CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
DECEMBER 18, 2000, 7:30 P.M., COUNCIL CHAMBERS

COUNCILMAN LARRY BRAWNER 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, Wells and Zelenko.

MEMBERS ABSENT: Tinnin.

OTHERS PRESENT: Mayor C. Smiley; J. Major, DPW Director; B. Becker, Controller; R. LaDuke, SEIU President; Attorney R. Hamilton and G. Webster, City Clerk.

Mr. Cross made reference to the ongoing problems with the audio equipment.

Mrs. Webster said the DPW is working very hard with the clerk's office staff to rectify taping problems. She said the audio equipment seems to be functioning properly tonight.

Approve and authorize the minutes of the following meetings: Regular Meeting of December 4, 2000 at 7:30 P.M.

Moved by Cross, Seconded by Martinbianco, Carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Smiley was proud to accept on behalf of the City of Burton the picture of Police Memorial Princess Miss Tiffani Crim. Her picture will be placed near the picture of her Uncle, fallen Burton Police Officer, Russell Herrick.

Louise Rose, sponsor of the Memorial Princess, explained that Tiffani's mission is to represent all fallen Police Officers and their families in Michigan. Other duties include appearing at community and police events to help prevent violence in our schools. Tiffani hopes by speaking to her peers and others that they will look to police officers as a friend, not their enemy.

Mayor Smiley thanked the Department of Public Works road crew for doing an outstanding job of clearing the roads after a recent snowstorm. The department is working very hard to meet the needs of our residents.

The Mayor requested the yearly audit workshop be set for January 22, 2000 at 6:00 p.m. at the Police/Fire Facility.

Mayor Smiley gave a brief report on the National League of City Conference that was held in Boston. Mayor Archer of Detroit was appointed president of the League. The Mayor looks forward to working with the League and its new president.

The Mayor said the Tree Lightning Ceremony was held December 14th. He thanked Joyce Centilli and Becky Rainwater for their help in making this a very successful event. He felt the community had a good time and enjoyed the evening. He said Santa Claus did an outstanding job.

The Mayor reported that an appreciation dinner was held December 11th in honor of our Burton election workers. He thanked his staff for their assistance in making this an enjoyable event.

Mayor Smiley gave warm farewell remarks to President Paula Zelenko. He indicated that it was a privilege and an honor to work with her over the years. He feels she will be an asset in Lansing as our 50th District State Representative. He looks forward to working with her in the future at the state level.

COMMITTEE REPORTS:

Mr. Martinbianco, as Legislative Chairman, offered the following motion to add as Item #7: Approve and authorize the suspension of any and all amendments to the text of Ordinance #19, City of Burton, until the final passage and acceptance of the amended Master Plan for the City of Burton. The effective date of this resolution shall be January 1, 2001. The approval of this resolution shall not affect real property rezoning cases, lot splits, and final plat approvals granted after the effective date. Mr. Cross seconded the motion.

Mr. Centilli asked for clarification on the motion.

Mr. Martinbianco felt that some recent text changes should have gone through the Legislative Committee rather than being addressed through the DPW. Suspending Ordinance #19 would help expedite the process of the Master Plan, put into perspective what is happening with site uses and provide new council members with additional information on these types of issues.

Mr. Major didn't believe this action was in the best interest of the City and should not be approved by the Council. Any changes relating to the Zoning Ordinance #19 should be sent to the Planning Commission, where a public hearing must be held for review and recommendation. This recommendation is then sent to city council. This is not the function of the Legislative Committee. He felt the city should not deviate from past practice.

Mr. Centilli said he would be voting in the negative on this issue.

The motion failed 2-4, with Brawner, Centilli, Wells and Zelenko voting no

AUDIENCE PARTICIPATION:

Cheryl Ladd, 7367 Sharp Rd., Swartz Creek, MI, made a statement concerning an encounter with Councilperson Laurie Tinnin regarding the November 9, 2000 Special Council Minutes. Mrs. Ladd stated the implication that she was not telling the truth regarding the motion made at that meeting put her credibility and integrity in question. She informed council that she would not alter legal city documents. She thanked everyone for their support on this issue. She hoped the council and city staff would be able to work together for the good of the citizens of Burton.

Don Mosher, 1279 Sharon Dr., Lapeer, MI, Emergency Food and Shelter Committee Chair, requested that a member of the Burton Council be appointed to the Emergency Food and Shelter Board of Genesee County. He gave a brief review of material and was available for any questions.

Mrs. Zelenko said Mr. Cross expressed interested in being a member of the Emergency Food and Shelter Board.

