

CITY OF BURTON  
REGULAR COUNCIL MEETING MINUTES  
JANUARY 20, 2009, 7:00 P.M., COUNCIL CHAMBERS  
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Council President Tom Martinbianco led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by President Tom Martinbianco at 7:09 p.m.

MEMBERS PRESENT: Ellenburg, Haskins, Heffner, Martinbianco, Tinnin and Zelenko.

MEMBERS ABSENT: Conley.

OTHERS PRESENT: Mayor C. Smiley, K. McArdle, Personnel, G. Kray, DPW Director, Attorney R. Austin and G. Webster, City Clerk.

Tinnin moved and Heffner seconded the following motion:

Approve and authorize the minutes of the following meeting: Regular Council Meeting on January 5, 2009 at 7:00 p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mr. McArdle requested an Executive Session for the purpose of discussion on two more labor agreements.

Mr. Haskins moved and Mr. Heffner seconded the following motion: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending contractual negotiations for SEIU and Teamsters Local 214 Deputy Fire Chiefs, under Section 8, (c) of the Open Meetings Act, session to commence after Audience Participation. Motion carried 6-0.

COMMITTEE REPORTS:

None.

AUDIENCE PARTICIPATION:

John Stapish, P.O. Box 190134, spoke regarding a historical building that had been vacant for 30 years in Otisville. It was rehabbed into a Subway business. He opposed the demolition of buildings that have been empty for a couple of years. He said the old Door World on Saginaw St. needed to be addressed. It has been empty for twenty years.

David Moore, 2235 Ridgemoor Ct., said a dog from 2215 Ridgemoor Ct. came into his yard and attacked his dog on December 28<sup>th</sup>. He said this was a violation of Ordinance 133.3. He referred to the dog running at large. This was the fourth alleged attack by this dog in his neighborhood. He said Officer Phillips did not issue a ticket. Mr. Martinbianco asked if the other three attacks were recorded with the police department. Mr. Moore said nothing was on file. However, he did put his complaint on file. Animal control said they had no jurisdiction in the matter because it was not a stray dog. The Attorney would not overrule Officer Phillips. Mr. Moore felt this could be a liability issue for the City, if another accident occurs, because everyone knows what's going on.

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Pat Starnes, 7261 Kessling St., Davison, has purchased the old Palace Gardens at 3266 S. Dort Hwy. He would like to rehab the property. Mr. Martinbianco asked Mr. Starnes if he was aware of the action that the Council took at the last meeting prior to the time he entered into contract to purchase this property. Mr. Starnes said the owner indicated that there was a discussion about tearing the building down. He wanted to work with the demolition company to prevent this from happening. He wanted to pull the proper permits to rehab the building, so there wouldn't be an empty lot on the corner of Dort Hwy. He was only asking for a minimum time period.

COUNCIL DISCUSSION:

The Regular Meeting recessed at 7:20 p.m. to go into Executive Session.

The Regular Meeting resumed at 7:47 p.m. after Executive Session.

Mr. Heffner wanted to give Mr. Starnes some time to rehab the old Palace Garden property.

Mr. Kray said bids have been requested on 3266 S. Dort Hwy. The bidding period was not closed. No contracts have been awarded for the demolition. He felt the process was still opened.

Mr. Martinbianco wanted Mr. Starnes to provide a proposal, time frame, architectural renderings, and other pertinent details to the DPW and then they would need to be approved. This matter may need to go to the Zoning Board and Planning Commission. This determination will be made by the DPW. Mr. Martinbianco said Mr. Starnes should have an understanding of what needs to be done to rehab the facility. Mr. Starnes said he knew what needed to be done.

Attorney Austin asked Mr. Starnes if he purchased the building. Mr. Starnes purchased the property on land contract from the original owners in Florida. Mr. Austin wanted to review a copy of the land contract. He asked Mr. Starnes to drop off a copy in the Clerk's Office.

Mr. Heffner moved and Mr. Haskins seconded the motion to add as Item 7: Approve and authorize a 30-day moratorium on the demolition for 3266 S. Dort Hwy.

Mr. Austin said the Council would not have to go all the way back through the demolition procedure, if they decide to issue a 30-day moratorium. He said if nothing was done during this time period, Council had the option to proceed with the demolition.

