CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JANUARY 18, 1999, 7:30 P.M., COUNCIL CHAMBERS

The Invocation was given by Pastor Santos. The Pledge of Allegiance was led by Councilman Keith Cox.

The Regular Meeting was called to order by President, Ted Hammon, at 7:40 P.M.

MEMBERS PRESENT: Centilli, Cox, Cross, Hammon, Martinbianco, Walls and Zelenko.

MEMBERS ABSENT: None.

OTHERS PRESENT: C. Abbey, Personnel Director; J. Major, DPW Director; Attorney R. Hamilton and G. Webster, City Clerk.

Mr. Cross made reference to a revision in the minutes. The correction had been made to the minutes and all Council members had received the revisions.

Zelenko moved and Cross seconded the following motion:

Approve and authorize the minutes of the following meeting(s): Special Meeting of January 4, 1999 at 7:00 P.M. and Regular Meeting of January 4, 1999 at 7:30 P.M.
Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mr. Abbey gave the administrative report. The POAM ratification vote was rejected and arbitration hearings have begun. He will keep Council informed on this issue as it proceeds.

Fire Chief Halstead said the Fire Department has accepted the delivery of a new fire truck. The new vehicle will be at Station No. 1. He invited Council to the station to look over the new truck.

COMMITTEE REPORTS:

Mrs. Zelenko reported that the Parks and Recreation Commission met January 13th. Discussion included organizing a sub committee for the Water Tower Park and IMA youth programs. The motion failed in relation to revising the Kelly Lake plan. Resident's comments, thoughts and ideas will be considered and dialog will continue on this issue. She said the Commission and the residents will continue to work together in the future.

Mr. Cross said the Council asked him to review the Attorney Guidelines and report to them in reference to the attorney's attendance at council meetings. After reviewing the guidelines and the charter, he thought the attorney was to attend all regular council meetings and special council meetings when requested.

Mr. Cox received a letter from Dupris & Ryden in regards to the stoppage of Burton Neighborhood Housing audits. He said money was allocated for Burton Neighborhood Housing. He thought the audits were paramount in determining the future plans of the organization and should be completed. He questioned the authority of the Mayor to intervene in this process. The City of Burton is not contracting Dupris & Ryden, Burton Neighborhood Housing is contracting them. He plans to meet with the Mayor to discuss the status of this issue.

Mr. Abbey said there is ongoing dialog with the County in regards to CD allocations. We do not plan to allocate any more funds at this time for the audits. He thinks this decision would prove to be beneficial, thus forcing all parties to come together to discuss this matter.

Mr. Cox said the Council made allocations to BNHS for 1996, 97 and 98. The funds are still in their account. Again, he questioned whether the Mayor could stop funding. The BNHS board is upset with this recent decision. He thinks the organization has the right to determine how they spend their money.

Discussion continued on BNHS audits.

Mr. Martinbianco had strong concerns with the audits being stopped. He thought the completion of the audits were necessary and would bring a sense of closure to the organization.

AUDIENCE PARTICIPATION:

Terryl Sperlich, 1253 Howe Rd., spoke in opposition to the recent action taken by the Parks and Recreation Commission in regards to Kelly Lake. She indicated any plans for that property should only include very low impact usage.

Pauline Dargel, 6119 Hugh, spoke in opposition to enacting Ordinance 68-22 C on January 19th. She noted that minutes of the Special Council Meeting held on December 17, 1998 had not been approved.

Attorney Hamilton reviewed the status of Ordinance 68-22 C. It was his opinion that the ordinance was enacted in full compliance with our Charter.

Mrs. Webster indicated the ordinance was added to the backup material and available for public review before the Regular Council Meeting of December 21, 1998.

Mr. Abbey said there was dialog at earlier public meetings in regards to this ordinance.

Linda Burris-Croley, 6223 Crabtree, commented on the need for job descriptions for city employees, delaying the enactment of Ordinance 68-22 C and her concerns with the Parks and Recreation Commission's decision in regards to Kelly Lake.

Mrs. Zelenko has shared the results of the recent park survey and the resident's concerns with the Parks and Recreation Commission. She said there will be ongoing dialog on this issue.

