CITY OF BURTON
LEGISLATIVE MEETING MINUTES
JANUARY 17, 2012, 9:30AM, COUNCIL CHAMBERS
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The Legislative Meeting was called to order by Ellenburg at 6:00PM.

MEMBERS PRESENT: Ellenburg and O'Keefe.
MEMBERS ABSENT: Wells.
OTHERS PRESENT: Attorney R. Austin and J. Adams, City Clerk.

PURPOSE OF THE MEETING: Discussion and possible recommendations regarding the Following:

1. Ordinance No. 2012___-_____, An Ordinance Amending the Burton Criminal Code by the Addition of Chapter 138 Regulating Conduct Involving Computers, Telephones, Cellular Telephones, and Other Electronic Medium of Communication By Outlawing the Utilization of Such Equipment in any Willful or Malicious Fashion Causing Harm to Another Person or Damage to Another's Property, and Providing Penalties for the Violation Thereof.

Mrs. Ellenburg read the letter on the proposed telecommunications ordinance. This would create a new Chapter 138 in the Codified Ordinance Book and take 144.09 Unlawful Posting of Messages out of the Morals Chapter and move it to the Telecommunication Chapter 138. Chief Osterholzer felt this would be a good addition to add to our Committee.

Mr. Austin said this Section doesn't belong here. It makes it a crime to threaten with a computer posting or on Facebook. He proposed making Section 138 Telecommunications Chapter.

Mrs. Ellenburg said it could also be a technology Ordinance so it's not limited to telecommunications.

Mr. Austin referenced a felony under 750.540 Sub Paragraph 4. In a typical situation we are faced with an assault. He said 99.9% of the time, the male beats the female and when the female reports the crime, the male destroys the phone. Typically, these are the most domineering of the situations and in many instances, the male has done this before and knows if she calls 911, he will get arrested. The police will respond in minutes and will make an arrest. When the police respond and if it is determined the telephone has been destroyed, in addition to the domestic complaint, the officers have the option of charging him under this felony or not. If they charge under the felony, the prosecutors office prefers the whole case be charged as a felony but the City would not have control over the case. Typically, the officers will not charge for the destruction of the phone equipment but will only charge under the local ordinance for the domestic assault. So essentially he will get away for the destruction of the phone. With the adoption of this ordinance, the officers will get to charge for domestic assault and destruction of the phone equipment. This will give him another tool in the plea bargaining process as well.

Mrs. Ellenburg feels it is a no brainer to pass this. It will help the community and keep the people safe when they are in distress. A phone is the first thing they will grab when they are in need of help.

AUDIENCE PARTICIPATION:

John Stapish, P.O. Box 190134, asked if bullying would be tied into this ordinance.

COUNCIL DISCUSSION:

Mr. Austin said that issue would be more under 144.09 where the bullying would have been done over the computer, Facebook or something similar. We could look into bullying perhaps at another meeting. This meeting has to do with the breaking of telephones.

Mrs. Ellenburg asked Mr. Austin since bullying may not be a domestic dispute between spouses, but a dispute between underage friends per say and a phone is destroyed, how is that handled.

Mr. O'Keefe said it states no person shall willfully or maliciously cut a line. It doesn't talk about anything going on in actual situations.
He feels this Ordinance would be applicable to that as well.

Mr. Austin said it would be used principally in the domestic context he has explained. Mr. O'Keefe was correct that it has applicability beyond just the domestic setting.

Mrs. Ellenburg asked about phones being purposefully destroyed at school.

Mr. Austin replied that may certainly apply in this situation as well.

Mr. O'Keefe said if we are going to incorporate a new section regarding telecommunications, he was in favor of incorporating computers in that also. He said when the time comes, he will be voting for this.

COUNCIL DISCUSSION ACTION:

O'Keefe moved and Ellenburg recommended sending this ordinance to the Council for approval.

Meeting adjourned at 6:25PM.

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