

CITY OF BURTON
LEGISLATIVE SUB-COMMITTEE MEETING MINUTES
JULY 31, 1995, 6:00 P.M., COUNCIL CHAMBERS

The Meeting Was Called To Order By Charles Abbey, Chairman, AT 6:00 P.M.

MEMBERS PRESENT: Abbey, Martinbianco, and Zelenko.

MEMBERS ABSENT: None.

OTHERS PRESENT: K. McArdle, Personnel Director; D. Lowthian, Assessor; B. Becker, Treasurer/Controller; S. Perez, Purchasing Agent; P. Pero-McArdle; Sr. Citizens Director; J. Major, DPW Director; J. Benthall, Police Chief and W. Walworth, City Clerk.

PURPOSE OF THE MEETING: Discussion And Possible Recommendation Concerning Code of Ethics Ordinance, Ordinance 68(C) and Other Matters That Might Arise.

PRESENTATION:

CODE OF ETHICS:

Mr. Abbey said that the union employees had expressed some concern about being included in the Code, since they are in collective bargaining units.

ORDINANCE 68C:

None.

AUDIENCE PARTICIPATION:

CODE OF ETHICS:

William Walworth, City Clerk, said he had no problem with a Code of Ethics for the Council, but he was concerned about the separation of power within the City. He thought there may be a conflict between the ordinance and the charter. He said he thinks that the Council may be exceeding it's authority by unilaterally adopting a Code that includes the staff. He also said there may be an issue of changing working conditions for the staff. He said he thinks that the Council should send the matter to the Attorney General for an opinion and that if they think it was not necessary, then he said he could handle the matter through our State Senator which would be good for all parties concerned.

ORDINANCE 68C:

Ken McArdle, Personnel Director, said he had negotiated the ordinance package with the administrative group and thought they were getting kicked around again by Council. He also said that the administrators led the way on the freeze this past year.

William Walworth, City Clerk, said many public governing bodies tend to accept union contracts without a lot of fanfare, but when it comes to administrators, they treat them as second class citizens in their deliberation. He said that when a governing body changes existing language in an agreement, without further negotiations with that group, then they may be inviting a union to come in. Mr. Walworth said that if they include present employees in the language change, they could also be inviting some court action by those employees.

Brad Becker, Controller, said that with many senior administrators, problems could occur when the vacancies come up to be filled. He said that that groups MERS is less than some of the other union groups in the City. He also noted that the SEIU received considerable more when you look at their 7 1/2%. Mr. Becker said Burton's administrators are receiving 20% less than the average wage of comparable municipalities. He said that IF the Council wants to attract talented people in the future, they need to address the dollars allocated to the administrative group.

COMMITTEE DISCUSSION:

CODE OF ETHICS:

Mr. Martinbianco said he thinks the Council has the right to pass this policy with staff included.

Mr. Abbey said this was within the authority of the Council and he has two different opinions on the matter. He said he did not want nit picking on the dollar amount out in the community and thought the committee should look at some kind of a definition in this area.

Mrs. Zelenko asked if it was covered in State law. She was advised yes.

Mr. Martinbianco said there are two issues of law and penalty. He also said that an Attorney General ruling would have to go through a Senator like Mr. Cherry.

Mr. Abbey is to get as final draft of the Code of Ethics to the Council before the regular meeting.

ORDINANCE 68C:

Mr. Martinbianco said that it was not the Council's intent to cut benefits. He said he voted against the SEIU contract because of the 7 1/2%. He said he wanted to address the Fire Chief's salary and the hospitalization benefit for retirees.

Mrs. Zelenko asked if the language was different in the union contracts and the ordinance.

Mr. McArdle noted that all the union people chose to go into MERS while some of the administrators decided to stay in the BURTON plan. Any future positions would have to go into MERS.

Mr. Abbey said the committee needed to address inclusions and exclusions.

Mr. Martinbianco said that these positions were political appointments and serve at the will of the Mayor.

Discussion took place on both the Fire Chief's position salary and the retirement issue.

Mr. Walworth noted that the position of the Mayor has the right to opt in or out of MERS, as it is an elected position.

Jean Morgan, Executive Assistant to the Mayor, said that the discussion centered around Ken McArdle's retirement. She said that since she is in the same

position, she is being discriminated against. She said it was a dirty move on the part of the committee.

Mr. Walworth said that one is allowed to start the City program after 20 months of service. He said this plan will only be open to the elected officials in the future.

Mr. Becker noted that there is an IRS penalty if the money is taken out before age 59 1/2.

Charles Abbey, 1452 S. Genesee Rd., objected to the insurance being included in the pension.

Mr. McArdle noted that no pension monies are involved and MERS does not allow vesting in 4 years.

Mr. Becker said that the two pension programs are under two different State Acts.

Jane Nimcheski, 2429 S. Genesee Rd., said that the issue was not \$100 per month in lieu of health insurance, but was the fact that they had to apply it to a hospitalization program before.

Mr. McArdle said that there was no cap on the previous plan and the cost would increase over the years, if the plan in place when Mayor Smiley took office, was allowed to continue. He said that this administration got rid of any obligation to provide medical coverage in the future, after retirement by the new language and allowing the \$100 per month in lieu of medical insurance.

Pat Pero-McArdle, Senior Center Director, raised the issue of the divorce of a spouse and how the retired Burton employee could be left with no medical insurance. She said the Council could not pick and choose.

Mr. Abbey asked for a compromise to resolve the issue. He said there would be no problem on new employees, but employees under the present language could be hurt.

Mr. Martinbianco moved the following motion which died for lack of a second:

"or be over 60 years of age and have 11 years of service to the City and retire under the existing City of Burton retirement plan. When the employee becomes eligible for Medicare, the monthly payment will cease." and to delete Section 8 B 4.

Mr. Walworth said the Committee will need to take up Mr. Major's change in language for the water issue at some time.

Mr. Major said they have a draft but he will send them the information for a future meeting.

COMMITTEE RECOMMENDATIONS:

CODE OF ETHICS:

Moved by Martinbianco, supported by Zelenko to recommend to Council the committee's final draft of the Code of Ethics Ordinance for a first reading.

Motion carried 3-0.

ORDINANCE 68C:

Moved by Martinbianco, supported by Zelenko to change, in Section 5, the amount of money from \$41,869.50 to \$40,848.29 for non MERS participation. Motion carried 3-0.

Moved by Martinbianco, supported by Zelenko to remove all the words after "or be over 59 1/2 years old and retire under the existing City of Burton retirement plan." in Section 8 B 3. Motion failed 1-2 with Martinbianco voting yes.

Moved by Zelenko, supported by Abbey to change the language in Section 8 B 3 as follows: "or be over 60 years of age and have 5 years of service and retire under the existing City of Burton retirement plan. When the employee becomes eligible for Medicare, the monthly payment will cease." and to delete Section 8 B 4. Motion carried 2-1 with Martinbianco voting no.

Meeting Adjourned at 8:00 P.M.

Respectfully Submitted,

William R. Walworth
Burton City Clerk

WRW/cml