

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

Meeting was called to order at 8:03 P.M. by N. Dombrowski, Council President.

COUNCIL MEMBERS PRESENT: Mann, Mikulich, Dallas, Dombrowski, Kita, Paris and Card.

OTHERS PRESENT: Mayor Wurtz; R. Hamilton, City Attorney; J. Rabine, Director of DPW; J. Major, Assistant Director of DPW; B. Becker, Controller; M. Martinson, City Clerk.

PURPOSE OF THE MEETING:

Discussion Re/Federal Revenue Sharing Funds

PRESENTATION: Mayor Wurtz

This presentation is a synopsis of last week's Finance Committee Meeting. Figures used are probably repetitive of past Federal Revenue. This money is not to be used to supplement our work force. Federal Revenue funds are to be spent in such a way that if the money were taken from us, it would not affect us in any way.

The items before you are items we could not have purchased without Federal Revenue Funds.

The figures used to arrive at \$160,000 - Our budget has five (5) sources of income: (1) General fund which subsidizes the police, fire departments and all the City Hall services; (2) Local Street funding from the State; (3) Major Street funding from the State; (4) Community Development funds; (5) Federal Revenue Sharing Funds. One of those funds has been ear-marked already - the Community Development Funds. We collectively have decided to put the entire \$730,000 into capitol improvements into the target areas.

Federal Revenue Sharing - Later.

We have been working for the last three weeks on the major, local street funds and each department has spent considerable time on their budgets these past two (2) or three (3) months. In anticipation of the Federal Revenue Funds, we carefully considered the number one problem within the City - the conditions of our local streets. Therefore, in our general fund budget we were all faced with little or no growth. We went through the \$2.1 million dollar general fund appropriation and came up with a surplus of about \$60,000 - \$65,000, with accepting the additional mill by Charter due us this June or July.

The next two budgets were the local and major streets budget. It has been past practice to pass down 25% of allocation for major streets to local street funds to give better service. This was done again this year. I've decided we need to hold in line any major expenditures. Again, we came up with a surplus as within our budgets, we were limited to the bare necessities. \$150,000 - \$175,000 - we aimed to reserve this amount for our local street paying projects. General Fund - \$80,000, local streets - \$150,000 - this is about $\frac{1}{4}$ of a million to be used for now eligible areas.

The City has arrived at the fact that it could afford 10% of construction projects. This has always been a contingent expenditure in our budget. With a 10% inflation factor, this amount is not sufficient. It becomes increasingly difficult for residents to pay this additional 90% of their assessments. We need to help our residents in any way possible. There is still room for improvement within our eligible and non-eligible

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

PAGE -2-

areas. Rather than giving major streets priority, I'm presenting a plan to work on our local streets. We can combine these five sources to meet this need. We need to encourage our residents to help themselves. In the past, we have used Federal Revenue Sharings for addition to Motor Pool, Fire Hall #3, etc. The Senior Citizens have been accomodated via Community Development Funds.

AUDIENCE PARTICIPATION:

Mrs. Doyka, 3352 Ellis Park Dr., stated that she concurred with the Mayor's recommendation.

Mrs. Beggs, 1405 Norton St., stated that she was in favor of paving our streets.

COUNCIL DISCUSSION:

Councilman Mann commended the Mayor on his excellent and thorough report, and he too concurred with his request.

Councilman Dallas asked re/Item #4 on the memo, if the building improvements are going to be in the Motor Pool?

Mayor Wurtz stated that the amount listed is to finish off the motor pool building - e.g. furniture, purchase of smaller items and mainly an electrical drop for a transformer (about \$9500).

Councilman Dallas asked about funds for the improvement of our Council Chambers?

Mayor Wurtz stated that money will come from general funds, from this year's budget.

ADJOURNED: Time 8:24 P.M.

Submitted by,

Mollye L. Martinson
Burton City Clerk

MIM/cml

Jeff

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978, AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

Meeting was called to order at 6:08 P.M. by N. Dombrowski, Council President.

COUNCIL MEMBERS PRESENT: Mann, Mikulich, Dallas, Dombrowski, Kita, Paris and Card.

