

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JULY 6, 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 Tom Martinbianco at 7:00 p.m.

MEMBERS PRESENT: Conley, Ellenburg, Heffner, Martinbianco and Tinnin.

MEMBERS ABSENT: Haskins and Zelenko.

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

Heffner moved and Conley seconded the following motion:

Approve and authorize the minutes of the Special Council Meeting on June 15, 2009 at 6:15 p.m., Special Council Meeting on June 15, 2009 at 6:30 p.m., the Regular Council Meeting on June 15, 2009 at 7:00 p.m. and the Special Council Meeting on June 29, 2009 at 5:00 p.m.

Motion carried 5-0.

ADMINISTRATIVE REPORT:

Mayor Smiley indicated that Attorney Anthony Lubkin submitted a letter proposing a resolution commending former Flint Police Chief Bradford Barksdale and Sergeant Mark Gern for heroism and valor in response to the armed assault at the Poker Palace Room.

The Mayor referenced a letter from Councilwoman Laurie Tinnin that was submitted to the Deputy Clerk on June 19, 2009. The letter discussed 6.3 of the Charter outlining the Mayor's responsibility to provide information to the Council. Again, Mrs. Tinnin requested a list of all delinquent water customers. This information has been provided to Mrs. Tinnin in the past. Under FOIA, the City is not required to create these types of reports. This information will not be supplied in the future. The Mayor felt Mrs. Tinnin should be more respectful and courteous by submitting future correspondence to him. This will give him the opportunity to address important issues in a timely fashion before Mrs. Tinnin goes to the press. Attorney Rick Austin has provided an opinion on the water billing procedures. The Mayor indicated that no ordinances were violated.

Mr. Martinbianco felt it was counter productive to keep discussing this same topic at that meeting. He felt the Mayor, Mrs. Tinnin and himself should meet to resolve these types of issues.

Mrs. Tinnin wanted her letter time stamped on June 19th. She volunteered to deliver it to the Mayor's Office. However, the Deputy Clerk said she would take it to the Mayor's Office. Mrs. Tinnin felt she had the right to discuss billing procedures in an open forum. She said a list of delinquent payments should be supplied. This list can be generated in a short time. She brought in a ream of paper to help with the cost of generating the report. She wants to know the names of everyone that is in arrears.

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Linda Barber, 1391 Hillside, Flint Twp., spoke regarding a non-profit organization called the Mission of Peace. This organization provides financial counseling and support for those losing their homes due to foreclosure. The group has been certified through HUD of Genesee County. There is no charge for this service. Some companies are praying on the misfortunes of these people, charging them \$3,000 to \$5,000 for counseling, resulting in more financial hardship. Mission of Peace's goal is to save homes from foreclosures. For more information contact Linda Barber at (810) 232-0104.

COMMITTEE REPORTS:

None.

AUDIENCE PARTICIPATION:

Attorney Anthony Lubkin was an eyewitness at the shooting incident at the Palace Poker Room. He proposed a resolution commending former Flint Police Chief Bradford Barksdale and Sergeant Mark Gern for their heroism and valor in response to the armed assault. He appreciated their efforts. He felt the situation could have led to the loss of several lives. Mr. Martinbianco said the Council should be more proactive with legislation requiring these establishments to provide security.

William Eddy, 4128 S. Center Rd., a long time resident, complained that Sharkey's Sports Bar was violating the noise ordinance with loud music late at night. He is losing sleep due to the loud noise. He has called Mr. Martinbianco, 911 and Sharkey's regarding this disturbance. Some neighbors have not complained due to fear of retaliation. He hoped the music would be turned down providing a reasonable and respectful solution.

Jerry Moore, 1363 Norton St., spoke in opposition to setting registration fees for abandoned homes. He felt the language should be modified to accommodate empty homes that keep lawns mowed and repaired. He felt these homes should not be classified as abandoned. He felt it was too costly to hook up the utilities and pay the taxes on these homes. This presents a hardship for people who own multiple homes.

John Stapish, P.O. Box 190134, spoke in opposition to setting registering fees for abandoned homes. He spoke in reference to a DPW employee that didn't return his phone call. He said the Searles building at Genesee and Richfield should be demolished. In addition, he said City buildings were in need of repairs.

Mr. Martinbianco asked if Mr. Stapish had filed a written complaint regarding the worker. Mr. Stapish did not file a written complaint.

Rick Fuhst, 1208 S. Genesee, thanked Linda Barber for discussing such an important issue as foreclosures. This is pertinent to our community. He said the Creek near Genesee and Lippincott was causing ongoing flooding problems. It should be cleaned up to alleviate the flooding. John Dunlop, 6370 Lapeer, wanted to know why the County was raising water and sewer rates when people can't afford to live in their homes. He asked for clarification on a drainage district

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that was created. Mr. Martinbianco said the drain would alleviate the storm water run off in the area. Those who benefit from the new drain will be assessed.

COUNCIL DISCUSSION:

Mrs. Tinnin agreed with Mr. Dunlop's comments. If we keep raising fees, it would be difficult for people to live here. She spoke regarding the proposed sewer deficit. Mr. Martinbianco spoke regarding the difference between operating deficits versus non-operational deficits. Mrs. Tinnin questioned the need for such a steep increase in sewer rates. She felt the increase would contribute to an even larger sewer surplus. She said the increase would generate \$2 million more dollars a year. She felt the current rates were enough to cover operations.

Mr. Kray explained that Burton's share under the new structure remained the same or some might be less. He clarified that every penny of the increase went to the County. He did not feel the increase would generate \$2 million.

In reference to Mr. Moore's comments, Mrs. Tinnin felt it would be expensive for him to hook up to utilities and pay a \$50.00 registration fee, especially if he had more than one rental.

