CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 7, 2000, 7:30 P.M., COUNCIL CHAMBERS

Councilman Ted Hammon led the Invocation.

The Atherton Van Y Cub Scout Pac #71 led the Pledge of Allegiance.

The Regular Meeting was called to order by Council President Paula Zelenko, at 7:30 P.M.

MEMBERS PRESENT: Brawner, Centilli, Cross, Hammon, Martinbianco, Tinnin and Zelenko.

MEMBERS ABSENT: None.

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

Cross moved and Martinbianco seconded the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of January 17, 2000 at 7:30 P.M., as printed. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mr. Abbey indicated that an accurate census count was very important to our city. It could determine hundreds of thousands of dollars in funding for the city. We need to notify our citizens and get them involved in the process. The Mayor has suggested a citywide mail out or yard sign campaign to help inform people of the census. He would appreciate any input from council in regards to this matter. There will be a census workshop held on March 2, 2000 at 6:00 P.M. at the Senior Center to help plan for this upcoming event.

Mr. Abbey said any budget requests or changes from the Council should be submitted for the upcoming year.

Mr. Abbey thanked and acknowledged our road crews for doing such a fine job with snow removal.

Mr. Cross asked for an update on traffic signals being added to intersections at Lapeer/Genesee and Vassar/ Lapeer. He said public safety should be our top priority.

Mr. Abbey said the County has not yet responded in regards to the addition of a three way stop light at Maple and Belsay Rd. He will look into the other traffic signal issues and report back to council.

COMMITTEE REPORTS: None.

AUDIENCE PARTICIPATION:

Don Sanderlin, 4460 Killarney Park, commented on the efficient snow removal crews and his concerns with the holding station at Maple and Dort Hwy. Also, he did not want any changes in council meeting rules.

Al Roberts, 4371 Great Oaks Dr., suggested that the city provide such information as meeting schedules, agendas, minutes, etc. on the web page. He thought this would help residents stay current with city issues. He suggested financial support should be provided so that the city could utilize technical resources that are available in the 21st century. In addition, he requested an update on the water survey.

Carl McMillan, 6033 Nelson Court, commented on the paving of Nelson Court. A petition was circulated with 64% of the residents approving the street paving. He was concerned that the street could not be paved this year, due to the lack of a special assessment district being created. He suggested the city directly float a bond for $70,000 and have the residents pay it off over a twelve-year assessment.

Pauline Dargel, 6119 Hugh St., commented on the proposed council meeting guidelines. She thought there should be more public input on this issue. In addition, she reviewed the history of annual compensation for public officers. Background information included Public Act No. 204, the Burton City Charter, Ordinance 56C and 68C.

Larry Petrella, 1081 Howe, commented on the new council guidelines, which he opposes. In reference to agenda Item #6, he suggested the city hire a firm to deal with computer needs. Also, he would like an update on our recycling program.

Mrs. Zelenko indicated that the public had every opportunity to address the Council.

Mr. Roberts commented on Item #6, in regards to a network administrator. Also, he asked for clarification on Items #4 &5 dealing with sewer and water licensing.

Steve Heffner, 1181 Munson, spoke in opposition to implementing the new council guidelines for meetings. He thought the new rules would result in censorship to the public.

Mrs. Dargel spoke on the backup material for this council meeting and agenda Item #6 in regards to a contractual network administrator.

COUNCIL DISCUSSION:

Mr. Martinbianco asked that signs be posted on our major streets entering the City of Burton. In reference to Mr. Roberts' comments, he said that the council agendas are finalized and distributed on Thursday afternoon. He spoke on the new council guidelines. In regards to Mr. Petrella and Mr. Heffner's remarks, he said some of the public concerns on the new council guidelines were addressed at an earlier workshop meeting. Mr. Martinbianco feels there should be the same open dialog with council and administration as there has been in the past. With respect to Mr. McMillian and the paving of Nelson Court, he suggested this street be done with the next group of special assessments.