Ralph LaDuke, 2292 Meadow Lane Court, spoke in support of Deputy Clerk Cheryl Ladd. As president of the SEIU, he regretfully informed council of a second grievance involving an abusive incident with a certain council member and an employee. He said employees have a right to a safe work place free of abusive, threatening and coercive treatment. This type of behavior is unbecoming of an elected official. There should be mutual respect offered from both council and staff. Our goal with this grievance is to stop this form of abusive power from an elected official.

Ian Hohloch, 4422 Hedgethorn Court, commented on the good work that the road crews are doing clearing the streets. He praised Paula Zelenko for her work with council and offered her congratulations on her new position. He suggested the city charge a street lighting user fee to help pay for a new city hall expansion.

Mrs. Dargel, 6119 Hugh St., referred to the City Charter in regard to Mr. Centilli voting on non-charter non-union personnel issues. She felt this was a conflict of interest. She commented on notices for the January council meetings and a recent FOIA request.

Ted Hammon, 3240 Eastgate, Third District County Commission, spoke on the possibility of additional funds being directed to Burton. He congratulated Mayor Smiley for his recent appointment as President of the Michigan Municipal League, Council President Paula Zelenko for her new position as the 50th District Representative and Jeff Wright for his new position as Drain Commissioner. He looks forward to working with these elected officials in the future. He reported that the project committee has proposed an outpatient mental health facility to be located at Saginaw and Bristol Rd.

COUNCIL DISCUSSION:

Mr. Cross indicated that he has worked with Cheryl Ladd for 18 years. He appreciated all the work she has done in the past and felt she has been an asset to the council. He felt this was an unfortunate situation and hoped it would not happen again. He said all council people have respected, honored and supported her in the past and will in the future. In addition, Mr. Cross said he enjoyed working with Jeanette Brown who retired from the clerk's office.

Mr. Cross said the road crews have done a fine job with snow removal.

Mr. Cross spoke in favor of a city hall expansion. He suggested the finance committee meet to explore some innovative ideas on how to finance the project that he feels is long overdue.

Mr. Cross said that Mrs. Tinnin was unable to attend tonight's meeting due to the death of her father-in-law.

Mr. Cross suggested the January meeting schedule should be posted in the newspaper.

Mr. Centilli asked the attorney for clarification on whether he should have voted on resolutions involving non-charter workers.

Mr. Hamilton gave an opinion on this issue at the last council meeting and his views have not changed. He felt there was no reason Mr. Centilli could not vote on resolutions concerning compensation for non-union workers. There was a 6-1 vote and one less vote would not change the outcome of resolution. He would be glad to do more research on the topic, if council preferred.

Mr. Wells thanked Commissioner Hammon for his remarks and help. He made reference to the tree lightning ceremony. He felt it was an enjoyable evening reflecting the old traditional values of Christmas.

Mr. Martinbianco asked for clarification on the final master plan. It was his understanding that the map itself was the responsibility of the planning commission and the enabling language became that of the legislative body, which would be the city council. He said communities have passed moratoriums on planning maps and rezoning requests as they were addressed. He felt this should be an option of the legislative body.

Discussion continued in reference to what body was responsible for the passage of the master plan and text changes relating to Ordinance #19.

Mr. Hamilton clarified the difference between the zoning ordinance and the master plan. They are two separate and distinct bodies of legislation provided for under two separate statues. One is under the municipal planning act and the other is under the terms of the city and village zoning and enabling act. Under the municipal planning act the adoption of the master plan and the text of the master plan is the complete function of the planning commission. Mr. Hamilton indicated that the city council actually reaffirms the Master Plan. The zoning enabling act outlines a very clear procedural sequence to be followed, which provides for a public hearing at the planning commission with recommendations coming to city council. The actual city council action is the official text and the map of the zoning ordinance. Actually, it is the function of the city council to deal with amendments of the zoning district map, as well the actual text, but only after a public hearing and a recommendation from the planning commission.

Various communities have implemented moratoriums in the past. There are court rulings where moratoriums have been sustained under certain circumstances and there are others circumstances under which the courts have ruled that they are inappropriate.

Discussion continued on this issue.

Mr. Hamilton indicated that Rowe was hired to review and update the Master Plan not to revise the zoning ordinance map.

Mr. Martinbianco felt the new council members needed more information on Ordinance #19 so they might make a better-informed choice on these types of issues.

Mr. Martinbianco hoped that Mayor Archer would provide Burton with pertinent information from the Detroit water board.

Mr. Martinbianco asked for more information on the council's mailboxes

The Mayor indicated that the new mailboxes should be in by next Friday. They will be locked and each council member will have their own key. The mailboxes will be placed in the council chambers or the coat closet.

Mr. Martinbianco asked if the city had a policy to replace damaged mailboxes due to snow removal.

Mayor Smiley said it is the city's policy to replace damaged mailboxes as soon as possible. He was not sure if the County Road Commission had the same policy. If it is a county road, residents should contact that agency or the city could do it for them.

