CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JULY 7, 2003, 7:30 P.M., COUNCIL CHAMBERS

Council Vice President Danny Wells led the Invocation and the Pledge of Allegiance.

Council President Larry Brawner called the Regular Meeting to order at 7:30 P.M.

MEMBERS PRESENT: Bement, Brawner, Centilli, Martinbianco, Tinnin and Wells.

MEMBERS ABSENT: Cross.

OTHERS PRESENT: C. Abbey, Administrative Assistant; D. Halstead, Fire Chief; B. Whitman, Police Chief; R. LaDuke, DPW Director; R. Hamilton, City Attorney and C. Ladd, Deputy City Clerk.

Martinbianco moved and Bement seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of June 16, 2003 at 6:30 P.M.; Special Meeting of June 16, 2003 at 7:00 P.M.; Special Meeting of June 16, 2003 at 7:15 P.M. and Regular Meeting of June 16, 2003 at 7:30 P.M.

Mr. Wells corrected the spelling of a word on page 4 in the June 16, 2003 Regular Council Meeting minutes.

Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mr. Abbey said he is asking for an extension of the contract between the City of Burton and Ken Wright, who is filling in for the building inspector. Mr. Butzke's rehabilitation is not going well and it looks as though he could be off for an extended period of time. We plan to publicize for the available position. Mr. Wright's contract will soon expire and we cannot be without a building inspector. If possible, we would like an open-ended extension of his contract with the same terms. We plan to publish in The Journal next week and then send a letter to individuals when we receive the information of who are eligible from the State. This could be a 30 to 60 day extension. As we are in the peak construction season, even if we hire someone tomorrow, we would still need Mr. Wright for a while. One inspector does site plan reviews and one does physical inspections. Mr. Wright did 19 inspections the day before the holiday. He wants to retire and would like us to find a replacement for him.

Mr. Brawner commented that this issue would be discussed during council discussion.

Mr. Abbey stated he was asked to address the issue of additional service time for Don Elford, who is leaving the City. He is one of five employees that had some part-time service with the City and believes he is due some additional credited service for his retirement. Somewhere in the past, a Council and an Administration made a decision to credit them with service they thought they deserved, based on the original agreement between then Mayor Rick Wurtz and Chief John Jones. However, they don't agree with the terminology and the terms of that credited service, so we have a class action grievance from those five individuals requesting additional pension service. I did put a disposition on the issue. The next step after leaving my office is for binding arbitration. If you choose to intercede in this and make some type of settlement, you have that authority. Under the MERS resolution, you are the only body that can grant this request. I don't have the authority to allow this.

Mr. Brawner asked what the cost would be to the City.

Mr. Abbey said he hasn't cost it all out, but Mr. Elford's share would be about $23,000. The five employees all have different amounts of time. The cost could be as much as $80,000.00.

Mrs. Tinnin asked about the class action grievances.

Mr. Abbey said they all have individual grievances but they are all for the same reason. If one were settled, they would all be settled based on the settlement agreement.

Mrs. Tinnin asked what made them think there is a grievance if there is nothing in their contract that gives them the right for the extra service time and is paid for by the city.

Mr. Abbey said he didn't disagree with Mrs. Tinnin, but he had an obligation to pass this information on to Council. The governing body can only approve the additional time and that is why you're faced with this decision. The next step is binding arbitration, which is probably where we are headed.

Mrs. Tinnin said that is where they need to go.

Mr. Hamilton gave a brief background history noting that in the early 1970's, there was a shift from a part-time to a full-time police department. There wasn't sufficient funding available for full-time officers. Chief, John Jones, hired a lot of young officer under various different programs. The terms of the employment didn't include certain fringe benefits. Some were part-time or interns or funded by CETA or public service officers. Others were funded through various programs and they would work for an hourly wage. Some of the agreements provided that if and when they become full-time employees, they would be given part credit for the time that they had served in these capacities. It appears that these officers were given the additional service credit. Apparently they think the terms of that employment doesn't relate to the seniority date for the purposes of the pension. They want to put their seniority dates back to when they first came to work in the other capacities.