In reference to Item #6, Mr. Martinbianco commented on the Memorandum of Agreement dated January 25, 2000 that dealt with a contractual network administrator. Some of his concerns included, whether Mr. Thurman fulfilled his past contractual obligations, security issues and bonding. In addition, in December the council approved the addition of a full time network administrator position. This position was not funded. Now council is being asked to fund a contractual position that would support the computers for the balance of the fiscal year. He asked that council rescind the previous motion that created a full time network position before moving forward with this issue. Also, he suggested the title of network administrator be changed.

Mr. Abbey said the network administrator is setting up web sites for the city and this work is not completed. He gave a detailed review of the work that was done under the previous contract. Work included updating hardware, software and emergency trouble shooting. Now, it is necessary to have someone maintain the technology that's in place. He said the city wouldn't be able to hire a network administrator, like Mr. Thurman, at a comparable price. The Mayor wanted to hire a person on a full time basis so we could monitor his hours. If someone was hired at $30,000, we knew it would be at a fixed cost. Now, we are paying $33.00 an hour for this individual.

In reference to Mr. Roberts' comments, Mr. Abbey said agenda items don't always come in a week in advance. Once agendas are distributed on Thursday, Council then has three business days to review the information and contact the departments involved.

Mr. Abbey briefly discussed the procedure for obtaining a watermain and sewer installer's license in the City of Burton. Contractors need to submit an application with proof of insurance and bonding before the Council approves a license.

In reference to Mr. McMillan's comments, Mr. Hammon said we only have about thirteen miles of gravel roads left to be paved and the petitions have almost stopped. He suggested a bond issue be added, at a later date, to help finance Nelson Court. He asked that DPW find an avenue to pave these streets that come in one or two a year.

Mr. LaDuke said the project would need to be submitted by Labor Day to be completed this year.

Mr. Abbey agreed that the city needed to formulate new ways of addressing single or partial street paving.

Discussion continued on the topic of single street paving projects.

Mr. Hamilton suggested utilizing available reserve funds that could be replenished when a group of special assessment bonds could be sold. This issue should be discussed with our bond counsel, Mr. Neiman. If we could find sufficient liquid funds on a short-term basis, we could possibly do a special assessment bond issue every two or three years. We could use that bond money to replenish our reserve funds that we may advance on a project. He will contact Mr. Neiman to see if this is an acceptable procedure under the provisions of the bond act.

Mr. Cross said the DPW or Assessor could contact Mr. Neiman for an opinion without going through the city attorney. Their findings could then be brought back and addressed through the legislative committee.

Mr. Hammon thought it was appropriate for the attorney to be involved with such legal issues. He would like to see Nelson Court combined with some smaller projects, so it could be done in the near future.

Mr. Abbey suggested tie barring CD street projects together with small special assessment projects for bidding purposes.

Discussion continued on the topic of street paving projects.

Mrs. Zelenko would like an update from DPW on this issue at the next council meeting.

Mrs. Tinnin asked for clarification on the Nelson Court street paving.

Mr. Abbey explained the special assessment procedure the city participates in every year. This year there are not enough petitioned street projects to create a district and float a special assessment bond for the year 2000.

Mr. LaDuke said there are many associated costs with buying special assessment bonds. A single street paving would dramatically raise the cost of the project.

Attorney Hamilton said it would cost approximately double the money per lot to complete one street. Residents would be angry when the assessed fee was that much more than the predicted cost.

Discussion continued in reference to the Nelson Court street paving.

In reference to Item #6 dealing with the transfer of funds for a network administrator, Mrs. Tinnin voiced several concerns. This included opposition to a single individual maintaining the city computer system, bonding, insurance, equipment guarantees, obtaining comparable rates from other companies, lack of a list of computer needs and Mr. Thurman’s qualifications and recommendations. She wanted to know the current hourly rate of the contractual position.

Mr. Abbey gave an explanation on the Memorandum of Agreement vs. the contract creating a full time network administrator position. He wanted the full time position to remain. Money will be provided for that position in the upcoming budget. The contractual agreement is just a temporary solution to the problem. He said that Mr. Thurman built and installed the current computer systems and was very knowledgeable. The computer retailer provides the hardware warranties. He indicated that staff members were unable to maintain the complex computer systems. It is hard to define the city’s computer needs, because they are constantly changing. It is difficult to predict when an emergency will arise.

