

CITY OF BURTON
LEGISLATIVE COMMITTEE MEETING MINUTES
MAY 19, 1992, 6:00 P.M. COUNCIL CHAMBERS

The Legislative Meeting was called to order by Charles Abbey, Chairman, at 6:10 P.M.

Members Present: Abbey, Walls and Zelenko.

Members Absent: None.

Others Present: Mayor Charles H. Smiley; K. McArdle, City Administrator; R. Hamilton, City Attorney; R. Riess, Water/Sewer Supervisor and C. Ladd, Deputy City Clerk.

PURPOSE OF THE MEETING: Discussion and Possible Recommendation Concerning Water Affidavit, Car Dealer's Association and Other Matters That Might Arise.

PRESENTATION:

ORDINANCE NO. 62 (C):

X Mr. Abbey said Mr. Hammon had asked to review Ordinance No. 62 (C) concerning the City Planning Commission.

Mr. Hammon said since he was elected as a Councilman six (6) years ago, he has had a problem with the Mayor being a voting member on the Planning Commission as he is the one who appoints the members to this board and could have some influence over the members when voting on an issue. Mr. Hammon said according to the State Statute, there is supposed to be a resolution on file with the Clerk's Office to operate under subsection 2 of Section 5.2993 of the law. After asking to have this researched, there is no such resolution, only the Ordinance, No. 62 (C), can be found. At the present time, we are not following the State Statute and as elected officials, we are obligated to uphold the City Charter and the State Laws. Mr. Hammon also stated that the Planning Commission has not held an election for Chairperson of the Board.

Mr. Hamilton said to his recollection, each of the previous Mayors of the City has been a voting members of the Planning Commission. The City has operated with the Mayor sitting on this Board since 1973. Anytime there is a City Charter which differs from the State Statute, the State Law prevails.

The last Administrative staff person to serve on the Planning Commission was Jeff Major and that was approximately 8-1/2 years ago. The State Statute requires cause for removal of a member of the Planning Commission and at the present time, there is no reason to remove anyone.

Mr. Hammon stated if the Mayor were to step down this would bring the City into compliance with subsection #3.

Mr. Hamilton said if the Council determines to change at this stage it would be an act of removal for non-qualifying members. Council can only remove a member appointed to the Board by Council, meaning a Council member. Should the Mayor step down, Council could determine to function under subsections 1 and 3.

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Further discussion held regarding which section the Planning Commission would operate under and how to change the order of operation legally.

Mr. Abbey asked, who is the next person to be reappointed to the Planning Commission?

Mayor Smiley said he would have to check and see because there were three members recently reappointed in April. He said he thinks there will be another term expire in November of this year.

Mr. Abbey asked Mr. Hamilton if a case were challenged, would the City be in trouble? Mr. Hamilton replied he didn't see a problem, but the City should come into compliance with the law as soon as there is a vacancy on the Board.

Mr. Abbey said if a person comes before the Planning Commission and is denied, what could be done with the City not following the State Statute?

Mr. Hamilton said the Planning Commission's primary function is to recommend to City Council and they rarely make a final determination. Of course it would be better to be in compliance, but he doesn't think there would be a problem with a law suit.

John Stapish, 5160 E. Atherton Rd., asked if the Chairman of the Planning Commission knew whether they were operating under the State Statute.

COMMITTEE DISCUSSION:

Paula Zelenko said she would like to know when the next term expires on the Planning Commission.

Mr. Abbey asked the Clerk to get this information and called a recess at 6:30 p.m. and reconvened at 6:35 p.m.

Mayor Smiley said the next term to expire is James Merrell in November of this year.

Discussion continued regarding which subsection to follow.

Mrs. Walls said some course of action should be taken to bring the Planning Commission into compliance with the law.

Mayor Smiley said he would ask for Sue Millard's resignation as she was the last one appointed to the Planning Commission. Then, an administrative person could be appointed and we would be in compliance with the law under subsection 2 of Section 5.2993.

Mr. McArdle said before anyone steps down, it should be decided how Council wants to handle this and which section they want to follow.

