CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JUNE 1, 1992, 7:30 P.M., COUNCIL CHAMBERS

INVOCATION AND PLEDGE OF ALLEGIANCE WAS LED BY COUNCILMAN TED HAMMON.

The Regular Meeting was called to order by Tom Martinbianco, Council President, at 7:30 P.M.

Members Present: Cross, Hammon, Martinbianco, Walls and Zelenko.

Members Absent: Abbey and Cox.

Others Present: Mayor Charles H. Smiley; K. McArdle, City Administrator; B. Becker, Treasurer/Controller; J. Major, DPW Director and W. Walworth, Clerk.

Zelenko moved and Cross supported the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of May 18, 1992 at 7:30 P.M. Motion carried 5-0.

ADMINISTRATIVE REPORT:

Mayor Smiley said he had given each Council member a copy of the proposal to resurface Belsay Rd. He said the proposal will go to the County and will be brought back to the Council after the bids are let.

The Mayor said the Memo of Understanding with Pollard will be attached to the minutes as a backup to the garbage fee of $93 in item #8. (see attached)

The Mayor read the resignation of Sue Millard, from the Planning Commission, into the record. (see attached) He said he has advised the Clerk that he will appoint Steve Perez as the Administrative Official on the Planning Commission, to come into compliance with State Law under subsection 2. (see attached)

Mr. Hamilton asked for an executive session to discuss pending litigation.

COMMITTEE REPORTS:

None.

AUDIENCE PARTICIPATION:

Arita Magee, 3260 S. Vassar, read a statement thanking the Council for not proceding with the Sabo project. She thanked Mr. Hammon and Mr. Martinbianco for their assistance in researching the project.

Bud LeGrande, 2105 E. Buder, criticized the Council for postponing the appointment of the new Police Chief.

Stanley Rykulski, 2107 Casaloma, Flint, presented his case for the lot split. He said the Planning Commission gave no reason for the denial. He said he did not think he was in a flood plain and there were other lots built on, that are less frontage than what he is requesting.

Mrs. Zelenko said the area does flood every few years.

Mayor Smiley said the request should not be denied, as the land is not in a flood plain.

Mr. Hammon asked if additional houses would increase the runoff.

Mr. Major said yes.

Mr. Hammon asked if the land could be designated as non-buildable based on public knowledge.

Mr. Major said that you can deny on that basis.

Mr. Hammon asked Mr. Rykulski to get with the DPW and the County and bring his case back at the next meeting.

Mr. Major said that might not be enough time for the county to do the research.

Mr. Martinbianco said he thought the drain was undersized for the area.

Mr. Major said the County needs to investigate and correct the problem, as this was not a City drain problem.

Mr. Hammon asked how soon the Board of Determination could meet. Mr. Major said from 30 to 45 days.

Mr. Martinbianco suggested that the people should petition the Board of Determination to resolve the flooding problem.

Gregory Nichols, 6030 Nelson Ct., said there is flooding in that area.

Francis Brauer, 3315 S. Belsay, complained about having to put a fence up so he would not be liable. He will need to get with DPW to find out what this is all about.

COUNCIL DISCUSSION:

Mr. Martinbianco wanted to be sure that the County fully understood the sub standard drains under Belsay Road before they bid the project.

Mrs. Walls thanked Mr. Major for the left turn signal at Bristol and Saginaw.

Mr. Cross asked where micro surfacing had been used. He was advised in Ohio.

Mayor Smiley said he hoped the new resurfacing would be completed in early August.

Mr. Martinbianco asked about the schools using the portable computer in next Monday's election.

Mr. Walworth said Bentley and Kearsley will be using our computers and this was the first time that computers will be used in verifying voters in a school election in the United States.

Mr. Hammon congratulated Mr. Perez on his appointment.

He asked if the City was in compliance with State Law.

Mayor Smiley said the Attorney had researched this in 1979 and the makeup of the Planning Commission was now correct.

Mr. McArdle said the previous Mayor had replaced Mr. Major with a resident, which was not in compliance with the law. The appointment should have been an administrative official.

Mr. Hammon asked the Attorney if the Council could go to a different makeup for Planning.

Mr. Hamilton suggested that if this is done, people be replaced as their term of office expires.

Mr. Hammon asked why Sue Millard had resigned.

Mayor Smiley said she had read the legislative minutes and decided that she should resign, as she was the one most recently appointed to the Planning Commission.

Mr. Cross asked about the process of appointing the Attorney, as it is to be done at budget time.

Mr. Martinbianco said he had planned to put it on the June 15th meeting two weeks ago.

Mrs. Walls said she was unhappy with the report from the DPW on the special assessment in item #4 as it related to CHMP.

Mr. Major said there will be cost overruns when CHMP is called by the City inspectors to correct a design problem. He said that most of the time it can be absorbed in the project costs, but in this case, there was not a lot of money in the project. He said he was not the Director when the project started and wanted to be up front on absorbing the overrun and not try to hide it in some way.

Mr. LaDuke said all projects have design problems that must be corrected and it happened that this one was low in monies to begin with.

