

CITY OF BURTON
COUNCIL OF THE WHOLE MEETING MINUTES
OCTOBER 1, 2012, 6:00 P.M., COUNCIL CHAMBERS
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The Meeting was called to order by Council President Martinbianco at 6:05 p.m.

MEMBERS PRESENT: Ellenburg, O'Keefe, Martinbianco, Heffner, Smith and Wells.

MEMBERS ABSENT: Haskins.

OTHERS PRESENT: Mayor P. Zelenko; Attorney R. Austin; Attorney P. Bade;
Police Chief T. Osterholzer and J. Adams, City Clerk.

PURPOSE OF THE MEETING: Discussion and possible recommendation of the following:

- 1. Adoption of a Scrap Metal Ordinance; Existing City of Flint model of Scrap Metal Ordinance.**
- 2. Ordinance #2012-____-113.01, An Ordinance Amending Chapter 113 of the Code of Ordinances of the City of Burton by the Addition of Text Changes, Permitting Administrative Approvals for Outdoor Recreational Events that Meet Specified Regulations, and Providing Penalties for the Violation Thereof.**

PRESENTATION:

Mr. Martinbianco stated they would be removing Item #2 on the agenda. He is sending it back to Legislative Chairperson to put on a future agenda after the election.

Mr. Austin stated that he read a newspaper article about an ordinance which the City of Flint signed into law on Aug. 8, 2012 by the Emergency Manager, Michael Brown. He says this law will take effect around Oct. 8, 2012. He contacted Pete Bade, City Attorney, and told him that given the number of similar crimes he prosecutes, he has an interest in this subject matter. He provided handouts of the ordinance that the City of Flint adopted and contacted Burton DPW for their thoughts on this ordinance. I will not attempt to do anything yet, in regards to putting a City of Burton ordinance together, until I get a better idea as to what this Council wishes to do. Mr. Bade volunteered to appear here today. I have reviewed this ordinance very carefully. Mr. Bade drafted the ordinance and has thoughts as to how the City of Flint envisions implementing this. Mrs. Ellenburg has contacted some people that are in the scrap metal business and asked them to appear here tonight to give their input. This is just an informational gathering session. At the end of the meeting, Council may or may not wish to adopt this ordinance.

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Pete Bade, City Attorney, stated this is an issue of an epidemic nature in our community that no one municipality can really solve on its own. We would like everyone to take a unified front. We are not looking to put legitimate scrap metal companies out of business or make it difficult for them to conduct their business. I sent a letter to all the scrap yards and have invited them to contact me and submit questions and comments. We are very interested in their input and in what they think about the ordinance. The concept is to issue two types of permits. Possibly a temporary permit for people who just want to scrap an item from their home occasionally and an annual permit for businesses like contractors that routinely scrap. Our approach is to keep the permits low to not make them a source of revenue, but simply cover the cost of issuing the permits. The other important aspect of is to have this be a web based model. We are currently working with a company to develop a website. Part of this would be open to the public so that everyday citizens can see who is buying and selling the scrap. It would also allow for the scrapyards to easily submit the information that is required for us. Mr. Bade stated further that periodically he receives paper receipts that contain coded information about what the scrap yards receive and he has no ability to decipher what it is. This has been going on for years. The Police Department is supposed to get fingerprints, however being short staffed we don't have the personnel to sort through all this. There is a non-profit group in Flint called the Citizens Nuisance Task Force in Flint that has played a key role in helping us. This Task Force is made up of volunteers that will be involved in helping monitor what scrap yards are doing. We secured funds last year through enforcement actions on a couple of scrap yards. The City Council considered revoking their license to conduct business. This matter was resolved but as a result of that we have secured funds of \$25,000, and with these funds we are developing a website. Any one in Genesee County will be able to join the website for free and receive the permitting equipment for free. The website development is based in Grand Blanc. They are very thorough and are trying to put together something that's user friendly. A lot of these scrap businesses are very honest and have been in our community for a long time. I am collecting feedback from them and will be setting up a meeting to address their concerns.

