

CITY OF BURTON
SPECIAL COUNCIL MEETING MINUTES
JULY 20, 2012, 5:00 P.M., COUNCIL CHAMBERS
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The Special Meeting was called to order by President Tom Martinbianco at 5:10 p.m.

MEMBERS PRESENT: Martinbianco, Smith, Heffner and Wells.

MEMBERS ABSENT: O'Keefe, Haskins and Ellenburg.

OTHERS PRESENT: Mayor P. Zelenko, Atty. R. Austin and J. Adams, City Clerk.

PURPOSE OF THE MEETING: An Emergency Ordinance amending Sub Section "G" of the Codified Ordinance Section 30.03 regarding Health Care Coverage for Administrators in the City of Burton.

PRESENTATION:

Mayor thanked Council for their attendance at tonight's important meeting. This is a situation where emergency managers' decision in one community can affect another. We are elected to protect our residents.

Mr. Austin said he doesn't know if Council had a chance to read and digest the letter that he wrote to you dated July 20th. This came to my attention Monday night just prior to the beginning of our Council Meeting. Chief Halstead came to me and said I would probably be forced to retire soon. I was not aware of this situation. This Executive Order that Mike Brown made in the City of Flint which essentially provides that if you are a retiree of the City of Flint, who up to now had lifetime health care benefits, this Executive Order cuts off those health care benefits if you go to work for another employer and health care benefits are available to you. Our Fire Chief has his own personal reasons why he is not comfortable changing health care providers at this stage in his life. Rather than changing health care providers, he informed us that rather than changing health care providers, he would probably retire. We have 2 City of Flint employees that retired from the City of Flint, the Treasurer and the Fire Chief. Both hired in as City of Flint retirees, both who had lifetime health care benefits, we believe when they hired in here, and who now as a result of the Emergency Manager's action, would be required to take health care now from the City of Burton because health care under our existing ordinance would be available to them. This ordinance amendment says if you are hired with health care benefits being provided by a former employer, then health care benefits are not available to you from the City of Burton. That is what this ordinance amendment does. It affects only the 5 administrators. There are only 2 that are directly affected and they have no objection to this ordinance amendment. One is very much in favor of this ordinance amendment and one is ambivalent to it. Other than these 2 it may be decades before any other of these 5 administrative positions are ever affected again.

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Mr. Austin stated further, these 2 positions could save the City approximately 21,000 a year by the adoption of this ordinance. Mike Brown, by doing his job is trying to save the City money, but he is doing it by having those costs put on in this case, the City of Burton. This ordinance is saying we don't accept those costs. The Emergency Ordinance has to be adopted by the affirmative vote of 4 or more Councilpersons. Since there is only 4 of you here, it would have to be adopted unanimously this evening. It can be adopted with just one Reading. There will be no Second Reading. The maker of the motion would make a finding that the ordinance amendment is necessary for the preservation of the public peace, health and safety. I put in my letter that we believe that it is necessary for the preservation for the peace, health and safety because it will save the City more than \$20,000 annually in health care expenses and it will likely retain the services of a valued and respected and necessary administrator who might otherwise be forced to retire if this ordinance is not adopted tonight.

In summary, Mr. Austin stated that is why we called Council together for this Special Meeting. We are given to understand based upon a meeting Chief Halstead attended, the implementation of this Executive Order is to commence August 1st. This ordinance will become effective immediately upon publication, which will be Thursday, July 26th and will be in effect August 1st, when the Executive Order begins implementation.

AUDIENCE PARTICIPATION: None.

COUNCIL DISCUSSION:

Mr. Heffner said it will save the City \$21,000 a year.

Mr. Martinbianco said in addition to legacy costs rolled in. May be down the road, years to come, assuming the Emergency Manager Law stands the test of the voters should it get to that level from the Supreme Court, could have implications later on for future administrations down the road should they choose to get somebody from a different administration and they also employ the same concepts.

Mr. Wells said thank goodness the Mayor was on point on this and caught this before August 1st. I am sure Chief Halstead brought it to your attention, but the rapid response is very much appreciated. Mr. Wells asked Mr. Austin if he felt he covered his bases good enough that we can adopt it tonight and you feel it won't be over-ruled somewhere along the line.

