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

INVOCATION AND PLEDGE OF ALLEGIANCE WAS LED BY PASTOR TREVOR A. HERM, CHRIST UNITED METHODIST CHURCH.

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

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

MEMBERS ABSENT: None.

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

Cross moved and Centilli seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of August 9, 1999 at 6:30 P.M. and Regular Meeting of August 16, 1999 at 7:30 P.M. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley acknowledged the Burton Fire Department for the outstanding job they did collecting $35,000 for Muscular Dystrophy.

The Mayor welcomed everyone back from the Labor Day weekend.

The Mayor spoke in reference to the proposed water study. It was removed from the agenda August 2nd, as Item #3, by the request of Mr. Cox. He felt the Council needed more information on the matter. The Mayor would like to know where Council stands on this issue. The Mayor, Councilman Centilli and Journal reporter Michelle Edwards toured the water treatment plant in Mt. Pleasant today. The Mayor indicated that he had an article and ideas to share with Council on this topic. He said the City should look at all the legal issues, as well as pro and cons, in regards to operating its own water system. He thinks the city should move ahead with the study to determine all available options relative to this issue.

COMMITTEE REPORTS:

Mrs. Zelenko reported that the Parks and Recreation Commission met September 1st at Fire Station #1 for the dedication of Water Tower Park. A brief meeting was held and the commission approved expenditures to help Bentley Schools resurface basketball courts. The next meeting will be held Wednesday, September 22nd in the Council Chambers.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh, spoke on the Master Plan hearing schedule and the proposed water study designating CHMP as the project engineer.

Mr. Major said the postponement of the Master Plan meeting was due to the heavy seasonal case load of work being done by the Department of Public Works and Rowe Engineering. There are still several details to be worked out before the final completion of the Master Plan. This project will be worked on during the winter months when the construction season is over and more time can be dedicated to the project.

Larry Petrella, 1081 Howe Rd., spoke in reference to the Master Plan. He stated that more public input was needed on this issue.

Don Sanderlin, 4460 Killarney Park, spoke on the garbage contract and the usage of plastic bags. In addition, he inquired about the recycling program.

Mayor Smiley said the City would continue to use plastic garbage bags at this time. The company has not contacted him in regards to this issue. The rubbish contract will expire March 20, 2000. He said a good agreement would be negotiated to help benefit the residents. The recycling program has had a good turn out so far. More recycling information will be provided at the schools this fall to encourage even more participation.

Laurie Tinnin, 2340 Harmony Dr., commented on the water rates, the proposed water study and the cost of garbage bags.

Mr. Major said he would need to check with Mr. Riess to find out the exact fee residents are charged for 1000 cubic feet of water. He suggested Mrs. Tinnin call Debbie at the DPW tomorrow for that amount.

Garbage bags will be available at City Hall for the same price as usual.

COUNCIL DISCUSSION:

Mrs. Walls announced that the City Council team would paint with the Kiwanis and the Orthodox Christian Church Saturday, September 11, 1999 on "Paint for Pride Day". She distributed packets of information to Council on details relating to paint day.

Mr. Cox asked if CHMP is representing the City at the DEQ in regards to the proposed water study.

Mr. Major said Council has not approved the water study and CHMP has not been designated as the engineering firm on this project.

Mr. Martinbianco asked for an overview on the Meadowcroft Subdivision paving project.

Mr. Major said Mr. LaDuke has researched this project and reviewed it with Rowe and CHMP. The determination was made that the best alternative is to remove the old concrete and replace it with deep strength asphalt. Limestone will be added to some problem areas. The project will cost approximately $5.00 a foot. The first allocation of $200,000 should complete half the project. The remaining streets would be completed next year with another $200,000. This project could also be done in three phases instead of two.

Discussion continued on the paving of Meadowcroft Subdivision.

Mr. Martinbianco referred to the Special Council meeting of August 9th that dealt with the Roadrunner Express Gas Station. One thing that was discussed was the new taking law. He felt the old taking law was not explicable to this case. He asked the attorney for clarification on this issue.

Mr. Hamilton said what this referred to was inverse condemnation. Basically, this is a matter of common law not statutory law. This pertains to a situation where by government regulation you so substantially reduce the ability to utilize property that its economic value is substantially impaired. In effect, the government has condemned the property and used it for governmental purpose.

