

CITY OF BURTON
FINANCE SUB-COMMITTEE MEETING MINUTES
JULY 23, 2007, 4:30 P.M., COUNCIL CHAMBERS
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The Special Council Meeting was called to order by Chairman Ralph LaDuke at 4:30 p.m.

MEMBERS PRESENT: Major, LaDuke and Tinnin.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley, Attorney R. Austin, K. Foster, Controller, G. Kray, DPW Director, T. Harburn, Plante & Moran, PC., and J. Adams, Deputy City Clerk.

**PURPOSE OF THE MEETING: DISCUSSION AND POSSIBLE RECOMMENDATIONS
CONCERNING THE FOLLOWING:**

1. Fenton Road Water Line.
2. Ordinance 68-C.
3. Continued of employment of unfunded positions.
4. Hiring of summer help.
5. Web sight proposal provided to the Council by the Police and Fire Chiefs.
6. Updated budget information requested for all Council members.
7. Raises and upgrading employees outside of union contracts.
8. Discussion with auditors regarding forensic audit on Pebble Creek project.

Roll call taken. All members present.

PRESENTATION:

Fenton Road Water Line

Mr. Kray said Mr. Stein will speak later in the meeting on the Fenton Road water line. Mr. Kray stated he has been speaking with John O'Brien at the Drain Commission. Last year at this time, the City's estimate on the Fenton Road water line was \$750,000 with contingencies. A year of cost increases will make it near \$800,000.

AUDIENCE PARTICIPATION:

Robert Giles, 4397 Columbine Ave., stated Bob Zirnhelt should be kept as the code enforcement officer. He has done a very good job and the best we have had. Mr. Giles said he does not care if it costs him another \$55,000 a year, he is willing to pay the price to keep him.

Laura Flewelling, 2497 Covert Rd., stated she is a member of the Burton Parks & Recreation. Her concern with the summer help issues are grass being cut, bathrooms being cleaned, flagging with the road crews, crack and seal and road repair jobs. Mrs. Flewelling stressed that this year Kelly Lake is more popular than ever with our residents.

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Mary Crawford, 6203 Briggs, said she has been a part of the Parks & Recreation since it started. Without summer help, their budget will not be able to take care of it because it would be the road crew on over time and there goes all our money. Kelly Lake along with the Burton Memorial is becoming a very big jewel in our City. It is used constantly. If it goes to weeds and bathrooms never being cleaned, it is going to fall on Council's heads and not the Mayor's. We can afford the summer help but not the road crew on overtime. Mrs. Crawford stated further, both code enforcement and the purchasing agent are very vital positions to our City.

Pauline Dargel, 6119 Hugh St., expressed concerns in the items on the agenda being paid for.

John Stapish, PO Box 190134, addressed code enforcement, notices he received on a vehicle, funds to pay summer help, raises and upgrades.

Tim Troxell, 12045 Rodell Rd., Frankenmuth, stated he represents the Local 1918 Chapter AFSCME Union. By pulling the funding that was a direct lay off and it seems like it was targeted to employees in our union.

Mr. LaDuke asked Mr. Troxell if they have a grievance procedure.

Mr. Troxell acknowledged yes.

Mr. LaDuke expressed that is what they should follow if you think you've been grieved.

Mr. Troxell stated they will but it has not taken place yet. As far as anyone else within our union, there is no one with a job description that deals with public nuisance. The only person that deals with public nuisance in the job description is code enforcement, therefore, it would be eliminated totally. If that is put on another employee, we ask for the right to negotiate it.

Mr. Kray acknowledged Mr. Stein is present to speak about the Fenton Road Water Line.

Mr. Stein said he wants to open the channels of communication and see if the City has interest in bringing the City water line down Fenton Road. He has about 180 units within his 3 properties and he is interested in hooking up to City water. Originally, when he started talking with the City the tap fees were about \$500 per unit. They since went up to \$1,000, and then \$1,500. Mr. Stein stated further, he was hoping since he can bring 180 units to the table, and the City would be open to discussion as far as the amount of the tap fee.

Mr. LaDuke inquired as to the amount of the City's tap fee.

Mr. Kray replied \$1,000 or \$1,500 depending on the procedure that is used, whether it is front foot fee or special assessment.

Mr. LaDuke asked if the first two units are direct and units after that have been changed.

Mr. Kray said it is one price for all units. The direct or indirect depends on whether the resident is assisting in payment for the line going past or not.

Mr. Major interjected that is in addition to the \$1,000 to the County.

Mr. Kray said that is correct, the County also gets \$1,000 per unit.

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Mr. Major asked if there had been any discussions with Mr. Stein and Jeff Wright, County Drain Commissioner, relative to available options that may be modified to accommodate an existing mobile home park, different from someone proposing a new park

Mr. Kray responded that he spoke to Mr. Stein about the fees that are currently in place. He has not yet opened the conversation with Mr. O'Brien on the possibility of a discount on the County fee.

Mr. Kray stated Mr. Stein would like to see if the Finance Committee and Council as a whole would be receptive to working with the total amount of tap fees.

Mr. Major expressed having conversations with Mr. Stein when he still worked in the DPW. He tried to gear him towards the Drain Commissioner and the Mayor's office because of the uniqueness of his situation. Mr. Major indicated he was always in favor that an existing mobile home park that needs public water versus the quality of water that is in the Fenton Rd. area.

Mr. Major commented to Mr. Stein that the amount of money he would have to put into his system to make it a more acceptable quality of water, is somewhat significant to you too.

Mr. Stein expressed it is significant in respect to dollars but it is not significant in relationship to what I would have to pay the City of Burton and the County, which will be in the \$350,000 to \$450,000 range. I can fix my water for 25% or less of the cost of the existing fees. My concern and interest is to get that area developed with good national type tenants. Right now it is not attracting the right kind of tenants because there is no City water there. My concern is twofold, I would like to see that area developed and if I can and there is some compromise on everybody's part, I would like to see if I can get the City water because I think it would be a benefit to my community too.

Mr. Major responded that personally as a Councilman, he does not have a problem considering your area. The dilemma I am in, is that when we allocate this kind of money, is it best to put it down an existing developed roadway versus a vacant property to lure in new development should you put it there, it is a tough call. But they have been there and paid taxes over a number of years and I was hoping that in some point in time, we would be able to put together the right two, three or four people and see what can be done with these tap-in fees. We know there is a cost sharing here between the Drain Commission and Flint Township. Whatever is driving Flint Township to push for this, I still would like to hear if it is Baker College or the need of other subdivisions on the other side of the road. I would like to know who the players are there and what their commitment to the dollars are.

Mr. Major stated further, he thinks this is something that needs to be worked out in an administrative or public works forum to bring it back to a Council to hear what it is going to cost and is it dueable. Mr. Major stated he appreciates Mr. Stein being here and Council needs to know you are still interested. The Drain Commissioner is going to have to work with us a little bit on this because of these tap-in fees. I think that is driving you in the other direction.

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Mr. Stein said as much as he would like to have the City water, for him to spend 75% more money to get the same quality of water, it doesn't make sense. I am certainly willing to spend a little more than I would to fix my situation in order to have City water and for the practical purposes of good development in that area. I think Council needs to think about the fact Flint Township is also willing to contribute a third to half. There is a lot of vacant land still left on Fenton Road that could be developed.

Mr. Major believes the key player is going to be the County Drain Commissioner. He has seen the schedule of fees adjusted for certain circumstances here in the County. He thought at some point in time they were going to re-open the schedule of fees due to the fact they are 30 plus years old and uses change. Mr. Major expressed further he is willing to sit down with administration and the Drain Commission and see if they would be willing to work something out so an existing mobile home park can be upgraded.

