

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
DECEMBER 4, 2000, 7:30 P.M., COUNCIL CHAMBERS

Councilman Danny Wells led the Invocation and Pledge of Allegiance.

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

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

MEMBERS ABSENT: None.

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

Mrs. Tinnin referenced her concerns with two sets of minutes. She indicated that there was a 6-1 vote on zoning case #249 at the Special Council Meeting of November 20, 2000 at 6:00 p.m. The minutes reflect a 7-0 vote.

Mrs. Webster said that she was present at that particular meeting and Mrs. Tinnin did vote no on the issue. She had no problem correcting the November 20th meeting to reflect the 6-1 vote.

Mrs. Tinnin indicated that no action was taken at the Special Council Meeting of November 9, 2000 at 6:00 p.m. She wanted the minutes changed to reflect no action was taken on the topic of Ordinance 68-23C.

Mr. Centilli said action was taken at the Special Council Meeting of November 9, 2000 at 6:00 p.m. He indicated that Mr. Martinbianco made the motion and Mr. Cross seconded it. The minutes clearly reflect this action.

Mr. Brawner clearly remembered a roll call vote being taken at the November 9th meeting. The minutes clearly reflect the vote. He asked Mrs. Tinnin if her intention was to change her vote.

Mrs. Tinnin said no action took place.

Mr. Brawner asked Mrs. Tinnin if she was disputing the fact that a vote actually took place. He said Mrs. Ladd has worked for the city for 31 years and she knows when she takes a roll call vote. He felt the minutes should not be changed because a vote was taken.

Mr. Martinbianco remembered giving a summary of 68C. He was not sure if a vote had been taken. Standard practice is to take some form of action with a roll vote at special council meetings.

Mr. Cross said the minutes reflected that he seconded the motion after an amendment was made, so we could still vote on the increases. He did not remember if a vote was actually taken. He said that usually a vote is taken at special council meetings.

Mr. Abbey said action was taken at the Special Council Meeting.

Mrs. Webster said she was at that meeting along with several administrators and six council members. She indicated that a vote did take place. The clerk's office has written notes and a voting chart that reflects action was taken.

Mr. Hamilton said that it was the council's ultimate decision to review and approve the minutes.

Mrs. Zelenko said it was hard to believe that an employee with 31 years of recording experience would be wrong about a vote being taken.

Mr. Cross suggested that the November 20th minutes should be corrected and the November 9th minutes remain the same, and reflect that Mrs. Tinnin disagreed with the minutes.

REGULAR COUNCIL MEETING MINUTES

Council was in agreement with Mr. Cross and the motion to approve the minutes past with a 7-0 vote.

Brawner moved and Centilli seconded the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of November 6, 2000 at 6:30 P.M.; Special Meeting of November 9, 2000 at 6:00 P.M.; Special Meetings of November 20, 2000 at 6:00 P.M.; Special Meeting of November 20, 2000 at 7:00 P.M. and Regular Meeting of November 20, 2000 at 7:30 P.M., with Mrs. Tinnin being in disagreement with the action taken at the Special Council Meeting of November 9, 2000 at 6:00 P.M.

In addition, a correction was made to the Special Council Meeting of November 20, 2000 at 6:00 P.M. The vote count should have read 6-1 with Mrs. Tinnin voting no on ZC #249.

Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley referenced an article that appeared in Crain's Detroit Business, December 4th. He said House Bill 4766 would prohibit local governments from enacting, enforcing or maintaining minimum wage requirements higher than Michigan's rate of \$5.15 an hour. He felt this was yet another infringement on home rule ordinances.

The Mayor spoke briefly on the DARE program.

The Mayor and Ralph LaDuke recently met with Mr. Thornton, a representative of Citizens Disposal, to update the history and status of the Kelly Lake wetland area. Citizen Disposal will excavate, re-seed and prepare the wetland area. This process should be completed by early February. DEQ will then give its approval to convey the property to the City of Burton. Citizen's Disposal is responsible for maintaining the wetlands for the next five years.

The Mayor reported that he attended the grand opening of the Seven-11 Store on S. Saginaw and the Harley Davison Shop at the previous Just We Three Store. Both businesses did an outstanding job.

The Mayor announced that a cannon had been placed at the Veteran's Memorial. Al Hindes and the Parks and Recreation Commission have worked very hard to bring the cannon to Burton. He felt the cannon was a very nice addition to the memorial.

The Mayor will attend the National League of Cities conference in Boston later this week. He has the privilege of introducing Mayor Dennis Archer as the President of the league.