Laurie Tinnin, 2340 Harmony, spoke in opposition to the enactment of Ordinance 68-22 C in regards to the reimburse of back pay to Charter officers.

COUNCIL DISCUSSION:

Mr. Cox said the issue of retroactive pay was raised at the last meeting. He asked the attorney to address this matter.

Mr. Hamilton indicated Section 3.6 was the only section of the Charter that dealt with this issue. He said the introduction and adoption of this ordinance had already been fully discussed. In regards to the compensation payment, the provision refers to extra compensation in the form of a bonus. Mr. Hamilton said this interpretation was determined years ago when the topic was reviewed in the 1980's with Mr. Dombroski, one of the founding fathers of our Charter. Historically the compensation in 68C covers Charter, as well as non-charter non-union officer's base pay, not extra compensation in the form of a bonus. The ordinance itself is actually establishing an effective date. It does not provide extra compensation. It establishes base compensation for that job. This does not just relate to the attorney. It encompasses all employees in the ordinance, as well as union contract employees.

Lengthy discussion continued on this matter.

Mr. Cox suggested that retroactive pay would be like paying for the previous amount of time twice.

Mr. Hamilton said the compensation due at this time deals with established base pay not a compensation for bonus after the work was rendered.

Mr. Cox made reference to other sections in the charter that he thought related to this issue.

Mr. Abbey said the attorneys received a raise through the budget process last year, effective July 1, 1998. It was not the attorney's fault that union contracts were settled before the adoption of Ordinance 68C. The Attorney and the administration should not be penalized due to the delay of enacting the Ordinance. The money was allocated July 1, 1998 for that raise. In the future, he will address 68C before the other contracts are reviewed to eliminate any problem with compensation. We should have been paying the base rate since July 1, 1998.

In reference to Ordinance 68-22 C covering a two year period, the topic of budgeting wages for the future was discussed.

Mr. Hamilton said the city does this routinely with various other contracts.

Discussion continued on Ordinance 68C in regards to compensation issues.

Mr. Cross asked for clarification on an amendment motion made December 21st, in regards to the attorney’s raise taking affect January, 1999. He suggested the question of compensation for past work be reviewed by another attorney.

Mr. Hamilton noted amendments could be made to the ordinance between the first and second reading, before the ordinance was enacted. The attorney amendment was not part of the current ordinance. The added pay issue does not just pertain to the attorney, it is a right extended to all officers and employees of the city.

Mr. Martinbianco suggested a formal request be made to the State Attorney General to confirm if our past practice with Ordinance 68C was consistent with the provisions of the Home Rule City's Act and Michigan’s compiled statues.

It was determined the request should go through one of our state legislatures.

Mr. Martinbianco moved, Seconded by Mr. Cross to approve and authorize the administration to send a request through Senator John Cherry's office to the State Attorney General Office to issue a ruling on matters of Ordinance 68-22 C, as it applies to our charter, with respect to its compliance with pertinent state statues and Home Rule City regulations.

Mrs. Zelenko suggested this be reviewed by another attorney prior to sending it to the attorney general.

Mr. Martinbianco rejected that idea and suggested the Attorney General would be more appropriate to review this issue. If there are any changes to be made, we could respond accordingly.

Mrs. Walls wanted to know how this would effect the compensation of everyone involved, if the matter went to the State Attorney General. She asked if the employees covered in Ordinance 68C would have to return their money.

Mr. Abbey said this wouldn't effect these individuals, as they would receive their pay at this time. He did not know if anyone would be required to return their wages. There is usually quite a delay when requesting an Attorney General's opinion.

Mr. Martinbianco suggested if the Attorney General's ruling reflected improprieties in the ordinance, the money would probably be reimbursed through city funds or employee's future pay raises. An addendum could be attached to this ordinance for future reference.

Mr. Abbey suggested the re-codification of all ordinances. He said many of our ordinances are out dated. We need to make sure our ordinances meet state and federal statues.

Mr. Martinbianco said the Charter was a thirty year old document that also needed to be reviewed.

