

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
MARCH 23, 2009, 7:00 P.M., COUNCIL CHAMBERS
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Councilwoman Paula Zelenko led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by President Tom Martinbianco at 7:05 p.m.

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

MEMBERS ABSENT: Conley.

OTHERS PRESENT: G. Kray, DPW Director; D. Halstead, Fire Chief; Attorney M. Joliat and G. Webster, City Clerk.

Ellenburg moved and Zelenko seconded the following motion:

Approve and authorize the minutes of the Regular Council Meeting on March 2, 2009 at 7:00 p.m., and Special Council Meeting on March 9, 2009 at 6:00 p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT: There was no report.

COMMITTEE REPORTS:

Mrs. Tinnin said the Planning Commission reviewed and adopted new by-laws, which sets rules and procedures for the Commission. In addition, the Master Plan update was discussed. This should be addressed every five years. Due to the City's somewhat stagnant growth and the poor economy, there is really not a lot to change with the Master Plan. She wanted to know what procedural process should be taken if the current plan remained status quo. She wanted to know if the Council needed to adopt it. Mr. Joilat was not prepared to answer questions regarding the Master Plan.

Mr. Martinbianco was proud to present Mr. Heffner with a "Leadership in Excellence" certificate from the National League of Cities. Danny Wells was the only other Burton Councilmember to receive this award.

AUDIENCE PARTICIPATION:

Jamie Curtis, County Commissioner, 1101 Beach St., said Christine Durgen would give an overview of the Genesee Home Improvement Program. This program will be presented in May at the Burton Senior Center. Mr. Curtis provided information from GCSI on legislative issues he felt would be detrimental to revenue sources. He would like the information distributed to the Mayor and Council. In addition, he provided Mr. Kray with information from MDOT regarding the implementation of the Federal Stimulus Projects. Genesee County should receive approximately \$40 million.

Christine Durgen, Genesee County Planning Commission, gave a brief overview of the Genesee County Home Improvement Program. The program has been administered to low and moderate income residents for 35 years. They average 50 homes per year. This program addresses health and safety improvements such as, furnaces, wells, foundations, windows, etc. During the application process the homeowner's income, mortgage, taxes and insurance are checked to see if

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they qualify. The County is required to hold a lien against the property during the loan process. Residents will have to pay back the loan if they sell the property. This is a zero interest, no payment loan. For seniors, half of the loan is forgiven right away. After a five-year period, the rest of the loan is forgiven, as long as they remain in the home. Eight Burton senior homes have been completed.

Don Brown, 1424 Connell, wanted to know if there was a procedural process in place to appeal civil infractions. He didn't feel Chapter 131 addressed this issue.

John Klutts, 3104 S. Center Rd., opposed the ordinance amending Chapter 131. He questioned the authority of the Fire Department to write tickets. He didn't think this was right.

John Stapish, P.O. Box 190134, opposed the second reading of both ordinances. He wanted to know what the penalties were for violating these ordinances. He said most ordinances were a \$500 fine or 90 days in jail. He said if citations haven't been issued in the past, why do it? He didn't know if the Deputy Chiefs were qualified to write tickets.

COUNCIL DISCUSSION:

Mrs. Ellenburg asked for clarification on Chapter 131. She didn't have a problem with the Deputy Fire Chiefs issuing citations. However, she didn't think other city employees should.

Chief Halstead said city employee might pertain to the DPW Director or a city official. He said these citations are not criminal in nature tickets. Civil infractions mean someone has violated a city ordinance. He proposed the change because the wording was altered during the codification process. Originally, the ordinance indicated the Fire Chief or his designee could write civil infractions. Now, it only states that the Fire Marshall can write these types of tickets. He wanted to clarify the language designating the Fire Chief, Deputy Chiefs and Fire Marshal would be able to write tickets on the scene, if necessary.

Mr. Martinbianco said Chief Halstead wanted to clarify who could issue citations on site within the realm of duty.

Mrs. Tinnin understood this would give first responders, such as Deputy Fire Chiefs the power to issue citations, if police officers are not on the scene.

Mrs. Tinnin and Mrs. Zelenko have determined that cost recovery reimbursements are included in insurance rates and covered within the policies. It is not an additional charge. The insurance companies will pay this. Mrs. Tinnin did not feel this practice was being misused. She said an appeal process was included in both ordinances.

Mr. Haskins said the only reason someone would be issued a civil infraction was because they violated an ordinance. Someone would not show up at your home and issue a ticket for no reason. A ticket could be issued for violating the open burn regulations. In his eleven years on the Fire Department, no one has been issued a ticket.

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Mr. Halstead clarified that no one could burn within 50 feet of a dwelling. He suggested residents with small lots use a steel container with a wire grid. This will help contain the ashes.

Mr. Joliat briefly discussed the status of several Tax Tribunal cases. A Davison Rd. business and Boulder Creek have been completed. They are working to resolve the Harley Davison case, as well as other commercial strips that are experiencing difficulties. They are trying to minimize costs and complete these cases as soon as possible.

Mrs. Tinnin requested a copy of the Burton Water Liability Study from Stantec. This should have been completed in July 2008. They were told not to provide her with a copy until the MDEQ had a chance to comment. She did not understand why the Council did not get a copy of the study, even if MDEQ had to make comments. The study has been completed. The taxpayers have spent \$25,000 for that study. She told Mr. Kray that this was the fourth time she has requested the study. She insisted that all Council members be given a copy of the study.