Mr. Brawner asked what would preclude those who work in the summer, for a few months year after year and then hire in full time, from asking for the same thing? Where does it end?

Mr. Abbey said most of the settlement agreements have long-ranging tentacles and if that in fact happens, there may be others, in other bargaining units that would want the additional credit also.

Mr. Martinbianco said their terms of credit at the time that the POAM and COAM joined MERS were established at that point based on past service, correct?

Mr. Abbey replied this is correct.

Mr. Hamilton noted that there were some adjustments after that time.

Mr. Abbey said that was based on a letter signed by Mayor Rick Wurtz and Chief John Jones, allowing for credit of half the time they had originally started work.

Mrs. Tinnin noted that seniority purposes are not the same as pension purposes. They also were allotted money that was in their previous pension system. They got extra years in the new system without having to pay for those years. They have 25 years and out, regardless of age and they are extremely fortunate to get what they are getting.

Mr. LaDuke mentioned that the Youth Baseball is currently playing at 10 different fields and there are over 450 children who are participating in this program. He invited the Council to visit the fields and watch the children play baseball.

Mr. LaDuke noted that over the July 4th holiday, there were over 400 vehicles from Friday until Sunday at Kelly Lake. He had a traffic counter at the site and it showed that people are using the facilities. He noted that he has five items on the agenda this evening and would explain them if Council needed him to do so.

COMMITTEE REPORTS:

There were no committee reports given.

Mr. Brawner said he is removing Item #7 from the agenda and is requesting that is go before the Finance Committee prior to Council action.

Mr. Wells said he would set a finance meeting for next week. The topics of discussion would be the Police and Fire Statue Project and the Codification of Ordinances.

Mr. Bement said the Planning Commission meets on Tuesday, July 8th and anyone interested in information concerning the Taco Bell site on Davison Road should attend that meeting.

Mrs. Tinnin asked when the letter concerning Taco Bell was received, because Council just received it this evening.

Mr. Abbey replied that Mr. Card had brought the letter into his office today and copies were made for the Council.

AUDIENCE PARTICIPATION:

Gary Card, 2098 Delaney St., said he brought the letter into the office today and didn't expect a response this evening. He has been a resident of Burton for over 20 years and is concerned about the communication between the city and the residents. He only found out that Taco Bell was planning to renovate through his neighbor. This issue was never noticed in the paper nor were the residents notified. Mr. Card then gave a brief history of the Taco Bell site and said there are 28 houses on his street, which is a dead end. We have people coming down Delaney to go into Taco Bell only to find there is no entrance. The people then turn around in the driveways and enter from Davison Road.

Mr. Brawner asked about the notifications being sent to the residents.

Mr. Hamilton stated that for site plan reviews, there is no notice required by statute or ordinance. Notices are given when variances or zoning cases are an issue.

Pauline Dargel, 6119 Hugh St., commented about the new evaluations on the tax bills. She also inquired about the status of Mr. Wright being a contract employee as the building inspector. In reference to Item #8, she asked if Rowe Engineering is on the pre-qualified list for design engineers to qualify for federal funds for the project. Mrs. Dargel spoke concerning the speed on Court Street between Genesee Road past the Showcase Cinemas.

Mr. Brawner said she had missed the discussion concerning Mr. Wright and indicated that the issue would be discussed later in the meeting.

Mr. LaDuke responded that Rowe Engineering is on the pre-qualified list.

Jean Griffith, 3090 Coin St., spoke concerning speeders and constant traffic on Coin St. She noted that many cars go 40-60 mph, go to a certain house for a few minutes and then leave. I moved there for the peace and quiet and that is being disturbed greatly by the traffic. There are other neighbors here tonight that may shed more light on the subject.

Harry Dziczek, 3066 Coin St., said he has spoken with the police and the mother of the boys who are speeding. He said they have what he considers to be an illegal muffler on their car and can hear them at Atherton Road. This was a quiet area and we don't need the excess noise. He also expressed his appreciation for the repairs on Belsay Road since the roads have been taken over by the City. The speeding issue needs to be addressed immediately. Mr. Dziczek further commented that it is believed that the house in question is a drug house.