Mr. LaDuke asked what the current arsenic level is.

Mr. Stein replied that it is as high as 25 in one location and 11 at the other, and somewhere in between in the middle. Technology is there to fix it and it is not an impossible situation. Mr. Stein said he would appreciate Council setting up the meetings or whatever we have to do to get the ball rolling.

Mr. Major stated he would like to rule out all other sources. He believes there are other ways to get Mr. Stein public water. He is surrounded by public water at the corner, behind him and a little bit to the south. Tell me those aren't any good, they can't be used, why and what laws they violate versus getting you a short quick hook up there and just work your tap-in fees out to solve your problems. Or do we have to go the longer route for the public good and make the Fenton Rd. extension our priority.

Mrs. Tinnin asked Mr. Stein if the 180 units are all his.

Mr. Stein responded yes.

Mrs. Tinnin inquired as to a master meter.

Mr. Major said for the ease of the City, a master meter would be installed.

Mrs. Tinnin said the last time the County was here, they were presented some costs. Out of the \$800,000 Mr. Kray mentioned, approximately \$334,000 of that was built-in contingencies. The City of Burton's portion was somewhere around \$523,000. I would want to know what type of contingencies would absolutely be necessary, and as Mr. Major stated, whether or not there was another way to go about this instead of extending the line straight down Fenton Rd.

Mr. Major reiterated meeting with the Drain Commission and discussing contingencies. He stated if we get some serious negotiations with the DPW, I think Mr. Kray can take that contingency number and start whittling on that to get closer to making it a doable project.

Brief comments were made concerning Burton and Flint Township's share.

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Mr. Kray said of the 1 million dollars for the Fenton Rd. leg, about \$210,000 was contingency. The net on that would be \$800,000 split between Flint Township and Burton, and \$400,000 for the Fenton Rd. leg. On the Bristol Rd. leg, \$230,000 of which \$40,000 is contingency, so it is about \$190,000.

Mrs. Tinnin asked if the proposal is to be paid out of unappropriated surplus water.

Mr. Kray responded we could bond it but I would recommend this.

Mr. Major said it is one of those things we can see what is best economically for us with our revenues, and bring something back to Council and say this is a good reason why it may be bondable and the right thing to do. We may be able to use the Drain Commission as our bank and make payments to them if they do a bond issue. That was mentioned to us at one time too.

Mr. LaDuke acknowledged the presence of Tadd Harburn from the City's auditing firm and Attorney Rick Austin. He wants to make clear that the agenda items are for us to get answers to. The questions about summer help does not necessarily mean we want to get rid of them. They showed up to work and we were not notified. How are they being funded. We talked about a website for years – where are we at and lets get moving.

Mr. LaDuke said 68-C has not been visited for over a year and a half. He gave at the last Council meeting a proposed 68-C that he worked on. It mirrors the union contract just approved by City Council and negotiated by Administration. We eliminated health care and pension for all City Council persons which saves the City \$58,000 a year. We also reduced the pension contribution of the Mayor as an elected official, and that saves about \$17,000 a year. When we ask the employees to take concessions, the people at the top should take concessions. We started with ourselves.

Mr. LaDuke acknowledged the employees presence in the audience. He stated they weren't here when we had a \$158,000 fund surplus request to transfer because the building department was in the hole and it took 6 months for administration to address that problem. That is what prompted to take a look at the overall budget and where can we make cuts that truly do not adverse the City.

Mr. LaDuke stated further, Ordinance 68-C clearly models after the union contracts. The five administrators would receive a raise just as in the union contracts, plus a lump sum payment because they cannot by law get retroactive. In essence, they are getting the same dollar amount as those employees.

Mr. LaDuke said Section 5.2 of the City Charter states "the Council shall appoint the City Attorney and the City auditor who shall serve at the pleasure of the Council." We have asked them here to give us their fair answers.

COMMITTEE DISCUSSION:

Mrs. Tinnin questioned payouts. She stated the Mayor's contribution is up to 39.35 minus the 5%, so 35.35% we pay into his defined contribution.

Mrs. Foster acknowledged to Mrs. Tinnin that is correct.

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Mrs. Tinnin said if we are going to make this change right now, it seems like you would keep the Mayor the same right now as you would the contribution by the other employees into their pension system. She questioned why we would make it any different.

Mr. LaDuke said because he is an elected official. No elected official should think of getting elected for retirement. For the AFSCME union, the City is capped at 15%. I don't think when you go in for an elected term of 4 years or 2 years, you should look for that as a nest egg to retire. You are only as good as your last election. In these hard economic times, there isn't a newspaper I pick up whether it is in Burton, Flint or in Florida, that city governments aren't having financial difficulties. We are asking employees to continue to take concessions with health care and other extra things, and we need to do it ourselves. Being an elected official, I felt that position did too. I think 15% is a fair contribution for an elected official.

Mrs. Tinnin asked Mr. LaDuke if he has checked with other municipalities, other Mayors with the size of Burton what they are receiving and their contribution.

Mr. Major interjected that Mayor Williamson is receiving one dollar.

Mr. LaDuke said everyone complains about the State Legislature getting big increases and we can't do anything about it. We have the ability at this level to do something about it and we eliminated ours entirely.

Mrs. Tinnin said people want elected officials and those that are working for government to see some concessions from what she is hearing out there. They feel a lot of the elected officials are receiving way too much pay.

Mr. LaDuke said it is kind of ironic now that this subject has been brought up, everybody says it should be done but for years it was never done. At least if we can't have a legacy here in our short time, we have done something with this. Another Council can give back their benefits and we can't control that.

Mr. Major said he has a concern on the disability insurance for the Charter administrators. They are not required to create any type of a bank of days to cover them should one of them go on sick leave. They would receive no paycheck at all during a particular number of days. I don't know if that is fair in light of what the unions have.

Mr. LaDuke responded that this is what the unions have. The first month they get paid 100%, so they don't even have to create a bank. That is better than what the current employees have City-wide. They receive 100% pay for the first 31 days, and then after that two thirds of their pay.

Mrs. Foster stated that currently they have a year elimination period. In that year period they are guaranteed their salary for 100%. After that year, they receive two thirds from the disability company. In the union contract, that elimination period was reduced to 6 months, where they would have guaranteed 100% of their salary for 6 months, and then after that period, they would be receiving two thirds of their salary from the disability company.

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Mr. Major clarified that from the day an administrator in 68-C goes on sick leave, their paychecks will continue without any interruption for 6 months, and then there will be a reduction.

Mrs. Foster stated then they start receiving the checks directly from the sick leave company.

Mr. LaDuke expressed if the union contract says 6 months, he would hope the administrators get the same 6 months.

Mrs. Foster said she assumed it would be the same when she read it.

Mr. Major said his other concern is that when you look at the pay scales of the Charter Administrators, it has been history and in some cases justified, the Clerk's Office seems to be the office of the step child. We have a new Treasurer, based on our past history making \$59,769. We seem to leave the Clerk's Office at the lowest pay level here of the Charter group.

Mr. Major said under the present administration we have a Clerk with a bachelor's degree, I think a masters degree, taking over responsibility from the State unfunded mandates. I don't know what the credentials of the Treasurer are, but I would think we should at least pay those two offices equal. There is not a lot of money here, but I think it is more of a pecking order type of thing. I don't think the Clerk of the City should be the lowest on the pay scale. Based on the other salaries of the City, they might even be considered slightly low with \$69,000 for the Police Chief, the Assessor at \$74,000 and the Fire Chief at \$60,000. I think the Clerk should be moved up \$100 and some, or something like that.