Mrs. Zelenko said the three alternatives are as follows:

Subsection 1. Mayor Smiley and Councilman Hammon to step down and a resolution that we have elected to organize under this subsection is drafted.

Subsection 2. A member of the Planning Commission would step down and the Mayor would appoint an Administrator as a member of the Planning Commission.

Subsection 3. Mayor would have to resign from the Planning Commission.

Mayor Smiley said he doesn't think it would be in the best interest of the City for the Councilperson and himself not to serve on that Board. He said Subsection 2 would be the best alternative so the Council and the Administration know what is happening in the City.

Mrs. Zelenko said she doesn't like the idea of asking Mrs. Millard to step down from the Planning Commission.

Mrs. Walls asked if the Michigan Municipal League would possibly have any information to give us.

Moved by Walls, supported by Zelenko to direct the Clerk's Office to get any information available from the Michigan Municipal League or National League of Cities and after receiving the information, set another meeting to discuss this issue. Motion carried 3-0

WATER AFFIDAVIT:

Mr. Riess said the existing Affidavit Fee is in the amount of \$170.00 and Mr. Becker is requesting this be increased to \$210.00 because of the increase in the water rates in the southend. There are a couple more sections of the ordinance which need to be addressed, but he said he was not prepared to address the other problems, as he has been extremely busy and would like to have these postponed for at least a couple of weeks.

John Stapish, 5160 E. Atherton Rd., asked what the increase in the Affidavit Fee had to do with the water rates.

Mr. Riess explained the increase is an insurance policy for the City. When the \$170.00 was received, a six (6) month water consumption amounted to \$170.00 and the average water and sewer bills for six (6) months is now approximately \$200.00 since the increase in the water rates. Therefore, Mr. Becker is asking for the increase to cover these costs.

Moved by Walls, supported by Zelenko to postpone the issue of the Water Affidavit until Mr. Riess can come before this board and make a recommendation as to what he would like changed in the Ordinance. Motion carried 3-0.

GUN ORDINANCE:

Jack Carso, resident, said he is against the City having a Gun Ordinance. He asked if he were licensed, would this be public information and available under the Freedom of Information Act. Mr. Carso also thought the laws governing Guns, should be State Law and uniform throughout the State.

Mr. Abbey said the Council sent the Gun Ordinance to Mr. Hamilton for research the City was in direct violation of the Ordinance and therefore, the Ordinance was repealed.

Mr. Hamilton said the Ordinance was adopted shortly after the two police officers were killed.

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Mr. Abbey said he recommends that Council research this and talk to the Police Department to get their views on the subject.

Moved by Zelenko, supported by Walls to recommend to Council to have the Attorney research the Gun Ordinance and bring back to the Legislative Committee for their recommendation. Motion carried 3-0.

CAR DEALER'S ASSOCIATION:

M.D. McCollom, President of the Flint and Michigan Car Dealer's Association, said the local association is comprised of about 90 members and they must comply with the rules and regulations or they will be removed from the Association. He explained that the dealer's in the area are concerned about curb stoning, selling automobiles out of their yards, malls and street corners. He said they are selling four and five cars per week and it makes a difference to the dealerships. The people who purchase these cars have no recourse if something goes wrong and sometimes the speedometer is turned back and the customer is not getting the true milage on the car. A licensed car dealer has to have an Affidavit with the correct miles on the car or they could be fined. The person selling these cars on the street corners are not operating under the State Law. There should be an ordinance in the City to stop this type of selling. Mr. McCollom presented a sample ordinance from Davison and one from the State of Oregon. He said he had letter from several of the dealers who are concerned about this growing problem.

Mr. Hamilton said the City may want to contact Michigan Municipal League to see if there is an Ordinance addressing this issue.

Mr. McCollom, Mr. Ray Searles and Mr. Bill Williams were present in regards to this matter.

Moved by Walls, supported by Zelenko to recommend to Council to direct the Clerk's Office to access Michigan Municipal League for any local ordinances to use as a guideline for the City of Burton. Copies to be given to the committee when they become available. Motion carried 3-0.

Meeting Adjourned at 7:51 P.M.

Respectfully Submitted,

Cheryl M. Ladd, CMC
Deputy City Clerk

CML