06-707, 708, 709.

Motion Carried 4-2, with Isham and Wells voting no, and Cross abstaining.

Major moved and Curtis seconded the following motion:

17. Approve and authorize R. Austin, City Attorney to draft a criminal ordinance, for first reading
on January 15, 2007, that would prohibit the Mayor from having access to personnel files and sensitive financial information of present and past employees, elected or hired, that would or could be used for his or her own personal gratification or political gain. This is to be referred to the Legislative Committee.

Motion carried 7-0.

Meeting adjourned at 10:00 P.M.

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