Mr. Martinbianco told Mrs. Tinnin that it was his understanding that the study had been conducted. Now, MDEQ will assess and comment on the study. It has to be reliable. The study comes from a contractor that we have supplied. MDEQ will come back with the appropriate format and that will be brought back to the City Council at that point time. This will complete the study.

Mr. Kray has not seen a completed study from Stantec. He had a draft of the study. It was not complete. It had to go back for revisions. MDEQ had revisions they wanted Stantec to make. They are currently making revisions. Mrs. Tinnin wanted to see the study. She said it was supposed to be completed in 2008. Mr. Kray clarified it was not complete. She wanted to see the rough draft. Mr. Kray planned to contact the Mayor to determine how to proceed with this request.

Mr. Martinbianco said that Mr. Kray has discussed exactly what needed to be done. He anticipated that more information would be provided at the April 6th meeting. The budget will be introduced that night, as well.

Mrs. Tinnin had many questions with the attorney billing. She was concerned with the amount of money that was being spent on the Trail Ridge Homeowners Association. She wanted to know why we would initiate changes when only a few residents supported this. She will continue to call it Pebble Creek, because bonding was done under that name. She said this has been a nightmare and it is costing residents a ton of money in legal fees. This billing alone was \$593.00. She hoped these billings would stop.

Mr. Austin has assured Mr. Martinbianco that this is about the last of the Trail Ridge business. There were a few concerns with the street names. That issue should be resolved.

Mr. Martinbianco said we couldn't stop people from suing the City on a variety of issues. He said we have to defend ourselves from actions we have taken as a Council. He said Mrs. Tinnin had the option to exclude Trail Ridge items from the billings, if she felt the need.

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In reference to Item 5, Mr. Martinbianco was pleased to hear a local company received the street marking contract.

In regards to the second reading of Chapter 93, Mrs. Zelenko and Mrs. Tinnin had voiced their concerns earlier. After speaking with other communities at the MML conference and insurance agents, Mrs. Zelenko was encouraged to hear that this was somewhat standard procedure. There are limits on clean-ups and spill containments. The use of Jaws of Life and other such equipment fall under the medical portion of the policy. Insurance companies pay the claims on behalf of the policyholders. Uninsured motorist have the option to initiate the appeal process through the Mayor. Therefore, she supported this ordinance.

Mrs. Tinnin said yard waste pick up would begin April 1st. She would like an announcement put in the paper. She asked for clarification on leaves being cleaned up at vacant homes. Mr. Kray said there was a provision in the contract for the clean up of yard debris, which is measured by the cubic yard.

Mr. Martinbianco looked forward to the transmittal of the 2010 Budget at our next meeting on April 6, 2009 at 7:00 pm.

COUNCIL ACTION:

Zelenko moved and Heffner seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from February 25, 2009 through March 18, 2009 in the amount of \$7,067.75.

Motion carried 6-0.

Ellenburg moved and Zelenko seconded the following motion:

2. Approve and authorize the Mayor and Clerk to enter into a contract, contingent upon the approval of the City Attorney of the required bonds and insurance documents, on behalf of the City of Burton with M & M Pavement Marking, Inc., P.O. Box 530, Grand Blanc, MI 48519, for the 2009 Pavement Marking Program, in the amount of \$63,599.05.

Motion carried 6-0.

Tinnin moved and Zelenko seconded the following motion:

3. Approve and authorize the application for a wireless communication system to co-locate on an existing transmission tower at 3370 S. Vassar Rd., Parcel #59-25-400-003, at a height of 197 feet. New application WCS #09-01 by Metro PCS Michigan, Inc., c/o Black & Veath, 30150 Telegraph Rd., STE 420, Bingham Farms, MI 48025. Prior to issuance of building permit, applicant to post and maintain a \$10,000 performance bond guaranteeing removal of said facility.

Motion carried 6-0.

Ellenburg moved and Heffner seconded the following motion:

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4. Approve and authorize a modification to the contract with Kraft Engineering & Surveying for Project #07-005-P Center Road Repair Project (Center Road from Lapeer Road to Court Street) to modify the Plans and Proposal for re-letting. Fee not to exceed \$2,500.

Motion carried 6-0.

Ellenburg moved and Heffner seconded the following motion:

5. Approve and authorize the controller to transfer \$2,500 from Unappropriated Surplus Major Street into Project #07-005-P Center Road Repair: Project (Center Road from Lapeer Road to Court Street).

Motion carried 6-0.

SECOND READING OF AN ORDINANCE:

Haskins moved and Heffner seconded the following motion:

1. Approve and authorize the Second Reading of an Ordinance, an Ordinance amending Chapter 131 of the Code of Ordinances of the City of Burton by authorizing designated city officials to issue civil infraction citations and by clarifying the state office charged with approval of municipal civil infraction forms and providing penalties for the violation thereof.

Motion carried 5-1, with Martinbianco voting no.

Ellenburg moved and Heffner seconded the following motion:

2. Approve and authorize the Second Reading of an Ordinance, an Ordinance amending Chapter 93 of the Code of Ordinances of the City of Burton to clarify persons responsible for payment of cost recovery charges arising from public safety or fire emergency incidents, and to provide penalties for the violation thereof.

Motion carried 6-0.

Meeting adjourned at 7:55 p.m.

Gayle K. Webster, CMC
City Clerk