Mr. Martinbianco asked if Mr. Starnes purchased the liquor license with the building. Mr. Starnes did not purchase the liquor license. He said the license is still in escrow at this time. There are no plans at this time for the liquor license.

Mr. Starnes plans to rehab the building and keep the same type of business. He was not sure what would happen to the liquor license. He hoped it would be utilized at the same site. He is not a licensed contractor.

A vote was taken to add Item 7, the 30-day moratorium for 3266 S. Dort Hwy. The motion carried 6-0.

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Mrs. Tinnin asked for clarification on Mr. Moore's complaint.

Mr. Austin said Mr. Moore told him that Officer Phillips was called to respond to the dog incident. The officer did not issue a citation. Mr. Austin indicated that this was a discretionary call on the part of the police officer. He did not want to interfere with the police department. He said the City does prosecute these types of cases all the time, where officers have written tickets for allowing a dog to run loose. In the case of a vicious dog, based on what Mr. Moore indicated, Mr. Austin typically demands that the dog is put down or removed from the City. However, without an appearance ticket there is no court case. He said Mr. Moore could actually start a civil action. He could start a nuisance action against the dog's owner. He was informed that he could do this. This would allow the offended owner to recoup any medical costs or damages associated with the incident. The officer had to write a ticket to pursue a criminal case. This was not done.

Mrs. Tinnin thought it was the right thing to do for Mr. Moore to bring this issue to the Council's attention. The incident has been documented. If there is another incident with this same dog, at least something more will be done, at that point in time.

In reference to Item 4, Mr. Kray indicated the modification that was approved December 2008 was for approximately \$2,850. We didn't do a transfer at that time because we still had a little over \$2,000 remaining in the budget. We are not exceeding the \$2,850. The bill came in at exactly that amount, so we need the balance that we have left in the contract plus the additional \$705.00 to pay the bill. We did not overrun the project.

COUNCIL DISCUSSION ACTION:

Moved by Haskins, Seconded by Heffner to: Approve and authorize Council to go into Executive Session for the purpose of discussion relating to pending contractual negotiations for SEIU and Teamsters Local 214 Deputy Fire Chiefs, under Section 8, (c) of the Open Meetings Act, session to commence after Audience Participation. Motion carried 6-0.

Moved by Heffner, Seconded by Haskins to add as Item 7: Approve and authorize a 30-day moratorium on the demolition for 3266 S. Dort Hwy. Motion carried 6-0.

COUNCIL ACTION:

Haskins moved and Zelenko seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from December 18, 2008 through January 14, 2009, in the amount of \$5,980.90.

Motion carried 6-0.

Heffner moved and Zelenko seconded the following motion:

2. Approve and authorize the request of the Atherton School Wolverine Youth Football and

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Cheerleading of the City of Burton, County of Genesee, that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming license. All proceeds raised by this Organization shall be used solely for the purpose stated.  
Motion carried 6-0.

Ellenburg moved and Heffner seconded the following motion:

3. Approve and authorize the setting of an Audit Workshop to be held January 28, 2009 at 6:00 p.m. in the City Hall Community Room.

Motion carried 6-0.

Zelenko moved and Heffner seconded the following motion:

4. Approve and authorize the City Controller to transfer \$705.00 from the 2008/09 Sanitary Sewer Unappropriated Surplus to DPW Job #05-002-SS.

Motion carried 6-0.

Haskins moved and Ellenburg seconded the following motion:

5. Approve and authorize the Mayor and Clerk to enter into a four-year agreement with SEIU, on behalf of the City of Burton, effective July 1, 2008 to June 30, 2012.

Motion carried 6-0.

Haskins moved and Heffner seconded the following motion:

6. Approve and authorize the Mayor and Clerk to enter into a four-year agreement with Teamsters Local 214 Deputy Fire Chiefs, on behalf of the City of Burton, effective December 1, 2007 to June 30, 2012.

Motion carried 6-0.

Heffner moved and Haskins seconded the following motion:

7. Approve and authorize a 30-day moratorium on the demolition for 3266 S. Dort Hwy.

Motion carried 6-0.

Meeting adjourned at 8:05 p.m.

Gayle K. Webster, CMC  
City Clerk