Mrs. Walls said it took nearly a year to get a previous ruling. She wanted assurance the request would not have any bearing on the enactment of the ordinance at this time.

Mr. Hamilton said the pending motion would not interfere with the effective date of the ordinance.

Mr. Cross said the codification of ordinances would be addressed in the near future, as schedules permit.

Mr. Hammon asked for clarification on Mr. Martinbianco's motion. He wanted to know if the Attorney General's opinion was to revisit the total ordinance or specifically asking about a couple items in reference to retroactive pay of city employees.

Mr. Martinbianco agreed back pay was the main focus of the request. Some things in the ordinance would have no bearing. He suggested the letter include explanation based on what has been discussed in the past, on past practice and what implications this ruling would have on future contract negotiations and the ability to maintain this ordinance.

Mr. Cross referred to Ordinance 68-22 C, Section 10 (a) in reference to back pay for Board of Review members.

Mr. Abbey said the board has not met since July 1, 1998, so back pay is not an issue with these individuals. The board generally meets in March.

The vote was taken in regards to the Attorney General's opinion on Ordinance 68C. The motion carried 7-0.

Mr. Martinbianco moved, seconded by Mr. Cross to approve and authorize the suspension of Ordinance 68-22 C on an emergency basis.

Mr. Cox asked the attorney for clarification on what the suspension of Ordinance 68C would entail.

Mr. Hamilton said the motion relates to a provision in the charter, which provides an exception to the rule of an introduction and the second reading to an ordinance. He referred to Section 5.3 (d) and Section 5.3 (b) in the charter as they pertain to an emergency ordinance. An emergency ordinance may be introduced and adopted at any regular or special meeting of the council. An ordinance is declared to be an emergency if it is determined to be necessary for the preservation of the public peace, health or safety and may be enacted at the meeting which it is introduced. If Council determines it is necessary to pass an ordinance for the preservation of the public peace, health or safety, they should state that in the terms of the ordinance.

Mr. Martinbianco said it was his intent to introduce an emergency ordinance.

Mr. Abbey asked if this was the basis of what the charter called for.

Mr. Hamilton said it was up to the council to make a specific finding. Council would decide if it was necessary under one of the criteria to suspend the ordinance under an emergency basis.

Mr. Cox questioned if it was necessary to suspend the ordinance on an emergency basis. He asked if it would leave Ordinance 68-22 C in limbo. He wanted to know how the administrators or officers would be paid if this was to be suspended.

Mr. Martinbianco said his understanding of the emergency ordinance would be to set aside the ordinance that was passed at the last meeting. Therefore, the salary and benefits that might have been changed would just continue from July 1, 1997.

Mr. Cox questioned why 68-22 C shouldn't be enacted. An amendment could be made, if needed, after the Attorney General had made his findings.

Mr. Martinbianco said the scope of the investigative research by the Attorney General would only commence with our ability to pay from July 1, 1998 through January 19, 1999. It had nothing to do with prior pay scales and benefit packages available at that time.

Mr. Cox said without knowing if everything is correct, why should we freeze it at the 68-21C level.

Mr. Martinbianco said that was his intent.

A vote of the Council was taken in regards to suspending Ordinance 68-22 C. The motion was denied 5-2, with Centilli, Cox, Hammon, Zelenko and Walls voting no.

Mr. Martinbianco said he has noticed tearing on some newly re-paved portions of Belsay Rd. Also, he said the street crews have done a good job keeping the winter roads clear.

Mr. Major said the cracking was due to the water under the payment. This is probably due to a freeze thaw situation. He will look into the matter.

In reference to Item #1 & #2, Mr. Martinbianco asked if the back pay for the city attorneys was included in the current billing.

Mr. Cross spoke with Mr. Becker in regards to this issue. He said the new computation is not included in the current billing.

In regards to Item #3, Mr. Cox would like to know the number of Board of Review participants that filed an appeal and actually have received an adjustment. If there are no adjustments made, he questioned the need for such a review board.

Mr. Hamilton said the Board of Review appeal process is a pre-qualification before going to the tax tribunal.