Mr. LaDuke reviewed the procedure for replacing the mailboxes damaged by snow removal.

Mr. Martinbianco wished Mrs. Zelenko good luck in her new role as a state representative. He felt she would do a good job in Lansing.

Mr. Wells made reference to Mr. Martinbianco's comments concerning his lack of knowledge on certain issues. He would appreciate council members contacting him on pertinent issues, so he will be able to do advance research before the meeting. This will help him to make a more informed decision. He wished Mrs. Zelenko well in her new job as state representative.

Mr. Cross suggested a new audio system be added to the upcoming budget to help remedy ongoing taping problems.

Mayor Smiley said he would like to have a council budget workshop prior to the administration finalizing their budget proposal. He thought input from the residents and the council would be very helpful to determine future budget needs.

Discussion continued on budget sessions for the upcoming year. Suggestions included city hall expansion, a new audio system and taking over more miles of county roads.

Mr. Brawner wanted to address an issue that was very important to the City of Burton and its employees. He reviewed two grievances that had been filed since August. The second grievance pertained to violating the rights of Deputy Clerk Cheryl Ladd, a valued city employee for 31 years. There were allegations that a councilperson treated this employee in an abusive and threatening manner. These are serious allegations with serious implications, if they are true. He was deeply concerned with the emotional pain that this and other employees have suffered as a result of this incident. He was troubled by the embarrassment the city and this body have endured due to this situation. He was distressed by the possible violations of our city charter by a council member, sworn to serve the city and abide by its laws, all the laws, and not just the ones that are self-serving. Therefore, he felt there was a need to fully and completely explore these allegations before council to determine whether or not a member of the this body did willingly violate the city charter.

Mr. Brawner moved and Mr. Centilli seconded the following motion: This council, acting as a Committee of the Whole, will convene as a fact finding hearing to take testimony from the witnesses to the incident. Further move that the city retain the services of an impartial moderator to conduct this hearing. Further, move that Mrs. Tinnin be invited to attend with legal council, inasmuch as the allegations do have legal implications, including the possible initiation of criminal proceedings for her alleged violation of the city charter.

Mr. Cross said that in any personnel case we have to offer Mrs. Tinnin the opportunity to have this public or private. He referred to a past case that dealt with the release of a zoning board member. He didn't have a problem addressing this issue; however, he felt Mrs. Tinnin should have the choice of a private or a public hearing. In this case he felt two parties were involved.

Mr. Hamilton referred to a provision in the Open Meetings Act that provides for this type of exception. This decision has to be made at the request of the employee. He didn't know if there was a distinction or not. He would have to review the specific language of the act to interpret this matter. Mr. Hamilton made it clear that council could not make this decision. This issue could be dealt with at the time of the meeting.

Mrs. Zelenko made reference to the tentative date of Wednesday, December 20th in the resolution.

Mr. Brawner suggested that date, but Mrs. Tinnin had a death in the family and would not be available on Wednesday. He suggested Council address this issue after the holidays.

Mr. Cross suggested the hearing could be set at the next regular meeting.

Mr. Brawner withdrew the motion, with the stipulation that this issue would be addressed at the next regular meeting.

Mrs. Zelenko felt this was a very serious matter and something needed to be done to resolve this issue.

Mr. Cross reminded Mrs. Zelenko of Mr. Mosher's request to appoint a council member to the Emergency Food and Shelter Board.

Mrs. Zelenko appointed Mr. Cross to the board.

Mr. Cross referred to a section in the Open Meetings Act that was relevant to the upcoming council hearing.

Mr. Hamilton said that this section reflected his earlier remarks on the issue.

Mrs. Zelenko asked council to allow her to abstain from voting on Item #3.

Mr. Cross moved and Mr. Martinbianco seconded the following motion to allow Paula Zelenko to abstain from voting on her resignation from city council effective December 31st. The motion carried 5-0.

In reference to Item #4, the resignation of Zoning Board of Appeal alternate Jeff Wright, Mr. Cross suggested council address this vacancy after the first of the year.

In reference to Item #6, Mr. Hamilton asked if this resolution had been put on file in the clerk's office for thirty days as required by the city charter. This resolution pertained to the transfer of interest of real property for granting an easement. He wanted to know how important it was to address this resolution tonight.

Mr. Major said the phone company has been calling everyday in regards to the easement. He noted that the resolution has not been on file in the clerk's office for thirty days.

Discussion continued in reference to Item #6 meeting the thirty day filing requirements per the city charter. Other items were addressed while Attorney Hamilton reviewed this issue.

Mayor Smiley suggested council set a filing deadline for submission of council candidate resumes. In addition, he requested an audit workshop be set for January 22, 2000.