Mr. Abbey gave a report on a recent incident involving a city employee. He said a second grievance has been filed due to a council member's improper interaction with employees. The prior grievance was settled with certain stipulations that included implementation of Section 4.8 of the City Charter and the removal of the council mailboxes from the clerk's office. Mr. Abbey said that employees are entitled to a safe working environment free of threats and intimidation. If this behavior continues, the administration will be forced to implement Section 1.6 that deals with penalties for violation of the city charter. He indicated that the council mailboxes would be moved to the conference room and that all of their requests should go through the Mayor's office.

Mrs. Zelenko asked that the grievance be distributed to the council members. She announced that all requests should go through the Mayor's office.

The council members can contact the clerk's office for meeting schedules.

Mr. Centilli wanted to know who caused the second grievance to be written. He felt the whole council should not be penalized due to the behavior of one council member.

REGULAR COUNCIL MEETING MINUTES

DECEMBER 4, 2000/7:30 P.M.

PAGE -3-

Mrs. Tinnin briefly explained her viewpoint on the incident that took place with the clerk's office staff. She originally contacted the clerk's office to discuss the minutes with Mrs. Webster, not her staff. She felt that she was being harassed.

Mr. Abbey hoped that some council members would conduct themselves more professionally with employees. He would like to resolve what had transpired.

Mr. Cross asked if the architect was still working on plans for the city hall expansion. He hoped that more space would be provided for council to do their research.

Mayor Smiley said the architect is still working on plans for a city hall expansion.

COMMITTEE REPORTS:

Mr. Centilli reported that the cannon had arrived at the memorial. It is a welcomed addition to the site.

Mr. LaDuke gave a brief report on how the city acquired the cannon.

AUDIENCE PARTICIPATION:

Terryl Sperlich, 1253 Howe Rd, spoke in opposition to the development of Kelly Lake Park and the five-year park plan. She would like the definition of a passive park and the park schedule.

Mr. Cross read the definition of the word passive out of the Webster Dictionary. He added that a park is a place for kids to enjoy themselves and play.

Jan Bolen, 1169 Howe, spoke in opposition to Kelly Lake Park. She would like a definition of a passive park and the park schedule. She commented on her Freedom of Information requests. She disagreed with her building permit fees.

Mrs. Webster indicated all FOIA procedures were followed.

Mr. Nimcheski, 2429 N. Genesee, spoke in opposition to the fire sirens being shut off. He submitted a petition with 91% of the firemen supporting the sirens. (The petition is available for review in the clerk's office.)

Bernard Meader, 1433 Woodrow, spoke in favor of keeping the fire sirens on. He felt that residents should be able to use clear plastic bags for yard waste.

Pauline Dargel, 6119 Hugh, spoke in reference to the salary commission establishing the base wages for elected officials. She spoke in opposition to 68C, MERS, retroactive pay and Mr. Centilli voting on the resolutions concerning non-union non-charter employees. In addition, she asked if the attorney prepared and reviewed the recent ordinances.

The Mayor and Jean Morgan are the only staff members that do not participate in the MERS pension program.

Mr. Hamilton said it was appropriate for all council members to vote on 68C and the resolutions dealing with non-charter non-union issues.

Mr. Hamilton said that he reviewed the last three ordinances that were recently published.

Larry Petrella, 1081 Howe Rd., commented on glass in the mall parking lot, the city adopting a code of ethics and Kelly Lake Park. He supported the firemen in regards to turning on the sirens.

REGULAR COUNCIL MEETING MINUTES

DECEMBER 4, 2000/7:30 P.M.

In response to Mr. Petrella's comments, Mr. LaDuke spoke briefly on Kelly Lake issues.

Mr. Martinbianco plans to review several legislative agenda items in January.

Gary Kautz, 4062 Woodrow, supported tuning on the fire sirens. As a compromise, he suggested the sirens could be turned on during the day and turned off at night. He thanked Mr. Abbey and the Fire Chief for providing him with a special fire mask at no cost.

Linda Burris-Croley, 6323 Crabtree, supported the firemen in regard to the fire sirens. She commented on the minutes, the sound system, the lack of a signature on the parks minutes, a recent grievance that was filed against council and a written policy concerning power in the council chambers.

The Mayor said there was no policy on power. There is a policy stating that city equipment can not be used for personal use.

COUNCIL DISCUSSION:

In reference to Mrs. Dargel's remarks on voting on the non-charter non-union resolutions, Mr. Centilli asked the attorney in advance if there was any reason he should not vote on 68C. The attorney indicated that it was appropriate to vote on Ordinance 68C.