Mr. Abbey will get some numbers on the Board of Review cases. The reason the number of adjustments are relatively low is because specific criteria is used to determine the taxable value of a property.

Discussion was held on Item #5 in reference to the sale of vacant property on the corner of Bristol and Dort.

Mrs. Walls commented on the check the city received on the property.

Mr. Major explained the check did not meet bidding criteria requested by the city. To be fair to all interested parties, he suggested that a new bid price be set and the $70,000 check be returned. The sale of this property would be addressed by Council again after the next set of bids were taken.

Mr. Hamilton said the Council could waive any of the bid requirements, if they choose. However, he thought it was more practical to accept only minimum bids and reject all others that don't qualify. After readjusting the price, the city could go through the bidding process again. Then the issue could be reevaluated.

Discussion continued in reference to Item #5 in regards to the sale of the vacant property on the corner of Bristol and Dort.

In regards to Item #3, Mr. Centilli pointed out that the correct price on the property should read $107,700.00.

The correction was made to the resolution.

Mr. Cox wanted to know how much money the city had spent on this property.

Mr. Major said the city has spent $43,000 on the property. This includes the demolition and upkeep of the property to date.

COUNCIL DISCUSSION ACTION:

Mr. Martinbianco moved, Seconded by Mr. Cross to approve and authorize the administration to send a request through Senator John Cherry's office to the State Attorney General Office to issue a ruling on matters of Ordinance 68C-22, as it applies to our charter, with respect to its compliance, with pertinent state statues and Home Rule City regulations. Motion carried 7-0.

Mr. Martinbianco moved, seconded by Mr. Cross to approve and authorize the suspension of Ordinance 68C-22 on an emergency basis. Motion was denied 5-2, with Centilli, Cox, Hammon, Zelenko and Walls voting no.

COUNCIL ACTION:

Zelenko moved and Walls seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from December 22, 1998 to January 13, 1999, in the amount of $933.00.

Motion carried 7-0.

Walls moved and Zelenko seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from December 22, 1998 to January 12, 1999 in the amount of $726.00.

Motion carried 7-0.

Cross moved and Zelenko seconded the following motion:

3. Approve and authorize that the City of Burton Board of Review will be in session from March 8 through March 10, and on March 16, 1999. Meeting times will be from 9:00 a.m. to 12:00 p.m. and 2:00 p.m. to

5:00 p.m., with the exception of March 9, when the Board will meet from 3:00 p.m. to 9:00 p.m. All meetings will be held in the Training Room of the Burton Police and Fire Administration Building, 4090 Manor Dr., Burton, Michigan.

Motion carried 7-0.

Cox moved and Martinbianco seconded the following motion:

4. Approve and authorize that a resident taxpayer may file their protest with the Board of Review by letter, without a personal appearance being required. This is pursuant to section 21.30 M.C.L.

Motion carried 7-0.

Cox moved and Martinbianco seconded the following motion:

5. Approve and authorize the reduction of appraisal by an additional 25% or $33,650.00 and establish the minimum bid for vacant property #97-02/Parcel #59-29-400-006 (formerly Resthaven Convalescent Home at NW corner of Bristol & Dort) to the amount of $107,700.00 and direct the DPW to readvertise in Flint Journal, notify adjacent property owners and notify interested parties on file with the DPW.

Motion carried 5-2, with Walls and Centilli voting no.

Zelenko moved and Walls seconded the following motion:

6. Approve and authorize the setting of a 2nd Public Hearing for Zoning Case #242 on February 15, 1999 at 7:00 P.M.

Motion carried 7-0.

SECOND READING OF AN ORDINANCE:

Cross moved and Zelenko seconded the following motion:

1. Approve and authorize the second reading of Zoning Case #241, to rezone vacant land behind 4047 S. Center Road, Burton, MI, from RM to C-2 for the purpose of parking of Motor Vehicle Inventory (Greater Flint Mental Health Facilities, Inc., Robert J. Reid, Chairman, 307 E. Court St., Flint, MI 48502).

Motion carried 7-0.

Meeting Adjourned at 9:17 P.M.

Gayle Webster
City Clerk

GW/cml