Mr. LaDuke said that is the job of administration to recommend, and we have not received a recommendation for 68-C for over a year and a half. I am not here to upgrade any employee. I just took what they got and put the same raise in that everyone else got.

Mr. Major said I am expected to vote on something and I have my opinion as to what I think it should be.

Mrs. Tinnin said the 68-C she has in front of her has them at the same wage.

Mr. Major said his information doesn't.

Mr. LaDuke expressed it is a typo.

Mrs. Tinnin said 68-C is usually brought up by administration. This is kind of unique in itself. There hasn't been any kind of adjustment in a number of years.

Mr. LaDuke stated because we are part of 68-C is why I brought it up. It does raise the administrators in 68-C but we could have just brought sections of 68-C. Mr. LaDuke asked if the administration has any comments on 68-C.

Mayor Smiley replied normally he meets with staff and go over 68-C. They talk among themselves and come up with ideas they have and we present to City Council at that time. Obviously I have not had communications from anybody or the Council on 68-C. Without sitting down with my staff and going over this, I am not sure what their feelings are.

Mr. Major asked the Mayor if he intends to sit down with them during this calendar year.

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Mayor Smiley replied we are more than willing to sit down and talk with the staff on 68-C. We have discussed a little bit in staff meetings but not particulars of it.

Mr. Major asked when was their last wage increase.

Mrs. Foster stated March 8, 2005.

Mr. LaDuke said if someone is going to come and get this done they wouldn't wait since March of 2005. That is why I am taking it forward because from March of 2005 to March of 2006, to March of 2007 to July of 2007 is 2 ½ years. Apparently, these people don't need a raise or no one is going to bring it forward. I am not willing to wait personally for someone to bring it to us. We have been talking about 68-C for the last 4 months since I have been a part of Council and no one has addressed it to me. Why they haven't come forward, I don't know.

Mrs. Tinnin said she has been waiting on the administration. They usually bring it to Council and we look at it, have a First Reading, make any amendments we want before we do the Second Reading and it is voted on. I haven't seen anything and am not sure either what is going on.

Mr. Major said Mr. LaDuke has at least brought it to the table. The Mayor now knows we are in favor of doing something. This is enough of a push and we will see something come back from administration to consider.

Mr. LaDuke said it is his hopes to put this on for a First Reading the first meeting in August.

Mr. Major said hopefully they have a concurrence.

Mr. LaDuke expressed that his concern is why don't all the employees have the same benefits. Why is someone's life better than someone else. Why should someone get 100% and another person gets two thirds. What makes one life's better because you are in this position than you are in another position.

Mrs. Tinnin stated how do we have two other people, the IT person getting benefits out of two different areas. We have the Police Chief who is an administrator under 68-C but his benefits are also under the police union contracts.

Mr. LaDuke said they did it years ago and they accepted that.

Mr. Major said in some cases when you got promoted to a higher level and you left your union to go on a leave of absence to an administrative position, sometimes the administrators did not want those promoted supervisors to get their package. It sometimes revolves around a jealousy maybe, they didn't want you to get what they got and you didn't deserve it. That is not the way I feel. I think your fringe benefit package should be equal across the board.

Mrs. Tinnin said if you are part of the Teamsters, your entire package should be paid from the Teamsters contract.

Mr. Major said he has no problems with what Mr. LaDuke proposed.

Mrs. Tinnin expressed going forward at the August first meeting.

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The Committee addressed Item #3 on the agenda, Continued employment of unfunded positions.

Mr. LaDuke said the City Council after reviewing the budget, didn't choose to fund certain positions. It is my understanding that those people are still working. When you have a department that is \$158,000 in the hole, revenues are projected for next year that we don't know for sure will be there. It was the thought of the Council to eliminate the funding and keep 2 building inspectors that are State certified working in the building department.

Mr. LaDuke addressed to Mrs. Foster how these positions are still being funded.

Mrs. Foster said one of the building inspectors is still being funded out of the Motor Pool where he transferred to. Code enforcement is still under Building.

Mr. LaDuke asked if we funded the two building inspectors positions.

Mrs. Foster acknowledged yes.

Mr. LaDuke asked if the code enforcement officer qualifies as a building inspector by State standards.

Mrs. Foster stated no he does not.

Mr. LaDuke then asked how we can take the money for a qualified State building inspector and pay somebody out of a line item that is not State certified.

Mayor Smiley stated we do not need 2 building inspectors, I need a code guy and a building inspector.

Mr. LaDuke said you can do a lesser job according to the union contract than a higher paying job. You pay the person you assigned to the Motor Pool more than you pay the Motor Pool mechanic. It is \$7,000 more a year unless you gave the mechanic an upgrading from the sheet that I got. That building inspector's position pays \$50,000, the master mechanic is paid \$43,000.

Mr. LaDuke asked Mrs. Foster how she can pay someone out of a line item that we set up as Council, in a State certified position, that isn't State certified and qualified for that position.

Mrs. Foster said she was directed to do so.

Mayor Smiley interjected that we need a building inspector and a code enforcer and that is what I have chose to keep in that department.

Mr. LaDuke asked even though the building inspector can do both.

The Mayor said currently he has the building inspector who is working with the Motor Pool to fill that void. If I need him for the building department to do inspection, I still have his ability and talent to do that.

Mr. LaDuke explained if you kept the 2 building inspectors that are State certified in the positions that they were hired, you are costing that department the individual is working in, if he works 2,080 hours, \$15,000 more a year to have him as a helper, compared if you had the code enforcement as a helper.

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Mayor Smiley responded by saying that is the same argument because by having 2 building inspectors you are costing \$10,000 more in the building department because he makes that much more than Bob Zirnhelt.

Mr. LaDuke said but he is certified as a building inspector.

Mayor Smiley stressed we don't need a building inspector, we need a code guy. So you have a State certified building inspector paying \$10,000 more to do code work.

Mr. LaDuke interjected you are paying a guy out of the building department line item that is not State certified. He asked the Mayor how he can arbitrarily make that decision.

Mayor Smiley replied that we have funded that department to fund the operation, I chose as the CEO, to run the department based on those dollars.

Mr. LaDuke stated what you are going to force the City Council to do is to go back and take a look at our budget, and take all the part time and all the temporary money out of the budget so there is no funding for anyone other than the people we as a group of seven decided to do. Mr. LaDuke asked the Mayor if that is what you want us to do.

Mayor Smiley replied you need to decide what City do you want here. Why would you want to lay off or not fund a code enforcement officer.

Mr. LaDuke said we are not having the work done. We want to do code but with the State certified building inspector.

Mayor Smiley interjected that it is not your role to determine that. You are assuming that Tim Troxell is going to do code.

Mr. LaDuke stated yes.

Mayor Smiley asked who is going to do the job that Tim is doing.

Mr. LaDuke said we could probably look to hire maybe a mechanic's helper at a lot less cost.

Mayor Smiley said you are very much aware that there is more than enough work for one guy and probably 2 full time mechanics. Right now I am working within the dollars I have and the fact is we have a plan that is working very well.

Mayor Smiley reiterated, they have a code enforcement officer doing code enforcement job, a job he has been doing for several years, and I chose to leave him there. If you chose to put an extra \$10,000 in that line item, that was your choice.

Mr. LaDuke said we did not fund the code enforcement position, we funded 2 building inspectors. Again the Mayor stated he does not need 2 building inspectors, I need a building inspector and a code guy.

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Mr. LaDuke stated to the Mayor that he is going to have to make it work because he has 2 building inspectors. Mr. LaDuke asked Mr. Harburn what they have to do to solve this problem.