Chief Whitman said he has spoken with the residents on Coin Street. He noted that Officer DuPlanty patrols this area and he has a daily sheet for complaints. Coin Street is still at the top of the list. When the motorcycles are out, they also go into this area and make our presence known.

John Stapish, PO Box 190134, Burton, stated that he had contacted Congressman Kildee's office concerning the railroad tracks at Genesee and Center Road needing repairs. He received a letter from the Congressman, which he read. The letter indicated that both sets of tracks would be repaired in July and August. He noted that even though he did something constructive, he didn't get the proper credit for it.

Audrey Coleman, 1621 Newcombe, Flint, MI , said she owns property at 2398 Eggleston and plans to build within the next year. She would like to have the south half of her road paved between Potter and For-Mar Nature Preserve. It is a mess during the spring thaw and when it is raining.

Larry Petrella, 1081 Howe Rd., inquired whether the millage issue is still on the table in regards to Item #2 for Parks and Recreation. He said he has spoken to the residents on Eggleston and he also thinks that road should be paved. Mr. Petrella inquired about any recommendations that Mr. Abbey may have concerning the pension issue for future reference.

Mr. Wells said the millage issue is not on the table.

Mr. Brawner commented that Mr. Abbey could not give a yes or no answer to Mr. Petrella's question. The pension issue would be discussed later.

Mr. Abbey commented that the city no longer has the previous types of programs. The situation only involves five individuals and we don't anticipate the situation arising again.

COUNCIL DISCUSSION:

Moved by Martinbianco, seconded by Bement to add as Item #10 the following motion: Approve and authorize the extension of the terms of personal service agreement between the City of Burton and Kenneth Wright from July 1, 2003 to August 31, 2003. Motion carried 6-0.

Mrs. Tinnin questioned if this agreement is extended for 60 days and then the city advertises an opening for a building inspector, what happens if you hire within 60 days from now? Would there be some training of the new building inspector or would you expect them to fall into Mr. Wright's shoes?

Mr. Abbey said it appears that Mr. Butzke may not be back for an extended period of time because of his injuries. This time of year we could use two building inspectors, so we plan to start the process immediately and hopefully bring someone else on board to work with Ken.

Mrs. Tinnin asked if someone is brought in to work with Mr. Wright, would they also be a contract employee?

Mr. Abbey replied no, we plan to hire a building inspector because we are down one building inspector now. Mr. Wright is on a contract basis and he is ready to retire.

Mrs. Tinnin inquired about where the city would publish for a building inspector.

Mr. Abbey noted that we have published through MML. We plan to get the master list from the State of Michigan for qualified building inspectors and direct mail to those who are certified.

Mr. Martinbianco inquired about the need for a Traffic Control Order on southbound Belsay Road at Atherton Road because of the dedicated right turn lane.

Mr. LaDuke replied he is wasn't certain about the Traffic Control Order, but would check into the matter.

Mr. Martinbianco asked if any indication of time had been given in regards to the repairs of the railroad crossing on Genesee Road.

Mr. LaDuke said the estimated time for Genesee Road is two weeks, possibly less, depending on the weather.

Mr. Brawner asked about the projected date on Davison Road repairs.

Mr. LaDuke said some of the paving is down on Davison Road, but the bridge won't be completed until the end of October or first part of November.

Mrs. Tinnin inquired about the status of the railroad tracks on Center Road.

Mr. LaDuke said the repairs should be done in late July or early August. Those repairs were programmed last year when the Belsay Road tracks were done. He said he does appreciate Mr. Stapish sending his letter to Congressman Kildee. It is always helpful when the residents make their concerns known.

Mr. Bement commented that on Roberta Street, coming west, it is difficult to see the stop sign because of a tree. This is a four-way stop and is a hazard to the drivers.

Mr. LaDuke would take care of the problem.