Mr. Hamilton said there was no reason for council members not to vote on Ordinance 68C.

Mr. Centilli said the parks commission is exploring the possibility of creating an ice rink at Courtland Center. It will not be located at Kelly Lake.

Mr. LaDuke said the parks commission is considering several options for an ice rink location.

Mr. Martinbianco asked for clarification on Mr. Centilli's vote regarding the non-charter non-union resolutions because his wife works for the city.

Mr. Hamilton said if council members are allowed to vote on their own benefits and pensions package, why shouldn't an individual vote on such issues affecting a family member. In his opinion, it was appropriate that council members voted on 68C and related non-charter non-union issues.

In reference to Item #3, Mr. Brawner suggested changing the January 1st meeting date to January 15th and the second meeting to January 29th, due to the holiday schedule.

Mrs. Zelenko announced that she would be submitting her resignation to the clerk's office to be effective December 31st. She was recently elected as a State Representative and would be assuming her position in January.

Mrs. Zelenko asked Mrs. Webster if there was a problem with the January dates offered by Mr. Brawner.

Mrs. Webster did not have a problem with the suggested dates.

Mr. Brawner made a motion to amend Item #3 to change the January meeting dates to January 15th and January 29th. The motion carried 7-0.

Fire Chief, Doug Halstead, clarified his decision on turning off the fire sirens. There are 46 fire sirens in Genesee County and only 13 are used for fire runs. Under the Genesee County Emergency management program the sirens are only used for tornadoes and high wind warnings. Firemen are issued pagers and some have portable radios to alert them of a fire. Sirens are no longer required to alert firefighters. He felt the value of having sirens off far out weigh the value of them being on.

REGULAR COUNCIL MEETING MINUTES

DECEMBER 4, 2000/7:30 P.M.

Discussion continued in reference to the fire sirens.

Mr. Wells was in agreement with Mrs. Nimcheski's article in the Flint Journal. He thought the sirens provided an early warning for children playing in nearby parks.

Mr. Halstead said the siren sounds as the trucks leave the station. This would alert the children playing nearby.

The Mayor indicated that the firemen have lights on their vehicles. There have been no complaints of firemen in route to the station. They have all conducted themselves very professionally.

Mr. Martinbianco asked for clarification on the Lapeer Heights water project. He wanted to know if the clean up job had been completed before Consumers Energy started their work. He wanted to make sure we were not charged again for the same work.

The Mayor indicated that city staff and Consumer's Energy is working together on the cleanup. We did take pictures of the clean up work that had been done. However, the city will ultimately make sure the work is done properly.

Mr. Cross agreed that the clean work had to be done properly.

Mr. Martinbianco asked for clarification on the Capacity Utilization Report. He said the report reflected a 300-400-unit shortage, with 105% of the purchased capacity connected. He wanted to know if the city would be able to buy back sewer units if necessary.

The Mayor indicated that there are plans for a relief sewer to be built. This should free up some of the lines. The city could probably buy back the needed units from Flint. The Mayor said a new commissioner would be taking over soon. He did not know how he planned to handle these types of issues.

Mr. Martinbianco commented on the expected water rate increase. He would like the finance committee to meet with staff to discuss this issue in January.

The Mayor said there was going to be a 7% water rate increase from the county. He planned to meet with the finance committee to discuss this matter after the holidays.

Mr. Martinbianco referenced the Mayor's memo dated November 28th concerning zoning case #00-73. The Mayor's office asked that this case be reconsidered after being turned down twice by the zoning board of appeal. He felt the administration should discontinue this type of appeal practice.

The Mayor clarified that the administration often meets to review planning and zoning board decisions. These considerations are often reduced to writing. He said the developer was willing to close his business in the evening and we felt there would not be a problem with people hanging out at that location. We tried to address the resident's concerns and state the position of the administration.

Mr. Cross asked for clarification on unpaid FOIA charges.

Mr. Hamilton said there is nothing under the Open Meeting Act that deals with delinquent payments.

Mr. Cross suggested that we establish some payment guidelines to deal with these types of cases.

Mrs. Webster offered further information on this issue. She said all FOIA procedures were followed in regards to Mrs. Bolen's requests. She indicated that Mrs. Bolen had at least two unpaid bills. She filed a third request asking for some of the same information. The DPW Director will not fill anymore requests until the bills are paid. Under the Freedom of Information Act the city has a right to set reasonable rules to conduct this business.

REGULAR COUNCIL MEETING MINUTES

DECEMBER 4, 2000/7:30 P.M.

PAGE -6-

It was suggested that the legislative committee review text relating to stop work order fees to determine if any revisions are needed and establish a process to appeal water bills.