Mr. Harburn said you have a budget that has been adopted on a line item basis by position. It all comes down to a legal question whether as to who has the responsibility to determine who gets charged to a position. At this point it is not an audit issue, it is more of a legal issue based on the Charter of whether or not who has the responsibility to do that.

Mr. LaDuke asked for Mr. Austin's response.

Mr. Austin read from the Charter, Section 7.6A, "except for purposes which are to be financed by the issuance of bonds or special assessments, no money shall be drawn from the treasury of the City except in accordance with the budget in effect and the appropriation for such purpose".

Mr. Austin asked Mr. Harburn if he understands what is going on well enough to form an opinion if it meet the requirements of the Charter provision.

Mr. Harburn said he is not prepared to answer that at this time. In terms of the adoption of the budget, in the Budgetary Act of the State of Michigan, it is not detailed in terms of responsibilities of determining who gets charged where, other than it is the Chief Administrative Officer who is responsible for administering the budget and it is the Legislative Body responsible for funding and approving an appropriations act. The budgetary law doesn't even talk about who is responsible for funding positions.

Mr. Major asked Mr. Austin to read aloud again Section 7.6A.

Mr. Austin complied. Mr. Major then stated "the budget in effect." If we adopted a line item budget with particular positions it has to be drawn that way. If that is what it says.

Mr. Harburn stated CPAs cannot give legal opinions. I am talking in terms of budgetary law.

Mayor Smiley said you are very much aware of the different classifications throughout this City. If I have a senior clerk typist as an example and they leave, I have to fill that position with a senior clerk typist and cannot use a clerk typist there. If I have a Deputy Clerk leave, I have to fill it right away with a Deputy Clerk. If I have a laborer leave or an operator leave, I have to fill them exactly with an operator. We have in the Building Department x-amount of dollars for x-amount of employees. As long as I stay within that line item budget, I will do, then I have a building inspector and a code guy currently assigned as well as support staff to that department.

Mr. Major asked why he asked them to transfer the money at the end of the year.

Mayor Smiley responded that both he and Mr. LaDuke are aware that inspectors are done by project, whether it be doing the infrastructure like Eichoff or Panchula. They are a General Fund operating department, they are a revenue source department like the Police or the Fire Recovery. They have a chance to earn revenue. If for some reason the building department doesn't fall through to offset the expenditures, then we transfer the money from General Fund. Always have in this City, and always will in this City. The fact of the matter is, that is what happened. The revenues fell short and we knew that. I went and talked to the union personnel and said we have an issue and what can we do to resolve it. We sat down and collectively resolved that issue.

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Mayor Smiley stated further, I removed Tim from the Building Department in my budget and it is in my letter in April when Council got the budget. We made corrective actions to take care of that issue. Hopefully next year will be a brighter year for us and we will use both building inspectors again. But right now, we did the corrective action. For you to move Zirnhelt out and move Tim in, you caused another \$10,000 hit to that department. You haven't solved anything. You just shifted the responsibility around or else you cause a layoff. I am not sure what direction you want here.

Mr. Major said he would take a \$10,000 hit over a \$150,000 hit.

Mayor Smiley said you are still going to have the same hit. The hit is there. I can't determine how much revenue we are going to generate from building permits. Nor can any other municipality in this city. There were many years that we did not exceed our expectations as far as building permits or we excelled above it. It is a mix. This fiscal year he is operating this budget the way the Council adopted it by line item budget and we have no problem.

Mrs. Tinnin asked if the building inspector is now being paid out of the Motor Pool, and if that is going to require any transfers as far as him generating his salary for being the aide in the Motor Pool. She asked how are you paying for Mr. Troxell's salary.

Mrs. Foster replied it comes out of the Motor Pool in the vehicle repair logs that he generates that are charged to other departments at his rate. So he is generating revenue to cover his salary.

Mrs. Tinnin then asked if it requires a transfer from Police or Fire when he is working on cars for Police and Fire.

Mrs. Foster stated not necessarily.

Mr. LaDuke said at his wage, isn't it more expensive than our mechanic.

Mrs. Foster indicated they are not that different.

Mr. LaDuke said Mr. Troxell's position as building inspector makes \$50,044 which equates to \$24.05 an hour. The mechanic, Mr. Alderman makes \$43,134 that equates to \$7,000, which is \$20.74 an hour. We are charging whatever department an additional \$4.00 an hour. He is not even certified to work on heavy equipment. He is a helper.

Mr. LaDuke addressed Mr. Austin. The Charters says appropriate, for the purpose it was appropriated. We appropriated that position to do it. It seems like they are violating the Charter because it says "with the budget in effect and the appropriation for such purpose". We budgeted that for the purpose of funding 2 building inspectors. That is how we budgeted and is that being done.

Mr. Austin said this has been a festering problem for some time. We need an auditing perspective. Mr. Austin asked Mr. Harburn if he is comfortable that he understand the facts as to what is going on here in Burton.

Mr. Harburn replied he does understand.

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Mr. Austin then asked, if from an auditing perspective, is the City following appropriate general auditing procedures in what they are doing now.

Mr. Harburn said basically we are not talking about auditing standards, we are talking about legal compliance with laws. The question becomes, when the Council has adopted a line item budget, by position, does that mean this position in the building department must be whatever specifications that the State requires for a building inspector, or is it they are funding a position. With their intent to be a certified building inspector. The question becomes, who has the responsibility for putting people in positions. That is not an audit issue, it is a legal issue, legal compliance either with the Charter or State Law, and the State Budget Act dictates budgets and the State Budget Act is silent as to this. Does the Charter or other State Laws require or allow who is responsible. Is it the Legislative Body's responsibility in a line item budget to place people in positions, or is it the Administration. That is the question that needs to be answered. It is not an audit answer issue, it is a legal compliance issue.

Mr. Austin asked Mr. Harburn if from his perspective then, there is nothing that stands out as illegal or immoral or underhanded as far as you know as to from an accounting perspective, as to how things are going on right now, how people are being paid.

Mr. Harburn stated he would say from an accounting stand point, that is correct.

Mr. Austin stated to Mr. Harburn, but then you turn to me and say from accounting perspective I can give the City a clean bill of health. Now it is up to the City Attorney in looking at the Charter or whatever other applicable State Laws there may be as to whether or not the funds are being expended for the purposes that they have been appropriated by Council. Is that a fair way to phrase that question.

Mr. Harburn replied he believes so.

Mr. Austin continued and asked to the best of your knowledge based upon what you have said, you are not aware of any accounting principle that answers that question.

Mr. Harburn said that is correct.

Mr. Austin asked how many other municipalities do you do work for.

Mr. Harburn asked as a firm?

Mr. Austin answered yes.

Mr. Harburn said over 200 municipalities.

Mr. Austin asked in those 200 municipalities, has this issue ever come up as far as you know.

Mr. Harburn said he would have to talk to the other partners of Plante & Moran.

Mr. Austin said I know this has been a simmering difficult question in this City for some time now and I would like to get to the bottom of it. But I would like to talk to Tadd and get the benefit of his 200 other municipalities and their collective experience before I give an opinion. With this Committee's approval I will talk to Tadd. I may talk to the Mayor. I will try my best to get to the bottom of this.

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Mr. LaDuke said we would like an answer by our next Council Meeting which will give you a couple of weeks.

Mr. Austin stated he will work diligently. It will be a goal to try and have some kind of an answer by then. I am going to rely upon Tadd in part to again, draw on the collective experience of 200 other municipalities. I will be contacting the Michigan Municipal League who has been a help to me in other areas. I did contact them on this and frankly they weren't of big help. Maybe I didn't ask the right questions, and maybe there should be other questions I should be asking. But I will be in touch with Tadd and appreciate any input he can give me.