Mr. Brawner said the Council needs to set a special meeting to discuss the paving of the streets with Mr. LaDuke. We may need more than one meeting. He offered the date of July 21, 2003 at 6:00 P.M. for the informational meeting. Council had no objections to this date and time.

Mrs. Tinnin inquired whether the residents would be notified.

Mr. Brawner replied that he would like to have the first meeting or so to get the information. Mr. Wells has some information he received from Mr. LaDuke. The rest of Council should get a copy of the information concerning the paving, prior to the meeting. The meeting would be for informational purposes only.

Mrs. Tinnin said she had requested information concerning ADA communications in May and she still hasn't received the information.

Mr. Abbey said he has a couple of the documents, but Mr. Hamilton has answered most of the questions with the ADA Coordinator through e-mail. Mr. Hamilton would have the majority of the correspondence.

Mrs. Tinnin said she would like to have copy of all letters concerning the ADA.

Mr. Hamilton said he has a file on the ADA.

Mr. Brawner asked if all of the ADA issues had been complied with.

Mr. Abbey replied that we are in compliance with the ADA.

Mr. Martinbianco asked for clarification on page 8 of the Parks and Recreation 5-Year Plan. The 2nd paragraph. states that there is a mobile home park on Atherton Road and he believes it should read on Bristol Road. He noted this as a correction in the document. On page 25, paragraph 3, table 9, regarding park land being owned and managed by the city. Where did this information or conclusion come from?

Mr. LaDuke explained that the information came from the original survey of the residents who wanted more recreational services for the City. If anything, recreation within our city has become more of a priority than less of a priority over the years.

Mr. Martinbianco commented that he appreciates the fact that a two-pronged approach has been taken towards the financing projections under the action plan. He referred to page 27, the first paragraph, which talks about the expansion of the parks without relying on outside source. The city would still be eligible to apply for an MNRTF grant monies for appropriate projects. He asked if the Parks and Recreation had discussed what the value would be in today's dollars at ¼ of a mill, ½ of a mill or 1 mill and the likelihood of passage under each of those scenarios?

Mr. LaDuke replied that 1 mill would generate about $660,000; ½ mill would generate $330,000 and ¼ mill would generate $180,000.

Mr. Martinbianco asked if discussion was held concerning the acquisition of land. He thought that should be done first and then phase in the millage.

Mr. LaDuke replied that the Parks Commission felt that any millage has to be a community millage and has to serve a broad range of people. A partial millage wasn't considered. One resource we can't manufacture is vacant property. If we don't have a space, as development continues, we could be shut out because there is no available space. He agrees with Mr. Martinbianco that the first goal would be to purchase property in an amount large enough. The Parks Commission has a dream and to do the job justice, we would need to convince the residents of the city that one mill would be put to good use for the entire community.

Mr. Wells commented that during Parks and Recreation discussions, there was a concern about asking for less than one mill. The Commission didn't want to come back and raise ask for another increase in the millage. We thought by asking for one mill, we would be able to get that and move forward. At the same time we were asking to put a millage on the ballot, the State started cutting our revenues and the timing was not good.

Mr. Martinbianco continued reading from page 27 of the Parks and Recreation 5-Year Plan concerning the millage issue. He thanked Mr. LaDuke, the members of the Parks and Recreation Commission and Mr. Wells for their leadership.

Mrs. Tinnin said in the first 5-Year Plan several residents spoke regarding the need to make sure there was facilities available and that any school ground improvement would be made throughout the entire city. We are taxpayers in seven school districts and from what I have seen, the improvements are being made to those districts entirely within the city. The plan then speaks of a millage request to the residents. If the residents are being asked to support some type of millage, it seems logical that improvements would be made to all of the various school districts that are part of the city.

Mr. LaDuke said the plan is to encompass everyone. The other four school districts are on the outskirts of the city and their facilities are not available to us. Originally, all of the other districts were asked to be a part of our group, but they didn't seem interested in joining us. Their baseball and softball programs are run independently in their school districts. We would like to participate in the other districts and would, if someone from those districts would approach us. It may be time to re-invite those districts to our meetings.