In reference to Mr. Meader's comments, Mr. Major indicated that Mrs. LaDuke takes all waste disposal complaints. She is in contact with Waste Management on a regular basis. The company is very accommodating in resolving most issues.

Mr. Abbey said the landfills refuse to take any plastic garbage bags. Paper bags or plastic trash bins are acceptable containers for disposing of yard waste.

In reply to Ms. Sperlich's comments, Mrs. Tinnin felt the parks commission should determine the definition of a passive park and put it in writing. She spoke in opposition to Kelly Lake Park. She felt the administration should not interfere in zoning case #00-73. She felt this represented a conflict of interest. She voiced concerns with city officials receiving retroactive pay and the adoption of Ordinance 68-23C. She supported the viewpoint of the firemen. She said their petition justified keeping the fire sirens functional.

Mr. Cross said he would be happy to provide his definition of a passive park.

In reference to Item #2, Mr. Cross thanked Mr. Hamilton for clarifying information relating to the attorney billing.

Mr. Cross suggested acting on Item #6, as written.

Mr. Martinbianco corrected a portion of the Second Reading of Ordinance, Item #2 to read Approve and authorize the second reading of Zoning Case #249.

COUNCIL DISCUSSION ACTION:

Mr. Brawner moved and it was seconded by Mr. Martinbianco to amendment Item #3 to read, Approve and authorize changing the Council meeting date of January 1, 2001 to January 15, 2001 and the second council meeting to January 29, 2001, due to the holiday. The motion carried 7-0.

COUNCIL ACTION:

Cross moved and Centilli seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from November 15, 2000 to November 29, 2000, in the amount of \$612.50.
Motion carried 7-0.

Cross moved and Brawner seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from November 1, 2000 to November 16, 2000, in the amount of \$2,878.20.
Motion carried 7-0.

Cross moved and Brawner seconded the following motion:

3. Approve and authorize changing the Council meeting date of January 1, 2001 to January 15, 2001 and the second council meeting to January 29, 2001, due to the holiday.
Motion carried 7-0.

REGULAR COUNCIL MEETING MINUTES
DECEMBER 4, 2000/7:30 P.M.
PAGE -7-

Centilli moved and Martinbianco seconded the following motion:

4. Approve and authorize the Mayor and City Clerk on behalf of the City of Burton and its City Council, authority to execute a contract with Rowe Engineering, Inc. for a corridor study of Center Road between Lippincott Boulevard and Atherton Road at a fee of \$5,000 per correspondence of April 6, 2000 to J. Major from A. Gilson.

Motion carried 7-0.

Martinbianco moved and Centilli seconded the following motion:

5. Approve and authorize the City Controller to transfer \$5,000 from 2000-01 General Fund/Unappropriated Surplus to Center Road Corridor Study/Phase I (DPW Job #00-007-D).

Motion carried 7-0.

Cross moved and Martinbianco seconded the following motion:

6. Approve and authorize the issuance of permanent Traffic Control Orders for:
 1. No Parking along Barnes Avenue between Bristol Road and James Street;
 2. No Parking along Scottwood Avenue between Fern Avenue and East Terminus;
 3. No Parking along Parkwood Avenue between Fern Avenue and East Terminus;
 4. Northbound Forest Creek to yield at Hidden Trails;
 5. Southbound Cranes Cove to yield at Hidden Trails;
 6. Southbound Hickory Hollow to yield at Hidden Trails;
 7. Southbound Pine Grove to yield at Hidden Trails;
 8. Northbound Eagles Nest to yield at Hidden Trails;
 9. Northbound Chestnut Lane to yield at Hidden Trails.

Motion carried 7-0.

SECOND READING OF ORDINANCES:

Martinbianco moved and Centilli seconded the following motion:

1. Approve and authorize the second reading of Zoning Case #255, Ordinance No. 19, Text Change for Orientation of Home Addition (City of Burton, 4303 S. Center Rd., Burton, MI 48519).

Motion carried 7-0.

Cross moved and Centilli seconded the following motion:

2. Approve and authorize the second reading of Zoning Case #249 to rezone Parcel No. 59-29-400-022, per Planning Commission recommendation of 11-1-00, vacant property per Exhibit 1 / Concept 1, per attached, as allowed by City Ordinance #19, for the purpose of the permitted use with the zoning classifications as approved. Pursuant to attached legal description.

Motion carried 6-1 with Tinnin voting no.

Meeting Adjourned at 10:00 P.M.

Gayle Webster
City Clerk

GW/cml