Mr. Harburn responded he would be glad to do it.

Mr. LaDuke said if he gets a response from Mr. Austin and Mr. Harburn that this is not an area that we have any authority, it will drop and be a non-issue from me. But a whole year went with these positions funded and they are not, and nothing was ever done. We started out the 2007-2008 budget with a similar problem. My only goal is to get to the bottom of it. Lets get it over with and get a decision one way or the other.

Mrs. Tinnin stated Administration with the help of many of his employees, he has radio talk shows, Comcast TV stations, and has repeatedly told the public that City Council has eliminated funding for his code enforcement officer thereby jeopardizing the safety and security of the residents of the City. He knew all along he transferred his building inspector to the Motor Pool. To put the perception out here to the public that he indeed does not have any protection on code enforcement certainly was a political endeavor on his part. He knew all along he was going to continue to pay his two building inspectors and his code person regardless. He knew he was not getting rid of any employees, and was going to hire summer help. She feels it was a terrible spin to tell the public if you have any kind of fiduciary responsibility to the people that you serve.

Mr. LaDuke said he would hope no one is working on the TV show or radio station on City time.

Mr. LaDuke addressed the agenda item on hiring summer help. He said all of a sudden 6 people appear. They did not know Council funded summer help.

Mr. Major said it wasn't even discussed.

Mayor Smiley stated when both Mr. LaDuke and Mr. Major was working with administration, we have always hired summer help every year. I don't know why it would be an issue to discuss.

Mrs. Tinnin said they weren't hired last year.

Mayor Smiley said yes they were hired but when you didn't fund the water and sewer and it caused some issues, we had to let them go. It was a totally separate year and a terrible thing to do to this City to lay off the summer help, and we surely don't want to do it this year. I don't know why you would even want to question us hiring summer help.

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Mr. LaDuke said he agrees that we need them. That is not even an issue with me. How did you fund them and why weren't we told that I am hiring summer help, I am going to take them out of part time people. Through this budget hearing, if I don't ask a specific question, you don't tell me the answer.

Mayor Smiley responded if you want to know something you come into the office like you use to and sit down and talk about, and that is how we get it solved. As far as summer help, every year we hire summer help and we have never taken the summer help to City Council in any budget ever.

Mr. Major interjected we did not have a line item budget.

Mr. LaDuke asked have we ever line itemed individual payrolls before.

Mayor Smiley responded these are part time people. At the time I hired the summer help you had not done that. If this Council wants to know everything then start sharing some ideas with us. We can give many examples. The fact of the matter is we hired summer help. The need is here. Do you or do you not want the summer help.

Mr. Major asked where they are being paid from.

Mayor Smiley replied from the various funds, road department or the water department.

Mr. Major said we didn't have line items when I was here. These people are being paid out of the departments they are doing the work out of.

Mr. Major asked if the payroll is from construction or where is it being taken from.

Mrs. Foster stated there was \$20,000 in each Local and Major part time salaries and we did line item by employees for salary and fringes for the regular full time employees.

Mr. Major said because we didn't say part time that left that open.

Mrs. Foster said when they are mowing lawns, if they are doing this building it comes out of City Hall building maintenance. If they are doing Parks & Recreation lawn mowing it comes out of Parks & Recreation maintenance and grounds, or when they do pump station it comes out of public service weed cutting.

Mr. Major asked if it was ever discussed during the budget session that we had a need again this year, with State Shared Revenues down with the State being the way that it is, with the possibility we are going to lose General Fund dollars, that part time employees, summer help, was going to be utilized again this year. Because the state of the economy, it wasn't mentioned to us.

Mr. Major asked Mrs. Foster if she discussed this at all at budget time with the City Council.

Mayor Smiley said the fact is State Shared Revenues are not down, they are the same as last year.

Mr. Major asked what is going to happen in October.

Mayor Smiley replied we have been very fortunate over the years to maintain our State Shared Revenues. He doesn't have control over the State economy. The fact of the matter is we have always utilized part time help and last year the City paid a terrible price for the elimination of the part time help.

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Mayor Smiley asked again if Council does not want the summer help.

Mr. Major said we have told you we are not against the part time help, we want to be made aware.

Mayor Smiley said you knew the minute the part time people were hired because you came in and asked about it but didn't say a word till now.

Mr. Major responded by saying you could have included it in your report on Mondays.

Mr. LaDuke stated he will go on record saying I believe the summer help is needed. But I put this on the list to discuss how it is being funded.

Mrs. Tinnin asked where a person applies when they want to be selected for summer help. She asked the Mayor if he ever tells the public.

Mayor Smiley said he does not get the opportunity to tell the public because the minute employees find out they start talking all over the place and he gets all kinds of applications.

Mrs. Tinnin asked if jobs are posted in the City.

Mayor Smiley replied yes he has posted jobs in the City.

Mr. LaDuke asked if there is a person laid off we are paying unemployment too.

Mayor Smiley said he is not aware of any.

Mrs. Foster said yes, Eric Gubansik.

Mr. LaDuke asked why was he not hired back as part of summer help to save money.

Mayor Smiley said he works in the mechanic's department and he didn't realize we were still paying him.

Mr. LaDuke said we are paying summer help and paying unemployment. I would call that person back. Are we going to continue to pay unemployment.

Mayor Smiley said we do not have a choice. At this time, we have no intention of bringing him back to work.

Mr. Major said now we are paying a building inspector there instead of bringing back the mechanic helper that had the experience.

The Committee addressed the Website. Mr. LaDuke stated we talked about the website and it seems to appear at every Council meeting people have questions about it. It was proposed in the budget under contractual and it was removed. There was an amount of \$30,000 to get people from Kettering to come in and help build the website. Mr. LaDuke asked the Mayor if he is aware of the proposal the two Chiefs brought forward from a company that would provide a website for \$12,000 initially and \$150.00 a month to keep it upgraded. If so, how do we get back on track in getting a website and having it updated.

Mayor Smiley said he does not know what it takes for a website, and depending on who you ask, some people say our website is in great shape, others say it isn't. I know of different proposals we have had and talked with different people. That is why we thought the Kettering approach would be good because we were going to bring in the students and help design and work with the IT Department and keep as much as possible in-house. Mark has asked for direction from all of us. Everyone gives a different direction and really he is just spinning his wheels trying to comply and come up with ideas. We have the Focus Session that is working with some concepts and ideas.

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Mr. LaDuke asked if a meeting could be set up with this company and have them give a presentation. Your cost from Kettering was \$30,000 and that was with students doing the work. It is not a professional, it is students working towards their degree he is assuming.

Mayor Smiley said he has no problem setting up a meeting. You need to have people there that obviously can relate to the person doing the presentation.

Mr. LaDuke said he just wants to get it done and get things finalized.

Mayor Smiley said some people want credit card payments, but they don't realize we have to pay for the credit cards. Those are the particulars you have to work out. There are services for on-line things but the Treasurer's Department is extremely overworked and they are trying to learn a new system now with BS & A. There are ways we can do things, and hopefully soon.

Mrs. Tinnin said Eric Avery has expertise in that area and indicated he could save the City a lot of money.

Mayor Smiley said you also have to remember security issues too. We have to safeguard our information.

The Committee addressed agenda Item #6. Updated Budget Information requested by Council.

Mr. LaDuke said it was put on the agenda so we had a clear understanding of what the Council would like on a monthly basis. I wrote down monthly budget printouts, monthly payroll sheets, notification monthly of any line item budget that is overspent 5%. This is just to keep a handle and we don't get into a building department thing 6 months into the budget. Some people want the monthly budget report and some don't, so we decided at the last meeting to give everyone a copy of it.