Mrs. Tinnin said the 5-Year Plan doesn't say what the intention is of the Parks and Recreation Committee.

Mr. LaDuke explained that the document is a vision of the future. The timing wasn't right to ask the people for a millage because of the state funding cuts. The goal is to eventually go to the people and ask for a millage. There are different options for getting the millage question on the ballot, but it needs to be done as a team. This is a working document and can be used as a tool if we try to get a grant in the next year or so. Mr. LaDuke said if and when this is approved by the Council, it is not a whole scale change.

Mrs. Tinnin said this could be approved as a Council, but it doesn't mean that we are in support of a park and recreation millage. She isn't supportive of the millage. She believes if there is a millage, then there would also be a full time Parks and Recreation Director. She said she likes the oversight the city council has on the Parks and Recreation and the Council allocating the money for this fund. She likes the parks were built at the fire stations.

Mr. Martinbianco referred to page 27 of the plan and said he believes the action plan is contingent on whether a future city council elects to put the millage on the ballot.

Mrs. Tinnin commented that she would like Kelly Lake to continue to be a passive park. She asked if the property had yet been acquired.

Mr. LaDuke replied that the city has the deed for the Kelly Lake property. By an agreement with the State, the wetlands have to be maintained. There are no future plans for the property. He said he likes the park as it is today.

Mrs. Tinnin asked if the gate to the park is being closed at night.

Mr. LaDuke replied it is being closed nightly and the police department has been very cooperative in this endeavor.

Mr. Bement commented that he would be supportive of a park and recreation millage if a program is established that the residents would be interested in having. Most people don't mind paying for parks and a director if the business is being done properly. It would take cooperation from everyone. It's important that we look at the positives and not the negatives when presenting this proposal.

Mr. Wells said he is proud to hear Mr. Bement make this statement. This is a vision and once we have the millage, it could open the door for various grants from the federal government. He invited the public to attend the next park and recreation meeting to give their input and ideas.

Mr. Brawner asked about the discrepancies in the amount of money being requested for items #3 and #4.

Mr. LaDuke said we took the county prices and put together quantities that would match. The job will be based strictly on quantity. We physically looked at every stop bar, every arrow and every railroad crossing. The county has plastic on a lot of theirs, which lasts longer, but is not cost effective. After meeting with M & M, we plan to use the paint until we have a better handle on the cost. The road take over is a learning experience for all of us.

Moved by Martinbianco, seconded by Tinnin to amend Item #4 to read as follows: Approve and authorize the Mayor and Clerk to enter into a contract with M & M Pavement Marking Inc., P.O. Box 190257, Burton, MI 48519, in an amount not to exceed Fifty Thousand Dollars and 00/100 ($50,000.00) with a project total of $50,000.00, for the 2003 Pavement Marking Program, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents. Motion carried 6-0.

Mr. Martinbianco referred to the interoffice memorandum from Mr. LaDuke concerning the bikeway. He asked if the bikeway would only be on one side of the road. He said he wouldn't want to see the bike path on the interstate side of Court Street.

Mr. LaDuke said he hoped the bike path would only be on one side. There is a bike path from Belsay Road to Vassar Road. By putting in a sidewalk and bike path from Genesee to Belsay, it would tie this into the Kelly Lake site. This is all funded 80%-20%. He confirmed that he would not want the bike path on the south side of the road.

Mrs. Tinnin asked if the business owners would be notified about the sidewalk so there we don't encounter the same problem we had on Davison Road.

Mr. LaDuke said he doesn't plan to notify anyone that we are working on the public right-of-way. A sidewalk in front of the businesses would only enhance their businesses.

Mrs. Tinnin inquired as to how the Lapeer and Belsay Road intersection ranked in terms of safety.

Mr. LaDuke replied that Vassar Road was considered more of a priority than Belsay Road. He would check further in regards to the overall priorities. This is the only 2004 project that was approved. Mr. LaDuke would provide a copy of how the intersections ranked in regards to safety. Mr. LaDuke gave further information concerning this issue.