Mr. Martinbianco moved and Mr. Cross seconded the following motion, to add as Item #7: Approve and authorize an Audit Workshop for the fiscal year of 2000 to be held January 22, 2001 at 6:00 p.m. at the Police/Fire Facility. The motion carried 6-0.

Mrs. Zelenko suggested council make a motion to direct the City Clerk to advertise for a city council replacement and set a deadline to accept resumes.

Mr. Martinbianco asked for clarification on past practice for filling council vacancies.

Mrs. Zelenko believed the city took resumes for two weeks, before filling the vacant council seat for Mr. Hammon.

Mr. Martinbianco suggested the council merely direct the City Clerk to accept resumes of interested parties. A submission deadline was set for Friday, January 12, 2001 at 5:00 p.m. He felt a legal notice should be placed in the local paper outlining this information.

In regards to Item #6, Mr. Hamilton referenced Section 11.3 of the charter, which requires a resolution authorizing the sale, lease or disposal of real property to be put on file in the clerk's office for public inspection for 28 days before the initial adoption or passage. He said this action should be tabled until the next council meeting. This will meet the required time line for passage of this issue.

Mr. Cross moved and Mr. Martinbianco seconded the motion to table Item #6 until the next regular council meeting of January 15th. The motion carried 6-0.

Mrs. Zelenko thanked everyone for all their support. She acknowledged the City employees, the Mayor, administration and her colleagues. Most importantly, she acknowledged the citizens that helped her with their input. It is citizen's concerns, that we as elected officials take to heart and work on to make our community a better place for us to live, work and raise a family. She said she has been a life long resident of Burton. It is a wonderful community and to her it will be the heart of the 50th District.

COUNCIL DISCUSSION ACTION:

Mr. Martinbianco moved and Mr. Cross seconded the following motion to add as Item #7: Approve and authorize the suspension of any and all amendments to the text of Ordinance #19, City of Burton, until the final passage and acceptance of the amended Master Plan for the City of Burton. The effective date of this resolution shall be January 1, 2001. The approval of this resolution shall not affect real property rezoning cases, lot splits, and final plat approvals granted after the effective date. Motion failed 2-4, with Brawner, Centilli, Wells and Zelenko voting no.

Mr. Cross moved and Mr. Martinbianco seconded the following motion to allow Paula Zelenko to abstain from voting on Item #3, which pertains to her resignation from city council effective December 31st. Motion carried 5-0.

Mr. Martinbianco moved and Mr. Brawner seconded the following motion to add as Item #7: Approve and authorize an Audit Workshop for the fiscal year of 2000 to be held January 22, 2001 at 6:00 p.m. at the Police/Fire Facility. Motion carried 6-0.

Mr. Cross moved and Mr. Martinbianco seconded the motion to table Item #6 until the next regular council meeting of January 15th. Motion carried 6-0.

COUNCIL ACTION:

Centilli moved and Cross seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from November 29, 2000 to December 13, 2000, in the amount of $2,588.00.

Motion carried 6-0.

Cross moved and Centilli seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton)from November 16, 2000 to December 12, 2000, in the amount of $1,755.00.

Motion carried 6-0.

Martinbianco moved and Centilli seconded the following motion:

3. Approve and authorize the resignation of Paula Zelenko from the Burton City Council, effective December 31, 2000.

Motion carried 5-0 with Zelenko abstaining from the vote.

Cross moved and Centilli seconded the following motion:

4. Approve and authorize the resignation of Jeff Wright, Alternate Member, from the Burton City Zoning Board of Appeals, submitted on November 20, 2000.

Motion carried 6-0.

Centilli moved and Martinbianco seconded the following motion:

5. Approve and authorize the creation of the City of Burton Public Employee Health Care Fund under the provisions of Public Act 149 of 1999.

Motion carried 6-0.

Tabled until the next Regular Council Meeting on January 15, 2000 at 7:30 p.m.

6. Approve and authorize the Mayor and City Clerk on behalf of the City of Burton and its City Council, authority to grant and execute an easement to Michigan Bell Telephone Co. aka Ameritech MI, 444 Michigan Ave., Detroit, MI 482236, for SPID #25-59-03-400-005 (Fire Station #3); easement shall be 20'x20' in NE corner of said parcel adjacent to the existing Ameritech easement, per attached location sketch.

Martinbianco moved and Brawner seconded the following motion:

7. Approve and authorize an Audit Workshop for the fiscal year of 2000 to be held January 22, 2001 at 6:00 p.m. at the Police/Fire Facility.

Moved by Martinbianco, Seconded by Brawner, Carried 6-0.

MEETING ADJOURNED AT 9:05 P.M.

Gayle Webster
City Clerk