Mrs. Foster said for the month of May, she passed out a copy of the budget report to every Council member. She will not be doing one for June till September, that is when she actually closes June and then July. August and September will come quickly after that.

Mrs. Tinnin asked how are we paying for the overage in the Building Department if that money has not been transferred.

Mrs. Foster replied it is going to end up a deficit budget at the end of the year and a reportable condition to the State. We will have to do a deficit elimination plan.

Mrs. Tinnin asked for the end of what year.

Mrs. Foster stated June 30, 2007. They only have a \$5,000 fund balance so by closing it in the hole up to 160 is the word I had used, I don't really know until I go to close what that amount is exactly going to be. The overall fund balance for that fund will be a deficit.

Mrs. Tinnin said that will start out the new year with a deficit.

Mrs. Foster said the fund balance, yes.

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Mrs. Tinnin asked if it is the only account you are starting out the new year in deficit, in building. Mrs. Foster stated yes.

Mrs. Tinnin said is that what the Mayor has been talking about when he goes around the City and tells people City Council adopted a deficit budget.

Mrs. Foster said I think what he is talking about is the budget for General Fund for the 2007 – 2008 year. We are starting off the year with a deficit for that year, not overall, but for that year. It is starting out as a deficit.

Mayor Smiley stated the Council's adopted budget is a deficit General Fund operating. For the first time in history, you actually adopted a deficit budget.

Mrs. Tinnin said we need to ask Mr. Harburn about this. She wants to know why we are starting out a deficit.

Mr. LaDuke said we don't want to start out a deficit, lets make some cuts and get it back. Lets make some tough decisions.

Mr. Harburn clarified, when we talk about deficit budget you mean expenditures over revenues but not expenditures over revenue and available fund balance to provide of fund deficit. It is just an operating deficit for the year.

Mr. Major stated but that is a guesstimate in itself based on what revenues may or may not show up here.

Mr. Harburn said you cannot adopt a budget that is estimated to put you in an overall fund balance deficit. This is an operating budget for the year. Your anticipated revenues from what I understand, are less than the total anticipated expenditures for this fiscal year.

Mrs. Tinnin said Mrs. Foster has to incorporate the full pension amount. Say you have a police officer but with a combined junior and senior patrol and you are in to a departmental budget you can offset it because of the combined cost rather than put that whole amount into that officer's fringe benefit portion of that line item budget.

Mrs. Foster clarified that the reason for the General Fund operating deficit for the year was the two positions that had been budgeted throughout the departments and funds of the City, were all moved back 100% in General Fund. So the portion of those two wages for those positions are being pulled back from water, sewer, motor pool, and all the other funds into General Fund. That was creating the operating deficit.

Mrs. Foster stated further, I am leaving the salary and fringes exactly like they were on the salary spread sheet. On some of the individuals I know I will be over because of overtime. I can come back and say I only budgeted 5% overtime for this person, they are actually working 30.

Mrs. Tinnin said you are not adding additional amounts.

Mrs. Foster replied I am not changing any of the fringe amount from the salary worksheet.

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Mrs. Tinnin asked further, if what the City Council did this year is the appropriate way to fund those positions. They were funded out of one budget and not transferred amongst all these various budgets.

Mayor Smiley interjected if that is the way Council wants to fund it fine. I think the way we spread it was basically fair to the taxpayers because they do work for other departments. If Council wants to go that way that is fine to, just General Fund operating has to pay for the services, even though they may provide it for the other enterprise funds. But by Council moving them 100% in General Fund, you caused a deficit in the budget you adopted.

Mr. LaDuke said if we eliminate Council benefits and save \$58,000, and save another \$17,000, that is up to \$80,000, that should probably take care of it. At the end of the year, you won't have a deficit I am assuming.

Mrs. Tinnin said you should be actually in better shape then.

Mayor Smiley said you adopted a deficit budget and yet on the other hand you cracked the building department because they had a deficit budget. You send mixed signals here.

Mr. LaDuke asked why do you think you can come to us every year, and I mean every Council and every Mayor can come to the Council at the end of the year and say I overspent and I want you to take money out of the surplus to cover me. The record will show year after year there is transfers. So when you tell the public you have a balanced budget, you truly don't if I have to transfer money at the end.

Mayor Smiley stated that is not true. If we didn't overspend, the revenues didn't come in. This is a little different from revenues versus the over expenditures.

Mr. LaDuke asked who is responsible for revenue projection.

Mayor replied the consumer when they buy things. There are many times the building department comes in and we get more money in the revenues than we budgeted for and there are times it comes under. You can go back several years and see that trend based on the number of permits that come in this City. A few years ago the State made us set a certain budget for the building department so that you had to come BOLT compliance so were not charging too much for the building permits. So that is why we show it that way. Every year we have a best guess of how much revenue we are going to generate from building permits which offset the cost of General Fund. If we generate more revenue in the building permits, then obviously General Fund doesn't have to pick up as much. If we generate less, General Fund has an obligation.

Mrs. Tinnin said we are actually starting out in the Building Fund with a \$5,000 balance. How are you going to fund all these positions without a transfer that you are saying you are going to keep on here.

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Mayor Smiley replied we have hopes that the building permits that we said is going to come in from revenue, our revenue stream in that building department is going to come in at that level, maybe higher. We have no way of knowing. Just like we wouldn't know how much we are going to issue as far as revenue for the Police Department on the tickets they generate, or the Fire Recovery Ordinance. When we project our revenue streams, we have no idea how much we are going to generate for those funds when we balance or put together our expenditures in the budget.

Mr. LaDuke said isn't that your role as the Administration and the Controller's Office to monitor those on a monthly basis. If it looks like it is not going to make it that you make tough decisions and you stop it before it kills us.

Mayor Smiley responded that we did that. We moved Tim out of there early on.

Mr. LaDuke stated \$156,000, you didn't stop it very soon.

Mayor Smiley said we actually stopped it this time because I can remember back when we had inspectors, how we use to find work for them. We did take corrective actions. Mrs. Tinnin asked a question about the deficit budget. You did adopt a deficit budget in General Fund operating.

Mrs. Tinnin clarified for the start of this year.

Mr. Major said you made the hard cuts and we recommended the cuts to balance the budget.

Mrs. Tinnin said and we are bringing back the positions back to the departments that they should be charged off too. I don't think the water users should be paying for the purchasing agent, the sewer users should be paying for the purchasing agent. The purchasing agent should be back in the budget she belongs in.

Mayor Smiley said the purchasing agent buys pipe for water and sewer, buys salt and chloride.

Mr. LaDuke stated to the Mayor he had the purchasing agent 50% into the Police Department.

Mayor Smiley said the Police Department is 50% of General Fund.

Mr. LaDuke felt the Mayor took advantage of the Police Millage.

Mayor Smiley interjected the Police Millage started as of July 1st.

Mrs. Tinnin said we never seen a purchasing agent charged in the past off to the Police Department.

Mr. LaDuke said he supports the position of purchasing agent as a position that is needed in the City. I expect that person to work in that office and help that office, and not be out all over the City doing other things. I expect that person to be in that office and if Karen is behind, Karen goes to that person and says I need some help here. I don't expect that person to be doing things outside of the purchasing agent's position.

Mayor Smiley responded let me assure you, since you are the Legislative branch of government, I will take your expectations under consideration because I am the CEO, and I will decide what that person does and when they are in the office.

Mr. LaDuke said I agree that it is your job. We just disagree at what you are having her do.

Raises and Upgrading Employees Outside of Union Contracts.

