CITY OF BURTON
LEGISLATIVE COMMITTEE MEETING MINUTES
AUGUST 30, 2000, 2:00 P.M., COUNCIL CHAMBERS

MEETING CALLED TO ORDER BY TOM MARTINBIANCO AT 2:08 P.M.

MEMBERS PRESENT: Martinbianco, Cross, Centilli

MEMBERS ABSENT: None

OTHERS PRESENT: Atty. R. Austin, Mayor C. Smiley, C. Abbey, Personnel Administrator, J. Adams, Clerk's Office.

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

1. Review of Noise Ordinance
2. Pond Ordinance
3. City Policies

PRESENTATION:

Mr. Martinbianco stated the purpose of the meeting and indicated there also have been recent requests to look at the Competitive Wage Ordinance, establishment of a no hunting area for the entire City, and composting. These will be discussed over the next several months. There have been several instances over the last several months that have prompted a review of the Noise Ordinance. The objective as a City should be a) everyone should be good neighbors, and b) have enough enforcing power or discretionary power for the Police Department. Mr. Martinbianco stated further, other communities have begun to take a pro-active approach to the Pond Ordinance with regards to new development, new subdivisions. There is also the need to review existing City Policies.

Noise Ordinance

Attorney Richard Austin said in regards to the Noise Ordinance, what he sees the most of in his prosecutorial capacity is Section 18-24, specifically dealing with barking dogs. Occasionally he will see Section 18-21, as it relates to car radios. They have shied away in the past from ordinances that require expensive decibel reading equipment. The ordinance we have now, in general, you cannot be too loud to disturb the public's health, safety and welfare. Mr. Austin stated further there are noise ordinances which get very specific with regards to decibel levels at different distances, but we do not have the enforcement, equipment, manpower, or mechanism right now to enforce those kinds of ordinances.

Brief discussion followed regarding a noise incident in a neighborhood due to off road vehicles.

Mr. Austin said Section 18-10 is not generally used. The rest of the Noise Ordinance he feels is as good as it can get without being specific on the decibels. There was one incident involving a skating rink where they did bring in equipment, which was a Circuit Court situation. Mr. Austin read aloud Section 18-20, Item #5, and stated there are safeguards built into that section.

Mr. Martinbianco inquired regarding a concrete crushing operation and the Planning Commission's approval of hours of operation.

Mr. Austin indicated the Planning Commission cannot waive an ordinance requirement and/or criminal code requirements. Mr. Austin read aloud Section 18-20, Item #12.

AUDIENCE PARTICIPATION:

Leona Stevens, 3049 Vineland, Burton, MI, spoke regarding residents making a complaint and not giving out their name for protection and safety reasons.

John Stapish, PO Box 19134, Burton, MI, inquired regarding the Noise Ordinance and if the City can be found in violation. He commented further on some of the DPW's equipment that makes excessive noise.

Mr. Austin responded that there are no exemptions provided for any persons or corporations. There would be an exemption for a police officer speeding to apprehend someone, or doing his duty at a crime scene that may involve yelling or shouting at some capacity.

Larry Petrella, 1081 Howe Rd., Burton, MI, inquired if there is a number of decibel points stated in the ordinance. He also commented regarding enforcement, training and cost of equipment.

Mr. Martinbianco responded that he will look into the information on the costs.

COMMITTEE DISCUSSION:

Mr. Cross indicated that ordinances are always up for review.

Mr. Centilli commented on Section 18-10 and indicated he would like to leave it as is.

Mr. Abbey said there are more complaints of noise in the summer months versus the winter months. He addressed being a good neighbor and making good judgment calls.

Mr. Martinbianco read aloud Section 18-13.

Brief discussion followed regarding Kelly Lake and the Maple Pointe Subdivision in regards to the Noise Ordinance.

Mr. Cross said he would like to leave the ordinance as is.

Mr. Abbey indicated the Police Chief will keep them updated if there are excessive calls in relation to the Noise Ordinance.

COMMITTEE RECOMMENDATIONS AND/OR ACTION:

Moved by Cross, seconded by Centilli to leave the language as it exists in the Noise Ordinance.
Motion carried, 3-0.

Pond Ordinance

Mr. Austin stated they developed a pond ordinance for Monitor Township, Ordinance 35-V. It was made as an amendment to their zoning ordinance. If it does not meet the stringent requirements, then this ordinance has the applicant going to and obtaining approval from the Planning Commission in a site plan review setting. They feel that it is a land type use issue and the Planning Commission was an appropriate body to review these kinds of plans. It does not mean you couldn't set up a separate pond committee with that kind of authority.