AUDIENCE PARTICIPATION:

Barbara Warson, 4304 S. Center Rd, stated she read in a newspaper that a new scrap yard would like to open and they would have all types of metal and pipes lying around. The area they spoke of was south of Carters Lumber, east of Dort Hwy, west of Center Rd. That would put it pretty close to her back yard. She says she does not want this. She feels there will be problems with possums, skunks, raccoon, mice, rats etc. She doesn't think Burton is overrun with rats however she does have a horrible problem with groundhogs and moles. She asked that this request be turned down.

John Stapish, P.O. Box 190134, Burton, stated when you see an individual riding on a bicycle into a scrap yard with a backpack that is full of copper, one would wonder where he got it. He had a house that was broken into and the walls were torn out to get to the copper. This is a big problem that all landlords have, especially in the City of Flint, and he is very glad to see that this subject is coming up. He feels the City should take a good look at this.

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Rich Fuhst, 1208 S. Genesee Rd, stated that if this ordinance is to be put into place in Flint, Burton, Grand Blanc, etc., it will not solve anything unless this is statewide. If this is not statewide we will be wasting our money trying to set up these kinds of ordinances. Personally, he only goes to a scrap yard three or four times a year. He goes to Oakland County a couple times a year to turn in scrap that they won't take here. If he had to purchase a permit to sell scrap in Genesee County, he would take his scrap to Oakland County and the scrap yards in this area would lose out on the money they could have made. In the long run you will be hurting businesses and you're not going to solve the problem. Mr. Fuhst feels the only way to solve this problem is with a statewide law. Without a statewide law, you're just going to move sales to the next county.

Jerry Williams, Owner of All-Tech, 3234 Card Drive, stated that he owns the recycling yard around the same area as the one that is requesting to open. Right now scrap metal is a pretty hot commodity. If someone has scrap metal in their yard, the code enforcer could go out and apply a warning or ticket. When I receive scrap, I am pur-say the "officer". I am the one who is going to make sure that the person turning in the scrap metal is not under the influence of any drugs or alcohol before I can take anything from them. We can usually get a pretty good feel about the person bringing it in and whether they are on the up and up. We take everything from construction scrap right down to the person bringing in siding off their house. We require information from the person such as address and driver's license. I feel that with an ordinance like this in place, people will take their scrap to another county. Most of the recyclers have a web page where they will list stolen items. If someone steels from us we have them on camera. We had some stuff stolen a while back and I had them on tape. I had a license plate number, description of the vehicle and even knew where they took the stuff. I gave all this information to the police. They said that they didn't have the revenue or the time to go after the people. They told me to turn it into the insurance company. If with this ordinance, it will require the police to do more, I don't see that working. There does need to be better relationship and more communication between the scrap yards and the police. Mr. Williams thinks there may be a better way to do this than throwing an ordinance out there and saying if you don't do this we will close you down.

COUNCIL DISCUSSION:

Mr. Martinbianco asked what the difference is between a junk yard and a scrap yard. Mr. Bade says that if they are purchasing, they are a scrap yard. We have a separate "junk" ordinance and this amendment to our code would pull out scrap metal and treat it differently than someone selling other junk items.

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Mr. Heffner asked if he were to redo his home, with this ordinance in place, would he have come to the city and get a permit to scrap? He doesn't think the city should profit from this. He says with scrap metal being so high right now there are a lot of retirees and people picking through garbage cans to make a few bucks. He doesn't think it's the city's business to get a piece of that action. If you want to give permits out for no charge, he could agree to that. He feels that if he has a washer and dryer that he wants to take to the scrap yard he shouldn't have to pay the city \$20 dollars for a permit to get \$30 for a washer and dryer.