Mr. LaDuke said he received a phone call at home that the Controller received an increase in salary. We just got a union contract signed, the ink is not dry and she got a 41% increase in wages. I thought we went through this that the Council approves contracts. That is an issue to me that this is an approved contract and a specific wage in place. Also, we have a line item for fringes and wages and we have not put any additional money in it. My calculations show a \$23,972.32 raise. We didn't know about it and found out about it from someone else that got a copy of the employment update payroll.

Mr. LaDuke asked Mr. Austin how they could take a union contract that the Council has approved and changed it, if it is not the function of the Council to approve contracts.

Mr. Austin said he does not have a copy of that contract, he is assuming Mr. Spender does. Mr. LaDuke and Mrs. Tinnin both interjected they have a copy of it.

Mr. Austin said he will be happy to review it, and it certainly is a legitimate issue of concern. I would be remiss if we didn't touch base with Mr. Spender to get an answer.

Mr. LaDuke said this contract calls for the Controller to make \$58,311. He asked the Mayor how he can justify a 41% raise and how you can do it outside the union contract.

Mayor Smiley replied we have always been able to give upgrades to employees ever since I have been here. Both you and Jeff have received many different raises the very same way. The employee comes in and we sit down and talk, and determine whether it is warranted or not. That is the way it has always been for every upgrade in this City and that is the way we always do it.

Mr. LaDuke said he is not opposed to the upgrade of employees, but again, it should have come to Finance and say look, this employee is overworked and underpaid, and we would like you to consider amending the contract and give this person a 41% raise. We might have compromised on the salary and may not have agreed. Mr. LaDuke asked the Mayor if he believes the Council has the right to approve contracts.

Mayor Smiley responded by saying this is not a contract. You have the right to approve contracts, but not the right to negotiate the salary. In past practice, you show me one upgrade in this City that has went before City Council for approval. We upgraded a building inspector by \$10,000 that was the going rate or we were going to lose one.

Mr. LaDuke stated that Council should have said something. Just because they didn't does not mean we shouldn't.

Mayor Smiley said if there are things we can do and you are sure you want involvement, that is fine.

Mrs. Tinnin expressed to the Mayor how he is going to pay for it with a line item budget.

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Mayor Smiley stated we have always been able to stay within our budgets and we will this time too.

Mrs. Foster stated it was her intention to add with all the transfers she has to do for the month of July to get people's wages to where they are actually working than where they were budgeted. She is plan on doing this every month.

Mr. LaDuke said we are going to have to get a hold of Mr. Spender and see if it is legal to do.

Mrs. Tinnin asked why have a union contract if you are going to randomly upgrade people that are part of the union contract whenever you feel like it.

Mayor Smiley stated they don't do it when they feel like it.

Mr. LaDuke said you give it to some and not others. He asked if there are other employees that hasn't gotten an upgrade and would like one.

Mr. LaDuke addressed Mr. Harburn that they adopted a line item budget with a specific salary. How can they pay that person more per week.

Mr. Harburn said he does not see how without an amendment to the budget.

Mr. LaDuke stated we have not amended the budget. Based on the audit, we are going to ask that you do not do it and if it does, we are going to ask Mr. Austin to proceed with legal proceedings to stop it. This could happen to everyone in that bargaining unit.

Mayor Smiley expressed the increase in the Controller's workload.

Mr. Major interjected he is not against a wage increase for what has taken place, which is half the Mayor's fault and half the Council's fault. But bring it to us and lets talk about Karen because she is a valuable asset to the City. I know you did not want to go out and look for a new controller when all this stuff was taking place with the budget. She has a history and is a capable person and she deserves probably something. At least come forward to us and say she is working extremely hard and we need to make an adjustment and keep her to solidify the City and keep the departments the way it should. I would not have been against it to a number.

Mayor Smiley replied that he did the same thing with Mrs. Foster as he did to Mr. Major when he came forth. If Council wants me involved, by all means I will have you involved.

Mr. Austin addressed Mr. Harburn and asked from an accounting perspective, separate and distinct from the issues that the union contract may raise, if he understood what he said, from your perspective, would not be appropriate to unilaterally adjust one employee's salary once this line item budget was adopted by the Council.

Mr. Harburn replied from a line item budget standpoint, in a specific position, to increase that budget line item would take a budget amendment. You can under spend but if you have a situation where the expenditure will exceed the authorized budget line item, then that has to come forward with a budget amendment to be approved.

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Mr. Austin asked if that is true for overtime pay to an employee that wasn't anticipated when the budget was adopted.

Mr. Harburn replied further, if any line item that is going to be exceeded, because the budget is an estimate, if you anticipate that your actual expenditures are going to exceed the budget, which in this case is line item is a legally adopted expenditure level, to be exceeded, it needs to have formal budgetary approval. Which means, where the additional revenues coming from to fund that increase in the budget, or are you transferring from another line item to increase that budget item. Reducing something else and then increasing something else.

Mr. LaDuke said if there is enough money today to pay that weekly salary, could they pay that weekly salary and then all of a sudden in September run out of money. Or if they know they are not going to do it, do they have to do it up front.

Mr. Harburn said according to the Budgetary Act, before a line item can be exceeded a budget amendment has to be approved.

Mr. LaDuke said technically they are not exceeding it if they pay for the first 9 months.

Mr. Harburn responded that is probably correct.

Mr. LaDuke continued further, at that point then administration would have to come back and then hope, or they are going to have to go without a controller, and then they are going to say you wouldn't give us a controller. How can we stop that from happening.

Mr. Harburn replied I don't have an answer for that from a budget standpoint.

Mr. Austin asked Mr. Harburn to clarify that the budget was adopted as an annual figure. Unless and until that annual figure is exceeded, the budget wouldn't have to be adopted.

Mr. Harburn stated it would not have to be amended until that line item is going to be exceeded.

Mr. LaDuke asked if they could amend the budget to go weekly.

Mr. Harburn stated I don't know how you do that and put that in place.

Mr. LaDuke expressed frustration that games are being played back and forth. Eventually the residents and employees get hurt. How can we come to grips and sit down and put this behind us and move forward. I don't know what it is going to take to do it. It may take a new election and next November it changes.

Mr. LaDuke said he wants Mr. Austin to research with Mr. Spender how they can change a union contract and pay somebody more. He will also speak with Mr. Spender.

Mrs. Tinnin said she has requested some time now for an audit to be done on the Pebble Creek project. We got a couple of letters back with the latest dated June 22nd from the Department of Treasury. Mrs. Tinnin read aloud the letter.

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Mrs. Tinnin asked would a forensic audit be the type of audit that we would be looking at in the case of intentional misuses of funds or a bond put together to perpetrate fraud.

Mr. Harburn stated a forensic audit would look to investigating a particular assertion, whether or not something was misappropriated, if there is intentional fraudulent activities.

Mrs. Tinnin asked Mr. Harburn if his firm does a forensic audit on an account that was put together here.

Mr. Harburn replied that a colleague of their firm, Peggy Jury, is a certified fraud examiner. She would be able to form an engagement that would indicate whether or not, based on the facts and circumstances, potential indications of fraud.

Mrs. Tinnin said there were payments made to Blake Rizzo of \$324,000 that supposedly Richard Hamilton had the ability to authorize these payments for. His signature is not on the check, it is the Mayor, Treasurer and Clerk. How did Richard Hamilton have the ability to authorize payments to Blake Rizzo in the amount of \$324,000 without the knowledge of the Mayor. I am looking at how one does this without having the okay from the chief CEO of the City of Burton. This is one of the intentional acts I am looking at. Also, the fact that the whole thing that was put together was for a payment to be made to a contractor that Mr. Rizzo owed money too. City Council was under the belief that it was going for Charles Eister to own and develop a beautiful subdivision. I am looking at how does the City involve themselves into a bond of this nature without it being an intentional act to perpetuate some kind of fraud to help out a good friend of theirs that is in a financial dilemma.