Mr. Austin spoke briefly regarding site plans, special assessment districts and other aspects of the pond ordinance. He stated this ordinance was specifically written for the people of Monitor Township.

Mr. Martinbianco asked as it relates to their zoning ordinance, is it in his judgement, best to put this as part of our compiled zoning ordinances, as a sub-section or as a stand alone ordinance.

Mr. Austin replied, if you are going to have the Planning Commission involved in site planning these ponds, you have to put it in the context of the zoning ordinance.

Mr. Abbey spoke briefly regarding DNR standards for ponds.

City Policies

Mr. Abbey said the updated compiled list of City policies are completed and next week they are going to take them to the staff for review. The policy book given to individual full time employees, it is their belief, that the Mayor sets those policies based on Section 6.3, Sub-Section 6 of the Charter. They are always writing administrative policies and they are changed on a regular basis.

Mr. Austin said he agrees that the day-to-day operations in the office is appropriate under the direction and control of the executive branch of the government.

Mr. Martinbianco commented regarding government operations committees to monitor government operations and and re-evaluate city policies.

Brief discussion followed regarding administration enforcing city policies, monitor, disciplining and gray area issues.

Mr. Abbey stated that in general things, the Council clearly has a role in establishing city policy. However, the type of policies we are talking about are day to day, on hand, monitoring type policies for the most part.

Mr. Austin said there is a big difference between City and a strong Mayor form of government. Township is somewhat a more rural entity and is governed by the Township Board. The supervisor of a township does have some executive authority, but not nearly the authority of a strong mayor form of government, which gives to its chief executive officer, the mayor. He does not advocate this for the City of Burton, but in Monitor Township, they have created a personnel policy adopted by the Township Board, and a lot of the day-to-day operational things, such as under discipline, is contained in the personnel policy.

Mayor Smiley stated we have standard practice operations in the fire service. There are so many policies and procedures, standards of practices, and operations that change day to day, it would be physically overwhelming for the Council to set a role there. Under a strong mayor form of government it would not operate that way. I am responsible from the Charter for the day-to-day operations, and I must have rules and regulations in order to operate the City.

Mr. Martinbianco said what happens all too often, the Legislative Branch gets left out of the loop, whether it may be deficiencies in something we should be reacting to, or policies that we should look at that may be are overlooked

and not in the policy manual. He does not think there is any reason why the Legislative body or its appointee, the Legislative Committee, would not be charged with the responsibility to make certain those are followed or put into place if it is not there. It is not the intention to meddle into administrative policy making affairs.

Mr. Abbey said he does not want to get into adoption of policies by a body saying that this is our policy, because they change so often. Mr. Abbey spoke briefly regarding flex hours an example.

Mr. Abbey addressed the issue of marking cars and stated they must have the flexibility, and he believes the Mayor's safety comes first.

Mr. Austin said he believes it would not be an appropriate response if the Council voted to have the car marked. If they appropriated money for car signs he would not have a problem with that, but the Council does not have the authority to dictate which cars are to be marked.

Mr. Martinbianco stated he feels the Council probably has the authority to say City vehicles will bear acknowledgement of ownership by the City of Burton. It may exclude certain vehicles.

Mr. Abbey re-iterated he thinks they have a right to say who marks what car in the executive branch.

Mr. Centilli said he does not believe there is any place in the State of Michigan where a Mayor drives in a marked car.

Mayor Smiley said he approves every emblem, the police, fire, and type of decals, and each is unique depending on the department. There are about 17 strong mayors in the state and they do not drive marked cars, township supervisors do not drive marked cars.

Mr. Martinbianco re-iterated the purpose of the meeting and spoke regarding future topics of discussion and issues to be addressed.

AUDIENCE PARTICIPATION:

Leona Stevens spoke regarding concerns of a pond that is directly behind her property.

Mr. Austin said the pond ordinance would not have any impact on existing ponds. He addressed requirements that would be in place.

Mr. Petrella spoke regarding the code of ethics and inquired as to who polices the policies when it involves the mayor and/or administration.

Mr. Martinbianco indicated they will continue at their next session once administration gets the chance to do their finalization and have their next staff session to pull their items together and concerns with the department heads..

Mr. Martinbianco asked that the Clerk's Office insert in the record a copy of Monitor Township's Ordinance No. 35-V, and have this available for anyone who would like to review it. He would like the Committee to review that copy and solicit further discussion at possibly the next Legislative meeting to take action or define it. He stated further, he discussed with the City Attorney the Cost Recovery Ordinance that was proposed some time ago which

may or may not be addressed through the Committee. The Prevailing Wage Ordinance and composting issue also needs to be addressed.

MEETING ADJOURNED AT 3:50 P.M.

Julie R. Adams
Clerk's Office