Mr. Bade responded that one of the primary purposes of the city is to provide the safety and welfare of the people that reside there. When you have neighborhoods with homes that are valued at \$8,000 or \$10,000 and all of the copper is stripped out it becomes valued even less. Then you further degrade the value of the entire neighborhood. No one is going to come in and re-plumb or replace electrical and aluminum siding. Mr. Bade agrees that there is a tradeoff. People will have to come in and spend \$2.00 on a temporary permit to sell a \$30.00 washer. There is a hardship but that hardship is balanced by the hardship to the community and is being ravished by what he describes as an epidemic of scrap metal theft. As a governmental entity, you have an obligation to protect the welfare of your constituents. This isn't a total fix but it will make it more difficult for a thief to sell a basket full of copper piping and hopefully the objective is to protect neighborhoods that are being ravaged by scrap metal theft.

Mr. Heffner suggested putting neighborhood watches together. There are more good scrappers than bad. Some of the scrap yards do not even watch to see what is being unloaded. Mr. Heffner feels that \$2.00 is a lot for some people and he just doesn't think it is right to charge.

Chief Osterholzer stated he thanks Mr. Bade in his efforts in putting all this together and for his vision at looking at more than outside of Flint. It is a county wide problem and it is an epidemic. We have literally hundreds of unoccupied buildings that are a victim of home invasion/copper theft. They could take their scrap to Oakland County but a lot of statewide projects start as city wide projects. He feels that someone has to lead the way. I think this is a very good starting point. This is long overdue and someone needs to do it or it will continue to happen. As far as Mr. Williams comments, we aren't trying to make it more difficult for you but I think having these people get a permit through us first would actually take the liability and a lot of the heat off the businesses. If they show up and don't have a permit the business would simply turn them away. But I am only seeing it from my side not from your side of the business. I like the fact that we can get onboard, computer wise, at no cost. I like the way the ordinance covered the purchasing of licensing for both the business buying the scrap and the person selling it. I think it does an adequate job of addressing our local homeowners by allowing them a temporary permit. I like the way the ordinance allows for police, fire and building inspector to go onsite and do inspections without a warrant. The ordinance does a nice job of covering the authority to hold the property for 15 days or longer if necessary. The ordinance clearly defines how these scrap yards are to be kept so that they are not the target of further theft and become eyesores in our community. I am in favor of the ordinance because I see how often we deal with it. We have a tremendous amount of home invasions to unoccupied homes.

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Chief Osterholzer stated further, one of the last arrests we made was a man who had a “shopping list” for Burton through the real estate listings. He had checked off the homes that were occupied and unoccupied. We caught him after he had probably broken into 20 or 30 homes in the City of Burton. So it is a huge problem. Thefts of air conditioners are a big problem also. Thieves are probably getting \$40 worth of copper but ruining your \$10,000 commercial air conditioner. I feel that we have to do something to try to curb this problem and this isn’t going to happen until we make it harder for the illegitimate scrappers to do their business.

Mr. Wells stated many good points were brought up. The animal complaints, raccoons and skunks are completely out of control. I certainly don’t want to see any more of that, especially rats and infestation. He suggests possibly waiving the permit if someone has a receipt for what they scrap, an example would be a washer & dryer, or they can set it out to the road. Mr. Wells believes for every action there is a reaction. If people don’t want to get a permit for scrap because they don’t want to deal with the government or if they don’t want to set it out to the road then their scrap will probably end up in their backyard. Before you know it, the junk becomes a problem and we are making another ordinance that says you can only keep so much in your yard. About a month ago he caught a guy taking pictures of his house and when he asked him what he was doing he almost caused an accident trying to get away. Mr. Wells said the Chief told him that there are people coming in from out of county looking at houses, setting their shopping list up so they can come back at a certain time and rip you off. We used to have a lot of success with block clubs until your neighbors changed and you didn’t know who your neighbor was. He thinks the block clubs have pretty much ceased to exist. He read the ordinance and there are questions he still has but will hold off until the next meeting.