Mr. Austin clarified the definition of an abandoned home as designated in the ordinance. A building needs to be vacant for at least 30 days and meet one of five criteria. One could be that the utilities have been disconnected. These are exactly what types of buildings you want to track. There are no lights to protect them from potential problems. Under the terms of the ordinance and he felt properly so, these types of buildings do need to be registered. This applies to residential, commercial and industrial structures. However, it is not necessary for abandoned buildings to be hooked up to utilities.

Mr. Martinbianco applauded the Mayor for addressing the abandoned building situation. He would like the yards addressed with the same standards. He said lawns are only being mowed back so many feet, leaving unsightly long grass and mosquitoes for the neighboring homes.

Mr. Austin clarified we couldn't exceed the authority of State law. We can only mow the first 16 rods of weeds or grass. However, a nuisance order could be initiated, if necessary.

Mrs. Tinnin wanted to know if any complaints had been turned in regarding the noise level at Sharkey's. Mr. Austin had not heard of any complaints about this establishment.

Mr. Martinbianco pointed out that the ZBA has allowed for outside volleyball activities.

Mrs. Tinnin asked for clarification on the Attorney's opinion stating that the Mayor did not violate the ordinance.

Mr. Austin said that after reviewing several cases regarding the collection of utility bills, it was his opinion that the Mayor had the discretionary authority to implement payment arrangements.

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However, there are limitations to the arrangements. For example, the City cannot wave or reduce the rates. The discretionary authority is broad, but you have to collect.

Mrs. Tinnin wanted to know if there was a time limit attached to the arrangements. Mr. Austin indicated that the courts do not address the duration of the payment schedule. They concluded that lawfully the charges do need to be collected.

In reference to Sharkey's, Mrs. Ellenburg asked for clarification on the time limitations regarding the noise ordinance. The Attorney briefly reviewed the noise ordinance. There should not be loud noise between the hours of 10:00 p.m. to 7:00 a.m. Mr. Austin will review this information and report back to Council. In the past, the City has taken some businesses that violate the noise ordinance to circuit court.

Mrs. Ellenburg felt the County sewer rate increase needed to be passed on so we did not deplete our savings account. That is what happened this year. She understood it was difficult for people to absorb the rate increase.

Mrs. Ellenburg suggested that Mr. Wright or Mr. Martinbianco would know who to contact regarding the creek problems.

Mrs. Conley spoke in reference to Item 2, the abandoned building ordinance. She felt there was still some confusion on the definition of an abandoned structure. She indicated that she has lived next to blight for eight years. She asked for clarification on Item 3 and 4. In regards to Item 3, Mr. Kray explained this pertained to the construction-engineering contract with Kraft Engineering for Center Rd. That amount was for \$21,500.00. The transfer of funds for Item 4 covered the Kraft contract and DPW's work on the project. The City's personnel portion included administrative and engineering work and was estimated at \$50,000.

Mrs. Ellenburg thanked the officers for protecting people at the Palace Poker Room. In addition, she applauded the Burton Police for their participation. She felt the State gambling permits should require protection in these establishments. She felt Council should make arrangements to thank the officers.

Mr. Martinbianco agreed we should acknowledge the officers that were involved. He applauded their actions. He indicated that these types of establishments have a lot of money on the premises. This could put their patrons in danger. He felt public security should not be spent to protect these types of organizations. This issue should be addressed with the gaming license. They should be required to provide their own security.

Mr. Heffner suggested we draft an ordinance requiring these establishments have armed security guards on the premises. He referred to the legislative committee to take action. Mrs. Tinnin will take this under advisement.

Mr. Heffner said the sledding hill at Kelly Lake looks fabulous. All the improvements look very nice. Mayor Smiley indicated that an Eagle Scout made several improvements to the sledding hill. The Eagle Scout did a good job and it looked very nice.

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Mrs. Conley wanted to know the status of the Kelly Lake closure. Mr. Kray said the County Health Dept tests the water periodically. There was a lot of run off during the heavy rain. It caused a temporary closure. It was a borderline case. The water has been retested. Everything is okay at this time.

A brief discussion was held in reference to 6.3 of the Charter. Mrs. Conley wanted to know if the Council members were able to obtain all the information they have requested. The Attorney said Council members do not have any more authority to public information than what is covered under the Freedom of Information Act.

A brief discussion was held in reference to telephone voting. The Attorney clarified that telephone conferencing and voting was legal and appropriate. This would comply with the Open Meetings Act, if Council members were participating in meeting procedures. A quorum of the Council would need to be present before telephonic voting could be held. This is more preferable than proxy voting, due to the fact the member is unable to participate in the meeting.

COUNCIL ACTION:

Tinnin moved and Conley seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from June 10, 2009 through July 1, 2009 in the amount of \$8,652.75.

Motion carried 5-0

Ellenburg moved and Heffner seconded the following motion:

2. Approve and authorize a Resolution Establishing Fees for Registration of Abandon Structures.

Motion carried 4-1, with Conley voting no.

Ellenburg moved and Conley seconded the following motion:

3. Approve and authorize the Mayor and City Clerk on behalf of the City of Burton and its City Council authority to execute a Construction Engineering Contract with Kraft Engineering and Surveying, Inc. for the reconstruction of Center Rd. from Lapeer Rd. to Court St. (DPW Job #07-005-P) in the not to exceed amount of \$21,500.00.

Motion carried 5-0.

Ellenburg moved and Heffner seconded the following motion:

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4. Approve and authorize the City Controller to transfer \$72,100.00 from the 2009/10 Major Street Budget-Unappropriated Surplus to DPW Job #07-005-P.

Motion failed 4-1, with Conley voting no.

Meeting adjourned at 8:45 p.m.

Gayle K. Webster, CMC
City Clerk