Mr. Austin said provided that the maker of the motion makes a finding as I indicated that it is necessary for the preservation of the public peace, health and safety of the community. I laid it out why we feel that it is. I think there is an adequate basis for that. The Charter allows for these emergency ordinances. We never did it before and don't abuse the privilege of having emergency ordinances. In this case we need to have an ordinance in place before August 1st. This is what we had to do.

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Mr. Wells said he thinks we are on point right here and staying on top of this. I don't know exactly how much power the Flint Emergency Manager has over us. We are kind of doing this after the fact, but we are covering ourselves too.

Mr. Austin stated Chief Halstead's comments were made to me Monday night and we are responding as quickly as possible. I finished writing this ordinance 5:00 p.m. yesterday afternoon.

Mr. Wells said he appreciates it and we have to do it. He hopes everyone agrees. Anything that can save money down the road, and maybe something we need to look at some point before the next budget session that we can make some other changes to that. They still will be able to get a \$1,500 stipend even though the insurance is still not available to them.

Mr. Austin stated he put in the ordinance a provision that would allow them to continue to collect the \$1,500 benefit even though they no longer technically voluntarily not taking Burton health insurance. Under the ordinance it would no longer be available to them. Since this whole thing wasn't of their own choosing, the Mayor and I spoke about it. We kind of came to the conclusion we would preserve that \$1,500 benefit for them. We leave it up to you.

Mr. Wells said that is the only possibly sticking point for me. Because it is not available we are kind of offering them. It could be determined to be a raise or part of their benefit package and with negotiations with the unions right now; they might pick up on that and make it a little tougher. The \$1,500 doesn't make that much difference. We are saving \$22,000. It is a very small percentage. He would like to hear from others.

Mr. Martinbianco said Mr. Wells raises a good issue. One of the provisos that pervades with all the Charter five offers that same extension should they choose not to take. It goes back to the question, offering acceptance if you choose to take health insurance or it is available, does it matter if you elect not to and you take \$1,500 does it constitute a contractual agreement between taking health care and the availability of it and not taking it and receiving a stip-end as opposed to not having it in there at all. I would like to hear the Mayor's thought process on it.

Mayor Zelenko said as an example if she was one of the Charter five and I don't take the City's health insurance and I am eligible to take the \$1,500, I am covered on my spouse's insurance. You may have another Charter five member that may be covered under their spouse's so they choose not to take it.

Mr. Martinbianco said you are suggesting that the City of Flint would be the spouse to the administrator's at hand.

Mayor Zelenko said it is a good point. I chose not to eliminate that at this point. It may be something you want to look at again because we are going to have to visit this ordinance again I am sure.

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Mr. Martinbianco said that is my thought and if it will ameliorate that I don't know necessarily the City of Flint is in a position to take us to Court saying you are trying to overstep our bounds and our ability to exercise what we do. They would have to do the investigative research to find out whether or not and make the judgment to say whether or not there are some contractual liability within the ordinance as amended or what was their intent from the beginning and take that stip-end as a partial compensation for not taking the insurance. If they wanted to take us to Court over that or take someone to Court over that which I don't think they have the financial ware with all to do. I would take my chances at least at this point so we can get this in place and if we have to go back and revisit Ordinance 30.03 in December or January depending how contract negotiations go.

Mr. Wells said my only question is the sole purpose of this ordinance, is to not give them the option to take our insurance. That is what we are changing. They no longer have an option to take our insurance. How can we still offer the option of \$1,500.