COUNCIL DISCUSSION ACTION:

Moved by Martinbianco, seconded by Bement to add as Item #10 the following motion: Approve and authorize the extension of the terms of personal service agreement between the City of Burton and Kenneth Wright from July 1, 2003 to August 31, 2003. Motion carried 6-0.

Moved by Martinbianco, seconded by Tinnin to amend Item #4 to read as follows: Approve and authorize the Mayor and Clerk to enter into a contract with M & M Pavement Marking Inc., P.O. Box 190257, Burton, MI 48519, in an amount not to exceed Fifty Thousand Dollars and 00/100 ($50,000.00) with a project total of $50,000.00, for the 2003 Pavement Marking Program, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents. Motion carried 6-0.

COUNCIL ACTION:

Bement moved and Wells seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from June 11, 2003 through July 2, 2003 in the amount of $4,616.35.

Motion carried 6-0.

Wells moved and Bement seconded the following motion:

2. Approve and authorize the adoption of the revised Parks and Recreation 5-Year Plan.

Motion carried 6-0.

Martinbianco moved and Wells seconded the following motion:

3. Approve and authorize the acceptance of the low bid, as based on public bids, as received by the Genesee County Road Commission, the City of Traverse City and the Livingston County Road Commission February 1, 2003 by M & M Pavement Marking, Inc., P.O. Box 190257, Burton, MI 48519 in the amount of $41,354.36 for the 2003 Pavement Marking Program.

Motion carried 6-0.

Martinbianco moved and Tinnin seconded the following motion:

Amended Motion:

4. Approve and authorize the Mayor and Clerk to enter into a contract with M & M Pavement Marking Inc., P.O. Box 190257, Burton, MI 48519, in an amount not to exceed Fifty Thousand Dollars and 00/100 ($50,000.00) with a project total of $50,000.00, for the 2003 Pavement Marking Program, contingent upon the

submittal and approval by the City Attorney of the required bonds and insurance documents.
Motion carried 6-0.

Well moved and Tinnin seconded the Main motion, as amended:

Main Motion:

4. Approve and authorize the Mayor and Clerk to enter into a contract with M & M Pavement Marking Inc., P.O. Box 190257, Burton, MI 48519, in an amount not to exceed Fifty Thousand Dollars and 00/100 ($50,000.00) with a project total of $50,000.00, for the 2003 Pavement Marking Program, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents.

Motion carried 6-0.

Martinbianco moved and Wells seconded the following motion:

5. Approve and authorize Mayor Charles Smiley as the official representative at the Annual Meeting of the Michigan Municipal League to be held on September 17, 2003.

Motion carried 6-0.

Bement moved and Wells seconded the following motion:

6. Approve and authorize Councilman Tom Martinbianco as the alternate official representative at the Annual Meeting of the Michigan Municipal League to be held on September 17, 2003.

Motion carried 6-0.

Removed from Agenda:

7. Approve and authorize the transfer of funds of $30,000 from General Fund – Contingency to the Police / Fire Statue Project as an advance of funding to be re-imbursed with project donations.

Wells moved and Bement seconded the following motion:

8. Approve and authorize the Mayor and City Clerk approval on behalf of the City Council to execute a "Preliminary Engineering Contract" with Rowe, Inc. for the design of the proposed reconstruction of Court Street from Genesee Road to Belsay Road. (DPW Job #02-008A-P/FAUS Category "C" Project / 2004 T.I.P) at an estimated cost of $84,120.00 (80% federal @ $67,296.00 & 20% Burton @ $16,824.00) contingent upon approval of the City Attorney and City Controller.

Motion carried 6-0.

9. Approve and authorize the City Controller to transfer $16,824.00 from the 2003/04 Major Streets/ unappropriated surplus to DPW Job#02-008A-P for City share of design engineering.

Motion carried 6-0.

Martinbianco moved and Bement seconded the following motion:

10. Approve and authorize the extension of the terms of the existing personal services agreement between Kenneth Wright and the City of Burton from July 1, 2003 through August 31, 2003.

Motion carried 6-0.

Meeting Adjourned at 9:00 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML