

CITY OF BURTON
LEGISLATIVE COMMITTEE MEETING MINUTES
APRIL 23, 2008, 4:30 P.M., COUNCIL CHAMBERS
www.burtonmi.us

The Meeting was called to order by Chairwoman Laurie Tinnin at 4:30 p.m.

MEMBERS PRESENT: Tinnin and Ellenburg.

MEMBERS ABSENT: Conley.

OTHERS PRESENT: Atty. R. Austin, G. Kray, DPW Director and J. Adams,
Deputy City Clerk.

PURPOSE OF THE MEETING: Discussion and possible recommendations concerning the following:

Exotic Animal Ordinance

PRESENTATION: None.

AUDIENCE PARTICIPATION: None.

COMMITTEE DISCUSSION:

Mrs. Tinnin said the City of Burton has never addressed this ordinance before. Several communities have this ordinance. It is probably long overdue that we do address this since several situations have come up.

Mrs. Tinnin said the Committee has a copy of the Township of Fenton and City of Flint's ordinance on exotic animals. Attorney Rick Austin has one drafted. Mrs. Tinnin read aloud the kinds of exotic animals addressed in the ordinance.

Mrs. Ellenburg said she likes the fact that Fenton has upon receipt of a written complaint. They could go in and give it to the code enforcement office. She would like immediately instead of stating 30 days to remove the animal.

Mr. Austin said DPW works on a complaint basis and we have never required written complaints. He cautions not to require one. We are only going to respond on a complaint basis. Once we spot an exotic animal that does not belong, 30 days is an excessively long period to put up with that animal.

Mr. Austin referenced a call he received questioning due process and if there would be a problem in adopting this ordinance. Under police power, we can adopt ordinances for the health, safety and welfare of our citizens. Owning an exotic pet does not vest you with a due process property interest in that pet. The City can adopt this ordinance and it would pertain to any exotic animals that might happen to be in the City even at the time of the adoption of the ordinance.

LEGISLATIVE COMMITTEE MINUTES

APRIL 23, 2008 / 4:30 P.M.

PAGE 2

Mrs. Ellenburg said she talked to the State and they have no regulations or ordinances as to what you can have. They state they have to be inspected by a veterinarian to make sure they don't carry disease especially if they came over the State line. Mrs. Ellenburg stated further she is concerned with disposal of the animal.

Mr. Austin explained that in the ordinance he drafted, they would be issued a civil infraction citation. The person has to appear in Court rather quickly to answer the citation. If the person does not want to voluntarily remove the animal, then there is a hearing and if the Judge finds by a preponderance of the evidence the animal violates the City's exotic animal ordinance, then the Judge has the authority to fine the person responsible for violation of the ordinance, charge them the cost which includes my attorney's fees, and enforce the ordinance.

Mr. Austin stated further, under the Civil infraction ordinance we have in place, the Judge can issue an order, commanding that person to rid themselves of the animal within 3 days, 5 days or whatever the Judge wants to order, and provide the Judge with the necessary proof that the animal has been properly disposed of. That is how in practice this would work all the way through the system to the end.

Discussion ensued regarding disposing the animal, proof it has been removed, DPW code enforcement issues. Mr. Austin said he can add a section that no one can release an exotic animal into the wild. Mr. Kray expressed having a provision to involve the police because there are certain things DPW cannot do. Mr. Austin said if there is probable cause to believe an animal is still in the home, it is a police issue and he can get a search warrant.

Mr. Austin said he will add a new B to the ordinance that prohibits the release of these animals into the wild. A second paragraph in B, any person disposing of such an animal shall upon request provide the City with documentations as to the method of disposal utilized.

After brief discussion it was decided that a period of 10 days to remove the exotic animal would be a reasonable amount of time. Mrs. Tinnin questioned an emergency establishment of this ordinance based on the health, safety and welfare of residents.

Mr. Austin said he can make it effective immediately upon publication as an emergency ordinance.

If Council chooses to they can have 1st and 2nd readings at a special meeting.

COMMITTEE RECOMMENDATIONS:

The Legislative Committee recommends to Council to add number B under section 133.05, insert the period of 10 days under 3B, and call a Special Council Meeting for a first reading as soon as possible.

Meeting adjourned at 5:00 p.m.

jra