Mr. Martinbianco pointed out that we weren't using the property for governmental purposes. The land was still available for any other type of business that fell within the scope of C-2.

Mr. Hamilton said the property was still available for any C-2 use plus any use permitted under a C-2 classification.

Mr. Martinbianco wanted to know if we might have a potential problem with this type of an issue in relation to our new cellular tower ordinance.

Mr. Hamilton said we could always be subject to a claim of inverse condemnation. However, the cell tower ordinance has a built in flexibility in terms of a hierarchy of preferences as to locations. This intent was given in advance. As a vehicle, it could be located in another area under special circumstances and it would be appropriate to do so. There are engineering aspects involved to locating a cell tower that are not necessarily apparent on the zones that they cover.

Discussion continued on land use and zoning.

Mr. Cox asked how much it cost to repave Wallis Strauss Drive.

Mr. Major said it cost about $20,000 to repave Wallis Strauss Drive. This was milled and capped using the very cheapest process of streets that we worked on.

Mr. Cross asked about an entry on Mr. Hamilton's billing dated 8-18-99, referring to a conference with 67th District Court pertaining to new ordinance requirements.

Mr. Hamilton said there has been some significant changes in the state drunk driving laws. Even cars can be seized from drunk drivers with multiple offenses. There are penalty enhancements for subsequence offenders. Our ordinances have to correlate and be consistent with these new amendments of state laws. Modifications to our ordinances should be completed by the end of October.

Discussion continued in reference to the need to modify our drunk driving ordinances so they will parallel the state law.

Mr. Cross indicated that Mr. Hamilton's revised billing documentation was easier to read and understand. He thanked the attorney for the changes.

Mr. Cox referred to the 8-26-99 entry date on Mr. Austin's billing. He said there were two entries for the same date, totaling 15.5 hrs of jury trial. He would like the Clerk to check with Mr. Austin to see if this is correct.

Mr. Hamilton indicated the trial lasted several days and believed the billing entry should reflect two separate date entries.

Mrs. Webster will contact Mr. Austin's office to verify the correct date of the entries.

Mr. Cox asked Chief Benthall about police procedure in regards to finger printing such items as stolen toasters.

Chief Benthall said hard smooth objects such as toasters could be finger printed.

Mr. Cox will discuss this matter further with Chief Benthall later.

Mr. Hammon removed Item #7 from the agenda at the request of the applicant.

In reference to Item #3, Mr. Cross asked where the MML conference would be held.

Mr. Hammon said the Annual Business meeting for MML would be held in Grand Rapids.

In reference to Item #4, Mr. Cross asked where the Annual MERS meeting would be held.

Mr. Abbey said the MERS conference would be held in Dearborn.

COUNCIL ACTION:

Walls moved and Centilli seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from August 11, 1999 to September 1, 1999, in the amount of $4,988.00.

Motion carried 7-0.

Cox moved and Centilli seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) August 12, 1999 thru August 25, 1999, in the amount of $2,119.50.

Motion carried 7-0.

Walls moved and Centilli seconded the following motion:

3. Approve and authorize Ted Hammon as the official representative and Paula Zelenko as the alternate official representative at the Annual Business Meeting of the Michigan Municipal League.

Motion carried 7-0.

Walls moved and Zelenko seconded the following motion:

4. Approve and authorize the appointment of Dennis Lowthian as the Officer Delegate and Bradley Becker as the Officer Alternate to the annual MERS meeting.

Motion carried 7-0.

Zelenko moved and Cross seconded the following motion:

5. Approve and authorize the certification of Tom Needham as the Employee Delegate and Ken Wright as the Employee Alternate to the annual MERS meeting.

Motion carried 7-0.

Zelenko moved and Walls seconded the following motion:

6. Approve and authorize the request for a Watermain Installer's License for Ken Gunnels, dba Complete Site Development, 1211 E. Lake Rd., Clio, MI 48420.

Motion carried 7-0.

Removed by the Chair.

7. Approve and authorize the date of September 20, 1999 at 6:30 P.M., or any other later date/time as a special City Council meeting for the review and approval/denial of an application for a wireless communication system, WCS #99-04 buy AT&T Wireless Services, 26877 Northwestern Hwy., Suite 350, Southfield, MI 48034 at a proposed location of 5371 Daly Farms Drive, Section 11 (west of Ice Mountain Skating Arena).

Meeting Adjourned at 8:25 P.M.

Gayle Webster, City Clerk