OTHERS PRESENT: Mayor Wurtz; R. Hamilton, City Attorney; J. Rabine, Director of DPW; J. Major, Assistant Director of DPW; L. Finnin, City Treasurer; B. Becker, Controller; M. Martinson, City Clerk. Also, Anthony Ragnone, County Drain Commissioner and Wallace Benzie, Deputy Drain Commissioner.

PURPOSE OF THE MEETING:

Discussion of dispute between City of Burton and Roger J. Au.

PRESENTATION: Dombrowski

We received a letter from Attorney Hamilton stating that we could call an executive session if there was legal action to be discussed, or if an applicant for employment requested an executive session.

At the Regular Council Meeting, March 20, 1978, the statement was made that the City of Burton owed Roger J. Au about \$90,000. We received a memo from B. Becker, Controller, showing the final accounting of Au's sewer project. It was suggested that Council have a special meeting with Ragnone and Benzie to review all events pertaining to the amount owed.

Hamilton stated that there is pending litigation between the Drain Office and Roger J. Au. At what time interest began to accrue, I do not know. The amount due is per item used and accrued interest on that amount.

Councilman Dombrowski asked if at any future time Au could come back to Council and request more money?

Hamilton explained that in the final paragraph of the arbitration agreement issued in July, 1973, all outstanding amounts were included. Au cannot claim further amounts.

Councilman Dombrowski stated that according to the minutes of the Council Meetings in July 20, 1972 and October 6, 1972, there was an amount of \$400,000 limit owed Au. He then read the minutes re/this issue. He mentioned that Council had been given written dispositions re/recollections of those meetings from Finnin and Mikulich. Each agreed the City owed only \$400,000. In the October meeting, Ragnone or Benzie had said that the County would pick up anything over the \$400,000.

Mr. Finnin stated that Ragnone and Al Moore had attended that October meeting, not Benzie.

Mr. Ragnone explained that this dispute began in Township days, and at that time we gave you the best estimate we could give. On March 4, 1975, we had to pay Au extra money due to a misinterpretation of the specifications. At that time, you had two engineering firms working for you - Kraft and Snell and Snell. They had the same specs but could not agree on the interpretations. At that time, it was agreed that \$400,000 would be sufficient, but we needed more money. The only money we have is your money in your sewer fund. We suggested that we sell more bonds, but were told by the City that they would pay the balance in cash. Since then, interest has accrued on that amount as well as additional legal fees.

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

PAGE -2-

Councilman Mikulich asked if they were implying that an engineering error is responsible for this amount now owed?

Mr. Ragnone said yes. Mr. Hamilton explained that there were two engineering firms involved. Each supervised a different part of the project. One firm asked for additional funds for granular back-fill. The other firm thought the amount included the price of the granular back-fill. This dispute was submitted to arbitration, and the contractor (Au) was granted \$137,100 for extras.

Councilman Mikulich asked if all these suits were filed by Au? Mr. Hamilton stated that these are all a part of one law suit filed by Au. He explained the various sections of the law suit. An arbitration was held, and the additional amount has to be paid. There was a reservation in the judgement for hidden defects for an obligation of 1 year after the completion date. The hidden defects were the responsibility of the contractor during that year.

Councilman Dombrowski asked who hired Kraft and Snell and Snell?

Mr. Benzie stated that the Township of Burton selected them, and the County hired them through the Drain Office.

Mayor Wurtz asked if this \$137,100 was part of the \$400,000 or was it \$400,000 plus \$137,100?

Mr. Hamilton stated he did not know where the \$400,000 figure came from..

Mr. Benzie stated that the \$137,100 is part of the \$400,000, not an addition to. All potential liabilities including the \$137,100 are lumped into the \$400,000. He also stated that they anticipated hidden defects. Their amounts for all liabilities were \$60,000. There are additional fees for interest and legal fees accrued to date.

Mayor Wurtz asked what is the amount of our legal fees? Becker stated there is \$21,387.60 due for interest and \$20,800 for legal fees.

Mayor Wurtz stated that \$20,800 was not all legal fees, but \$9500 was paid to a CPA firm for an audit and \$10,500 was split between McTaggart and Hamilton.

Councilman Dombrowski asked if the arbitration award of \$137,100 was for the granular back-fill, and was this in dispute from 1972 until 1975?