Mr. Abbey said the contractual computer position is being paid $33.00 an hour. He asked the attorney if it was necessary to rescind the previous action, creating a full time position, before granting contractual funds.

Mr. Hamilton said technically the budget was adopted on a departmental basis and if there were funds available they could be pulled out of an existing allocation on a departmental basis and utilized to fund the position. It would be lawful to do that, then you would have to forego money allocated for other purposes to fund that position.

Mr. Martinbianco suggested the following amendment to Item #6, approve and authorize the transfer of funds from various fund contingencies to fund contractual cost of a network administrator and rescind the action of December 20, 1999 that created the full time job of the same name pursuant to the Memorandum of Agreement dated January 25, 2000.

Discussion continued in regards to the creation of a new computer position.

Mr. Abbey said the intent was for the full time position to remain. Money will be provided for that position in the upcoming budget. It is more costly to pay the contractual position than hire someone full time. He felt it was in the best interest of the city to hire a full employee to oversee the computer system.

In reference to Mr. Petrella's comments, Mrs. Tinnin asked that a recycling report be submitted to council by the next regular council meeting. Also, she referred to Mrs. Dargel's comments regarding the Salary Commission and the salaries of public officers. In regards to Item #2, she made reference to Mr. Cills' appointment on December 15, 1999. She said that he should have been appointed before October 1, 1999 and questioned if the Salary Commission's decision was legal.

Mr. Hamilton indicated that just because the Salary Commission's appointment was made in December does mean Mr. Cills was not a legitimate member. He will look into this matter and give a response to council.

Mr. Hamilton said some statements in regards to Mrs. Dargel's comments were accurate, while others were inaccurate. He reviewed the series of events that let up to the implementation of these documents and their significance. Significant dates that are important start with the effective date of our Charter, which is July 1, 1972. He referred to Mrs. Dargel's handout of Public Acts 1977- No. 204. It provided for the establishment of a local officer's compensation commission for charters that were in place prior to February 17, 1972. Clearly that precluded the City of Burton's Charter. This new concept of an officer compensation commission was not available at the time our charter was being drafted. Our charter was adopted two months prior to the adoption date of the state law. Mrs. Dargel was correct when she said, when Mayor Wurtz was in office it was apparent to all involved that the salary allocated in the charter of $18,000 was not a marketable wage for this position. But the charter had a provision that said the salary could not be changed in the middle of a term for an elected official. The modification in the next year, in Act 106, in 1978 was really the Wurtz amendment to the state law. That amendment made the City of Burton eligible to have a local officer's salary commission. That commission was implemented at that point in time by the adoption of Ordinance 50 something. Ordinance 56 was established for the fiscal year of 1978-79 for the salaries of the non-elected officers. IE: the Assessor, Clerk, Controller, Fire Chief and Police Chief.

The Attorney's explanation continued.

The local officer's compensation commission covers only elected officials. Ordinance 56C was adopted that year to establish salary by ordinance for appointed officers not covered by the salary commission. Addressing Ordinance 68C, there was a territorial judgement action that took place in Ingham County Circuit Court to determine whether or not certain funds that had been transferred to the Mayor were appropriate or not. That was over twenty years ago. He was unaware of the judgement and how it resolved itself. It seemed like funds were paid back to the city by Mr. Wurtz, which were determined to be inappropriately advanced due to the technicality of the statues. Ordinance 68C has nothing to do with that litigation. It was because prior to this period of time, the salaries were set by resolution rather than by ordinance, except for 1978. The initial 68C ordinance went back to the time when the city was officially in existence. It established the salaries that had been paid by resolution and budgeted for all during that period of time. They were paid and budgeted for by establishing those rates by ordinance. Before it was done by resolution. Because the local officer's compensation commission can only establish salaries and has no authority to establish fringes, Ordinance 68C has been used as vehicle to establish the fringe benefits for city council and the Mayor. They are entitled to the fringes, along with the salary, as established by the salary commission. Since that time we have followed practice of amending Ordinance 68C each year to be equivalent with the salary and fringe benefits that are paid to the charter appointed officials, as well as the elected officials. Basically, each amendment to Ordinance 68C adds another year's salary and fringes for these individuals.

Discussion continued in reference to this issue.

Attorney Hamilton will provide a written report in regards to the history of annual compensation for public officers.

In reference to Item #2, Mrs. Tinnin thought the salary commission violated statute guidelines, so she would not be voting in favor of this action.

In regards to Item #6, Mrs. Tinnin agreed with Mr. Martinbianco's suggested amendment. She opposed the creation of a network administrator position in December. She would only grant the transfer of money for a contractual position, if Item #6 was amended to eliminate the full time network administrator position that was created earlier.

Mr. Hammon wanted to know if Mrs. Tinnin was concerned with legal issues in regards to the transfer of contractual funds and how it would impact the computer position that has been created. He said it would take council action to add fringes to this position. He would not support the proposed amendment to rescind the previous computer position. He planned to vote in the affirmative for Item #6. He thought the city needed a qualified person, like Mr. Thurman, in the computer position.

Discussion continued on the topic of a computer technician.

Mr. Brawner suggested funding the contractual computer position until June 30, 2000. The new position could be reviewed by the Finance Committee and addressed in the new budget.

Mr. Cross made reference to Mr. Petrella's comments on a recycling report. Also, he referenced Mr. Sanderlin's comments on the storage area at Dort and Maple.

Mrs. Zelenko said Mr. Abbey said he would have a report on recycling sent to council.

Mr. Sanderlin said the Dort Hwy facility wasn't supposed to store liquid wastes at that site.

Mr. Abbey indicated the Assistant Fire Chief makes periodic stops at that facility. He said Mr. Lacey would be glad to provide council with an inspection report from that site.

Mr. Cross suggested a compromise on Item #6. He wanted the previous resolution that created a network administrator position rescinded. In turn, he would support a transfer for a temporary contractual computer position.

Mr. Centilli supported the position of a network administrator. He made reference to Mr. Thurman working for the city and maintaining the computers for over 1½ years.

Mr. Abbey said the city has made a smooth transition from an old antiquated system to the new system that will take us into the 21st century.

Discussion continued on transferring money for a contractual computer position.

Mr. Brawner said he would be able to support the contractual position with a compromise to rescind the full time computer position.

Mr. Hammon asked what Mr. Martinbianco's intent was in regards to Item #6. He suggested a councilperson should set on the computer committee.

Mr. Martinbianco opposed keeping the unfunded network administrator position that was created December 21, 1999. He thought the Memorandum of Agreement was a good comprise that would fund the contractual position until June.

Mrs. Tinnin requested a report dealing with the collection of the police officer's share of their pension that was not covered by the city. She wanted to know how far back this would be paid.

Mr. Abbey has contacted officials from the POAM and COAM Association of Michigan. The Association returned the call and said there would be an arbitration hearing on this issue beginning March 8, 2000. We are both at odds over what the ½ a million dollars was set aside for. He continued to clarify this issue. From the day the contract was signed a cap was put on the amount of money the city would pay on their pension. Any additional costs are the responsibility of the individuals in the COAM and POAM unions.

In reference to Mr. Heffner's comments on rules for public participation, Mrs. Zelenko said the Mayor still maintains an open door policy. Residents can still voice their opinion to the administration. She felt the new guidelines that will be put into place would not hinder or cause any censorship to the public. The new guidelines would provide some structure and continuity to the meeting format. It would eliminate spur of the moment answers back and forth.

Mr. Hamilton agreed that the new guidelines would not cause any censorship. These new policies wouldn't prevent anyone from commenting at the meetings.

Mrs. Zelenko suggested that council members go door to door to make our residents aware of the importance of the Census 2000.

Mrs. Zelenko asked if there was a deadline on the council's budget requests for the next fiscal year.

Mr. Abbey said he would like the council's budget requests turned in within the next week.

Mrs. Zelenko asked if the city could replace a sign by Atherton High School that said Atherton Volleyball Champs.

Mr. Abbey will contact Mr. Throop to see what needs to be done to replace the sign.