Mr. Martinbianco said the only other thing you can do is to say in those 2 individuals job titles, change their base wage to reflect \$1,500 in an increase in lieu of that. I don't know if that makes muster with transparency with respect to what we are dealing with today or if we are trying to sub refuse the system. That is the only other outcome I can see is to increase their base wage by that \$1,500 which they end up getting taxes out of. We could do it that way if that would be more preferable. I would be more comfortable doing that. That doesn't necessarily preclude the fact if and when the successor of those 2 jobs come in, we can't fudge those numbers around. That goes back to my question because of the specifics of approving Sub Section G and the way the meeting was held, if we can go back and make further additions to Ordinance 30.03, because it was specifically called regarding health care coverage, if we can go back and change those other things, or if we have a gentlemen and gentlewomen's understanding that we are going to eliminate that proviso, just to take off the table tonight and at some point in the future, go back and revisit the \$1,500.

Mr. Austin said we need 4 votes. We can do it either way, with or without the \$1,500.

Mr. Wells said to me, at this point in the year, I think they are probably already entitled to part of that money, so it doesn't make any difference. You said you want to revisit this in January. That could be one of the main reasons to revisit Ordinance 30.03, to look at that. If we are not going to give them the option to have our insurance, they should not get the option to take the money. We can make it like you said, to make it part of their salary when it comes up again. If someone wants to get a hold of this and says they don't have the option to take the insurance, why are you still paying them.

Mr. Martinbianco said it could have other implications not only with the Charter five but as you go back down the road with other bargaining units because we are still in the state of flux with those.

Mr. Austin presented ordinance proposal #1 and ordinance proposal #2. He said ordinance proposal #2 eliminates the \$1,500 option, or stip-end.

Mr. Martinbianco stated for the record, they prefer to state stip-end.

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Mr. Austin said Option #2 eliminates the \$1,500 stip-end for choosing not to take the City of Burton insurance, which would not be available if we adopt this ordinance. For Chief Halstead, he would gladly take the \$1,500 hit not to have to change insurance and retire. He will be thrilled if Council passes either one of these options. The Treasurer is not going to be so happy if he finds out that he had to take a \$1,500 hit. Mr. Austin expressed that the Treasurer is doing a great job for this City. We just didn't want to take money out of his pocket.

Mr. Wells said the fact you did this tells me we are on the right track with Option #2. I think probably whatever has been negotiated; he will already get that \$1,500 this year. In the future, they will know going in they are not after we past this.

Mr. Austin asked if he has already received the \$1,500.

Mayor Zelenko said that is not paid out till December or January.

Mr. Martinbianco said it is still in this budget year. We may have to figure out how that may or may not work out. If City of Flint really wanted to go after somebody specifically and Mr. Bingaman with his credentials and his work he is still doing with the City of Flint, I think that is probably not going to be an issue that will be broached by Mr. Brown.

Mr. Wells said the residents like him and every time I go up there he is working and at the counter. The things he has initiated going after tax money and water bills. I would never take anything away from him. I think the right thing is #2 and believe he will already be taken care of and there won't be any questions.

Mr. Smith said he also would support #2. The \$1,500 can be handled at a later date.

Mr. Martinbianco said you referenced a preface.

Mr. Austin stated he would appreciate the maker of the motion make a finding that I do believe this ordinance amendment is necessary for the preservation for the public peace, health and safety of the community and will serve to save the City more than \$20,000.

Mr. Heffner said he would like to see the \$1,500 moved into their pay. He would hate to see them take a hit for something the City of Flint did and nothing they could control.

Mr. Martinbianco said I am sure we will have that discussion at a later date and we will ameliorate that fact and probably have to go through again Ordinance 30.03, and in addition some other contracts where we do contract work and how that may play in with people that come through other areas of employment.

Mr. Austin stated the ordinance will be published on and become effective on July 26th.

Mr. Martinbianco thanked Mr. Austin and Ms. Amanda Doyle for being here.

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COUNCIL ACTION:

Heffner moved and Wells seconded the following motion:

1. Approve and authorize the adoption of an Emergency Ordinance pursuant to Burton City Charter Section 5.3(b) to preserve the public peace, health, and safety and to save the City more than \$20,000.00 annually in health care expenses, which ordinance shall amend Sub-Section G of Section 30.03 of the Codified Ordinances of the City of Burton regarding Health Care coverage for Administrators in the City of Burton.

Motion carried 4-0.

Meeting adjourned at 5:45 p.m.

Julie Adams, City Clerk