Mr. Hamilton said yes, that was to become a part of the \$400,000.

Councilman Mikulich asked when it was determined that we owed these audit fees?

Mr. Becker explained that the \$9500 was not all audit fees but included legal time spent on notices and Public Hearings, which were required in securing HUD monies.

Councilman Mikulich stated that these fees should have been taken care of in 1972. Mr. Becker stated that they were.

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

PAGE -3-

Councilman Dombrowski asked if the amount of \$400,000 should have read: \$400,000 minus \$32,000 and/or the additional \$137,100 should be shown as \$537,100? Mr. Benzie said no. Within the \$400,000, we anticipated the hidden defects.

Hamilton explained that at the time we did not know what hidden defects there were, but we were concerned about them. Our concern was due to the number of sewer failures. The hidden defects would show only as the sewers failed, and we did not want to preclude ourselves. There were \$60,000 of defects which did arise after the arbitration judgement that the Drain Office felt was Au's responsibility.

Councilman Dombrowski stated that \$137,100 was included in \$400,000, right? And that the hidden defects would not exceed this \$400,000 amount?

Mr. Benzie: Right.

Councilman Dallas asked if the document of June 8th, 1972 was binding on all parties signing it? Hamilton: Right. Councilman Dallas said that \$137,00 is mentioned, and asked if that represented the claim for granular back-fill? If an agreement stated this amount was due to the contractor, then why was it never paid?

Hamilton explained that the first portion of the agreement defines the dispute and between which parties - then who owes what to whom. On p. 11, the amount of \$137,100 is mentioned for granular back-fill. However, this is not payable until all parties agree. The County withheld some funds from Au until this dispute is resolved. It was not determined until March 4, 1975, who was responsible to pay.

Councilman Kita asked of the \$400,000 allocated, what was our balance?

Mr. Finnin stated that we still owe \$32,346.98.

Councilman Mann asked that in the event the project would be more than \$400,000, did the County agree they would pay the extra or were you confident there would not be more than \$400,000 due?

Ragnone stated that the County is not responsible. The money comes from the City's sewer fund. Our office sells bonds to help you pay and we hold your money. All the money we have comes from bond projects. We have no money of our own.

Councilman Mann asked if the City of Burton owes \$89,000. Hamilton explained that the City owes the money to the Drain Office who owes Au. The contract is between the Drain Office and the City of Burton (the original contract was signed in 1969).

Ragnone stated that his office is a county agent to construct sewers. We build sewer projects for the communities in the County. The Community hires us and tells us what to do. We sell bonds for the Community to finance their projects.

Benzie explained that if there is ever any additional money left from any project, it is credited to that Community's account. Under the normal procedure, the Drain Office ceases the work on a project to sell additional bonds needed to finish a project. We were requested by the City not to this time as the remaining would be paid in cash to save additional interest.

Councilman Paris asked that if Council decided we are not responsible for this \$89,000, could we be assessed further legal fees?

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

PAGE -4-

Hamilton: Yes. The Drain Office would have to decide what to do. If Burton decides they are not responsible, this could result in litigation.

Councilman Dombrowski stated that the Township approved the firms, but whose responsible to determine the accuracy of these firms?

Ragnone stated that they are responsible to approve specifications, plans, amounts, etc.

Councilman Dombrowski asked why their office held two different specs from two different firms?

Hamilton explained that both firms had identical specs but different interpretations.

Mr. Finnin asked if when Ragnone requested \$400,000, that would be the final figure to end the disputes? Ragnone: Right.

Councilman Dombrowski said that in the meeting of July 20, 1972, re/\$400,000, you (Ragnone) said that re/hidden defects the County would pay the excess. But the Drain Office has no money, therefore, you could not say you would pay. But, on the other hand, if you felt no more than \$400,000 was needed, you might have said something like that? Ragnone: I doubt it!

Councilman Dallas stated that hidden defects would be taken care of by the County, could this have been the construction of sewers rather than money? Ragnone and Benzie concurred this was more likely.

Councilman Kita asked what is the balance due, with accrued interest?
Finnin: \$89,927.19.

Mayor Wurtz explained that we have \$32,000 plus accrued interest on hand.