Mrs. Zelenko appreciated Mr. Roberts' comments in regards to posting information on the city's web site. This would allow people to review information at their convenience.

Mrs. Zelenko asked Mr. Hamilton if he would provide a written response to Mrs. Tinnin's concerns involving the salary commission.

Mr. Hamilton will provide a report on this issue.

In reference to Mr. Roberts' comments, Mr. Abbey said an update on the water study survey would be provided at the next meeting.

In reference to Mr. Roberts' comments on Items #4 & #5, Mr. Abbey briefly explained the procedure the city follows on issuing watermain and sewer installers licenses. Applicants are required to be bonded and insured and the city monitors those contractors doing work in the city.

In regards to Item #1, Mr. Brawner asked for clarification on Mr. Austin's billing.

Mr. Hamilton gave a brief explanation of billing questions.

In reference to Item #3, Mr. Cross asked for clarification on the street lighting contract.

Mr. Martinbianco made reference to Mr. Major's memo dated January 26, 2000. He understood this would include any or all changes that Consumer's Energy would make and this was the first request of the year.

In reference to Item #6, Centilli moved and Hammon seconded the main motion to transfer funds to provide for a contractual network administrator.

Moved by Martinbianco, seconded by Mr. Brawner to amend Item #6 to read as follows: Approve and authorize the transfer of funds of $31,680.00 from various fund contingencies to fund contractual costs of a network consultant and rescind the action of December 20, 1999 that created the full time position of network administrator pursuant to the memorandum of agreement dated January 25, 2000 between the City of Burton and Brian Thurman. Motion carried 6-1, with Centilli voting no.

A vote was taken on the amended motion. Motion carried 6-1 with Centilli voting no.

COUNCIL DISCUSSION ACTION:

Martinbianco moved and Brawner seconded the following amendment to agenda Item #6:

Approve and authorize the transfer of funds of $31,680.00 from various fund contingencies to fund contractual costs of a network consultant and rescind the action of December 20, 1999 that created the full time job of network administrator pursuant to the memorandum of agreement dated January 25, 2000 between the City of Burton and Brian Thurman. Motion carried 6-1, with Centilli voting no.

COUNCIL ACTION:

Cross moved and Centilli seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 12, 2000 to February 2, 2000, in the amount of $2,915.00.

Motion carried 7-0.

Centilli moved and Hammon seconded the following motion:

2. Approve and authorize transfer of funds of $7,160 from General Fund-Contingency to City Council and Mayor Salaries and Fringe Benefits, as a result of the Salary Commission Determinations and newly elected Council Members.

Motion carried 6-1 with Tinnin voting no.

Cross moved and Centilli seconded the following motion:

3. Approve and authorize the Mayor and City Clerk to execute the authorization for changes in the standard street lighting contract with Consumers Energy Company for ten (10) new locations in Pine Creek Subdivision Phase 2 (at the developers sole cost). This authorization will also serve as the 2000 Blanket/Master Resolution for all future changes, during the calendar year 2000.

Motion carried 7-0.

Hammon moved and Centilli seconded the following motion:

4. Approve and authorize the request for a Sanitary Sewer Installer's License for Quint Zellar, dba L. Zellar & Sons Excavating, Inc., 1406 S. Linden Rd., Flint, MI 48532.

Motion carried 7-0.

Centilli moved and Martinbianco seconded the following motion:

5. Approve and authorize the request for a Watermain Installer's License for Quint Zellar, dba L. Zellar & Sons Excavating, Inc., 1406 S. Linden Rd., Flint, MI 48532.

Motion carried 7-0.

Martinbianco moved and Brawner seconded the following motion:

6. Approve and authorize transfer of funds of $31,680.00 from various fund contingencies to fund contractual costs of a Network Consultant and rescind the action of December 20, 1999 that created the full time job of network administrator pursuant to the memorandum of agreement dated January 25, 2000 between the City of

Burton and Brian Thurman. Motion carried 6-1 with Centilli voting no.
Meeting Adjourned at 10:00 P.M.

Gayle Webster
Burton City Clerk

GW/cml