Mr. O’Keefe says that he can see what Mr. Bade is trying to do with this ordinance. He spoke with Chief Osterholzer the other day and he told him that under domestic disturbances, B&E is the second largest group of calls. Genesee County has blocks and blocks of vacant homes that have been stripped, they are of no value and there is no money to tear them down. Mr. O’Keefe thinks that we have to look at this with an open mind and do the right thing for the people too. He spoke to Mrs. Abbey and the Deputy Director of DPW regarding any new scrap yards coming to Burton and they had no knowledge of any. He also spoke to Chief Halstead and he gave it his full endorsement. Mr. O’Keefe feels that we all have some work to do to get this ordinance to fit what the City of Flint is doing and all the surrounding communities. Maybe Oakland County will realize that people from our county are going there and if they also have theft, they may decide to do an ordinance like Genesee County did. Someone said these ordinances start as grass roots, sometimes catch on fire and end up as a State ordinance. We do not want to affect the law abiding citizens or business owners; we are trying to get the bad guys.

Chief Osterholzer stated that it is not only the vacant homes; it’s also with new constructions that have had a problem with theft.

Mrs. Ellenburg asked for clarification on who would have to purchase permits.

Mr. Bade responded, they are considering a provision where a contractor or homeowner that is doing remodeling to their home would not have to purchase a permit to scrap.

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Mrs. Ellenburg said she likes the requirements stated in the ordinance on the fencing for scrap yards. She does agree that if we start this ordinance, other counties and other cities will have to put something in place also. She applauds Mr. Bade for trying to put something together for Genesee County.

Mr. Austin asked Mr. Bade if he has had any discussion with surrounding communities or with any representatives from Genesee County.

Mr. Bade stated that he spoke to Sheriff Pickell and Peter Door, who represents Mount Morris or Mt. Morris Twp. He is interested in sitting down and following up on this.

Mr. Austin said some of the provisions of the ordinance carry misdemeanor criminal sanction and some carry civil liability sanctions. He asked if the overall ordinance is a misdemeanor where it is not specifically provided.

Mr. Bade replied yes this is correct.

Mr. Austin said that there are specific portions of this ordinance that are deemed to be civil infractions taking out of the criminal realm. Mr. Wells raised an excellent point that if you had a receipt for the item you want to scrap or can prove that it came from your residence then you should not need a permit. This would establish ownership and remove the doubt.

Mr. Wells asked if we could include this permit on the permit that you have to get when remodeling or building, so that the permit may read something like "change aluminum siding and scrap aluminum siding".

Mr. Austin stated that this is a good point.

Mr. Martinbianco spoke regarding pawn shops and the procedures they have to go through on receiving and holding merchandise for so many days before it goes its forfeiture and they can sell it. He asked how often pawn shops are checked up on by the City.

Mr. Bade stated currently, given their resources, they are not checked often. Their Police Department is running priority calls 24-7 and that is just the reality of life in Flint. They are trying to leverage this volunteer group to assist us with monitoring what's going on at the scrap yards, to see if they are really checking permits and to observe the volume. In Flint we have the legitimate scrap yards and then we have the scrap yards where there are lines of cars and people on bicycles on a Sunday selling stolen scrap. We just don't have the manpower to address this and hope that we are going to attempt to use volunteers to do that.

Mrs. Ellenburg stated she would like to have further discussion on this subject at the next Council Meeting on Oct. 15th at 6:00 p.m. She suggests having the meeting for the Recreational Parks & Rec amendment at 6:00 p.m. with the legislative committee and then after that we can go into Committee of the Whole to revisit this issue.

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Mayor Zelenko stated that Monday, Oct. 15th at 5:30 p.m. is the CDBG Public Hearing and at 6:00 p.m. Tadd Harburn will be here to give the report from Plante & Moran.

Mr. Martinbianco said that since we don't know how long these meetings will last, perhaps we should reschedule for another night.

Mrs. Ellenburg suggested moving the discussion to the Nov. 8th Council Meeting at 6:00 p.m. and the Council Meeting of the Whole would be at 6:15 p.m.

Mr. Austin asked if he needs to get started on the Burton ordinance or if he should work off the City of Flints ordinance for now.

Mr. Martinbianco suggested Mr. Austin work off the City of Flints ordinance for now and we can change the wording as needed if the ordinance for the City of Burton is passed.

Meeting adjourned at 6:52 p.m.

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