Councilman Dombrowski requested no action by Council until the next Regular Council Meeting April 3, 1978.

ADJOURNED: Time 7:24 P.M.

Submitted by,

Mollye L. Martinson
Burton City Clerk

MM/cml

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

Meeting was called to order at 7:40 P.M. by N. Dombrowski, Council President.

COUNCIL MEMBERS PRESENT: Mann, Mikulich, Dallas, Dombrowski, Kita, Paris and Card.

OTHERS PRESENT: Mayor Wurtz; R. Hamilton, City Attorney; J. Rabine, Director of DPW; J. Major, Assistant Director of DPW; B. Becker, Controller; M. Martinson, City Clerk.

PURPOSE OF THE MEETING:

Public Hearing for Zoning Case #46, Davison Rd. at Covert Rd. Requested by International Rinks.

PRESENTATION: J. Major

This area was approved for a Site Plan previously. However, the developers acquired more land, and have submitted a better and more efficient plan for use of this space. They had requested a variance for a parking lot in the rear, and it was granted.

Mr. Young stated that previously they had two lots, each 66 ft. Now we have purchased additional property adjacent to our lots which gives us ample room. Rather than constructing the building in the front with parking in the rear we have decided to construct the building at the rear of our property with parking in front. We would like to reserve some of the space in front for future construction of a restaurant. This Site Plan presents better land utilization.

AUDIENCE PARTICIPATION:

There was no Audience Participation.

COUNCIL DISCUSSION:

Councilman Mikulich asked if the property acquired is to the East of now owned property?

Mr. Young said no, to the West - The property abutting ours was re-zoned. The neighbors signed a petition and none objected to our request for re-zoning. The front strip is zoned C-2, and the back is zoned M-1.

Mayor Wurtz said that he and two others met with Mr. Young and reviewed his new plans. They are much better than the ones previously submitted, even visually it will be more attractive. He recommends approval.

Councilman Mikulich asked that as there are residents on Covert Road, have you considered barriers to prevent problems? Mr. Young stated that they anticipate no problems.

Councilman Dombrowski stated that they mentioned a future restaurant in front, had they considered the locale of other fast foods near by? He then asked how far West is the first restaurant?

Major said the Old Imperial Restaurant is about 200 ft. West of them. He stated that this entire area is totally developed already and he did not see this strip becoming like Clio Rd. He stated also that the Planning Commission requested a variety of items from these people and they have complied with all site improvements.

Councilman Mikulich asked what the hours would be?

MINUTES OF THE SPECIAL CITY OF BURTON COUNCIL MEETING
HELD MARCH 27, 1978 AT 4303 SOUTH CENTER ROAD, BURTON,
GENESEE COUNTY, MICHIGAN

Page -2-

Mr. Young said he was not sure but thought 12:30 p.m. to 1:00 a.m.

Councilman Mikulich said his concern was with hot rodders in the parking lot, especially so near a residential area. He suggested protection be provided.

Major explained that there are a couple of items which Mr. Young will have to take before the Zoning Board; the waiver of a concrete wall and a special use permit to operate in C-2 zoning.

Councilman Dombrowski asked if an extra lane is required? Major stated that the Road Commission suggested none. They approved of the Site Plan.

Councilman Dallas asked if there would be proper acoustics within the building so that the music would not bother the residents near by?

Mr. Young said that there would be sound insulation to a point. The problem will be the noise in the parking lot rather than the noise of the music. It will be noise typical to bowling alleys.

Hearing was declared closed.

FIRST READING OF AN ORDINANCE:

Moved by Card, supported by Paris to introduce an Ordinance amending Ordinance 19 for property located at 4199-4227 Davison Rd., 231.17' West along the centerline of Davison Rd. and 374.2' North of the S $\frac{1}{4}$ corner of Section 3; thence North 615.04', parallel to the centerline of Covert Rd.; thence West 330'; thence South 615.04'; thence East 330' to the point of beginning, T7N, R7E, City of Burton, Genesee County, Michigan. Motion carried unanimously.

ADJOURNED: Time 7:58 P.M.

Submitted by,

Mollye L. Martinson
Burton City Clerk

MM/cml