Mrs. Tinnin asked Mr. Harburn how would this be detected, would you then take your findings and then ask through your findings, to have the County Prosecutor investigate from what you find.

Mr. Harburn said he would like to defer to Peggy Jury as being the expert fraud examiner. Certainly we can have Peggy meet with you to talk about those services and whether or not it will achieve what your goal is and find out some answers

Mrs. Tinnin said we can set up a meeting with Mrs. Jury and find out from her what our next step is. I definitely want to get to the bottom of this.

Mr. Austin addressed Mr. Harburn. To avoid any appearance of any improprieties, what is the nature of your relationship to Peggy.

Mr. Harburn replied that Peggy Jury is a fellow partner.

Mr. Austin stated your firm in the past has audited the City's books.

Mr. Harburn expressed that Dupuis & Ryden at that point in time was.

Mr. Austin asked if there is any conflict if your firm has audited the City's book. Would there be any conflict in having Peggy Jury do the forensic audit if the Council chose to go forward with a forensic audit.

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Mr. Harburn said from an appearance he is not sure because there was a financial audit done. A financial audit would determine whether or not controls, payments were authorized in accordance with the City procedures. If there is anything that would cast a doubt as to whether or not that was appropriate, that may be viewed as an independence issue.

Mrs. Tinnin asked would they even have looked over the Pebble Creek project and the payments that were made, would that have been selected to be looked during their audit procedures.

Mr. Harburn stated it is possible, we would have to look at the work papers.

Mr. Austin stated I am not suggesting the Council couldn't speak with Mrs. Jury to get some ideas. He just wanted to make sure there was not an appearance of a conflict there before you engaged her if that is the direction Council decided to go.

Mrs. Tinnin said a letter could be addressed to the County Prosecutor or Office of the Attorney General.

Mr. Austin stated he would be happy to address a similar letter. I think it is pretty clear to me that what is being said back to us is unless there is some indication of some kind of criminal wrongdoing that were not going to just come in and perform this type of an audit.

Mrs. Tinnin responded by saying isn't the fact Mr. Abbey has been indicted and found guilty of accepting a lot in exchange for favors done with this Pebble Creek development be a good enough reason to request that the State to a forensic audit.

Mr. Austin said he did in a soft spoken manner reference.

Mrs. Tinnin stated maybe he should reference all the paperwork and show what has taken place with this trial. Maybe that should be included with your request of the Attorney General.

Mrs. Tinnin addressed Mr. Austin that it may be a conflict because of Mr. Hamilton.

Mr. Austin said that is not a conflict. Mr. Hamilton and I were never partners in the practice of law, ever.

Mrs. Tinnin said she certainly wants it looked at how Mr. Hamilton had the ability to authorize these payments when he does not have the authority in this City.

Mr. Austin said he has no problem writing the letter. He would be happy to write to the Attorney General or any other law enforcement agency you want to write a similar letter to. I just don't know if you are going to get back anything substantially different than what we have already received from these agencies.

Mr. LaDuke said he thinks we have beat this one to death. Rick did a good job and wrote 2 fine letters. It has to be behind us now.

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Mrs. Tinnin said she totally disagrees. I don't think there has been anything concluded as to how Mr. Hamilton has the ability to authorize these payments and how this whole scam of Pebble Creek was put together to benefit Blake Rizzo's debt to Bobby Young.

Mr. LaDuke strongly stated he does not believe that. But we will go through our Committee recommendations and see if we want to move forward.

Mr. LaDuke addressed Mr. Austin that when they have these agendas, is this considered a Special Meeting or just considered a Finance Meeting

Mr. Austin replied it is a Special Meeting as far as he is concerned.

Mr. LaDuke asked if it has to be listed before we can talk about it.

Mr. Austin responded yes.

Mr. LaDuke questioned the wording on the agenda "and other finances as it relates to the City".

Mr. Austin stated that he can state that.

Mr. LaDuke inquired regarding the rental of City facilities. Does the employees get half off if they rent the Senior Citizens Center.

Mayor Smiley replied yes they do.

Mr. LaDuke asked if there is a policy in place for that or just past practice.

Mayor Smiley said he believes Jean Johnson has a policy in place when it was before Council and they talked about hall rental.

COMMITTEE RECOMMENDATIONS:

Fenton Road Water. Mr. LaDuke asked if it is the understanding of the Committee that DPW along with a member of City Council, Jeff Major, sit down and meet with the County to work something out and bring it back to us. He asked the Mayor and Mr. Kray if this is acceptable to them.

Mayor Smiley and Mr. Kray acknowledged they would. Mr. Major concurred.

Ordinance 68-C. Mr. LaDuke said they are going to recommend to take this to City Council for the next meeting for First Reading. Mr. LaDuke asked Mr. Austin to prepare this. The Committee acknowledged a consensus.

Continuous of unfunded positions. Mr. LaDuke stated the hiring of summer help was explained to us. The website we are going to move forward, we want a timetable and have the Mayor give us an update in August of where they are at.

The Mayor said for the website they will need direction. He thinks Mark Udell wants clear cut definitions of what it is you want.

Mr. LaDuke said he will talk to the two Chiefs with the Mayor's permission, and find out what they have and bring that person in to meet with Mark, the Chiefs and the Mayor.

Updated budget information. Mr. LaDuke stated administration knows what we want for updated budget information and we are going to discuss with Mr. Spender the raising of upgrading of employees outside of union contracts.

The Pebble Creek Project. Mr. LaDuke asked the Committee if they want Mr. Austin to send another letter. Mr. Major and Mrs. Tinnin acknowledged agreement.

Mrs. Tinnin said she would like Mr. Austin to send another letter and everything included from that trial, if he can get it. She would like the outcome of the jury and the brief included with it. She asked if there was any way to get the brief.

Mr. Austin said there are dozens of briefs. He can list the charges that resulted in jury verdicts of guilty against the then Director of Public Works. I can summarize what happened in that trial fairly well to include any particular documentation from that trial. If we peek their interest, they can get from the FBI anything they may want to conduct their investigation.

Mr. Major asked if we have a request for check form with Dick Hamilton's signature on it that generated the check by the Controller and then show part of the Charter that he does not have that authority to demand a check be written.

Mrs. Tinnin stated she has never seen it and she understands one exists. When I asked under FOIA for all the documents on Pebble Creek, I did not get it.

Mr. Major said something had to generate a check to be written.

Mr. LaDuke expressed it said per Dick Hamilton.

Mr. Major said we should include that.

Mrs. Tinnin stated we want to find out who is responsible for what took place.

Mr. LaDuke said it is the consensus of this Committee to have Mr. Austin write a letter.

Mr. Austin asked if the Committee is making this a recommendation to the full City Council.

The Committee responded yes. Mr. Austin then stated he will wait till after the meeting to do that.

Mrs. Tinnin said she also wants to know if our auditing firm in addition, did any kind of scope over and above with what they would normally do and look into that Pebble Creek project to see the signatories on the checks that were issued.

Mr. Major interjected and also the documentation to authorize the check and not just the signatures. Signatures are probably appropriate but it would be the authorization.

Mr. Harburn said they will see what the work papers indicate.

Mrs. Tinnin indicated Mr. Harburn following up in a letter form to the City Council.

Meeting adjourned at 6:45 p.m.

jra