Mr. Hammon said he did not want projects to go under 5% by the second public hearing and that the people should be reassessed if this appears to be happening by the second public hearing.

Mr. Martinbianco thanked Mr. Major for being so candid about this overrun. He said he did not want CHMP to be getting the $20,000. Mr. Major they would not be getting that money.

Mr. Cross asked the Attorney if he should abstain. Mr. Hamilton did not feel that Mr. Cross' interest would be great enough and that he could vote.

Mr. Cross said his Attorney advised him to abstain.

Mr. Martinbianco said that since there was no motion to allow Mr. Cross to abstain, that he would have to vote.

Mr. Cross said if Mr. Benthall has a problem in finding a place in Burton during the 90 days, that he should come back to Council for them to consider an extension.

Mr. Martinbianco asked about the Memo of Understanding on the rubbish contract from Mayor Smiley, dated March 26, 1992. He said he did not recollect that the Council had given the Mayor the levity to negotiate the Memo of Understanding, but he understood that past practice is involved and that it was negotiated within what is allowed in the contract. He said that he understood the memo to be establishing a flat per stop charge of $7.75 per month from the period of July 1, 1992 through June 30, 1993. He said if he is approving this $93 trash removal fee, that come June 15, 1993, we will not have to go back to the general fund for any additional transfers of monies due to any extraneous factors such as the intervention of the DNR, especially for costs that we have no responsibility.

Mayor Smiley said if they incur any additional costs, that they would have to come back to the administration and justify any increases and that would be brought back to the Council at that time.

Mr. McArdle said the Mayor signed the memo of understanding as allowed under Article 16 of the contract and he had a letter from the Attorney, telling us that we have that authority.

Mr. Martinbianco said he assumed that there were no other amendments to the contract and that it still had an expiration date of June of 1995.

Mr. Martinbianco asked the Mayor about the issue of marking City vehicles, which the Mayor raised last year as a Council member, with the exception of the Mayor' car and certain other vehicles designated by the Council.

Mayor Smiley said all cars are marked, with the exception of the Police Chief. He also said that he was the only one, last year, that had a concern and there was no discussion on how they would be marked. He said he had no concern if the marking was done with a bumper sticker.

Mr. Martinbianco thanked the Mayor for the clarification.

Mr. Martinbianco thanked Mr. Hammon, Mr. Becker and the staff for their hard work in preparing and finalizing the budget. He said he recognizes that request may be submitted to the Council, from time to time during the year, if changes need to be considered.

COUNCIL DISCUSSION ACTION:

Moved by Cross, supported by Zelenko to add the appointment of Steve Perez to the Planning Commission, to the agenda as item #20. Motion carried 5-0.

Moved by Walls, supported by Hammon to go into a closed session after item #20 under Section 8(e) of the Open Meetings Act. Motion carried 5-0 with a roll call vote.

COUNCIL ACTION:

Walls moved and Zelenko supported the following motion:

1. Approve and authorize the Attorney Billing from May 14, 1992 to May 26, 1992 in the amount of $2,352.20.

Motion carried 5-0.

Hammon moved and Walls supported the following motion:

2. Approve and accept the low bid of Excor of MI, 5066 N. Gale Road, Davison, MI 48423, in the amount of $166,529.00 for construction of municipal watermain on East Court Street from Howe Road to Creekwood Trail, DPW Job #91-006-W.

Motion carried 5-0.

Zelenko moved and Hammon supported the following motion:

3. Approve and authorize the Mayor and Clerk to enter into a contract with Excor of MI in the amount of $166,529.00 for construction of municipal watermain on East Court Street from Howe Road to Creekwood Trail, DPW Job #91-006-W, contingent upon approval of the City Attorney with the submission of mandatory bonds and insurance policies. The total project cost shall be $204,000.00; the project funds have been approved with the adoption of the 1991-92 budget by the City Council on 6-17-91.

Motion carried 5-0.

Cross moved and Walls supported the following motion:

4. Approve and authorize the transfer of $20,000.00 from the 1991-1992 General Fund/Unappropriated Surplus to Special Assessment District P-89-6 for the purpose of construction extras so as to balance and close the construction account.

Motion carried 5-0.

Moved by Walls supported by Cross to postpone the following resolution until the meeting of June 15, 1989

5. Approve/Disapprove Mr. Ryhulski's appeal of Lot Split #92-17, which was denied by the City of Burton Planning Commission. Motion carried 5-0.

Motion carried 5-0.

Cross moved and Zelenko supported the following motion:

6. Approve and authorize the Mayor's appointment of John D. Benthall as the City of Burton Police Chief with the stipulation that he is to move into the City within 90 days.

Motion carried 5-0.

Walls moved and Zelenko supported the following motion:

7. Approve and authorize the Mayor's reappointment of Kathleen McKnight to the City of Burton Building Authority with her term to expire June, 1995.

Motion carried 5-0.

Walls moved and Zelenko supported the following motion:

8. Approve and authorize the following tax millages and fees to be levied for 1992-1993 fiscal year:

   General Operating (base tax rate) 5.00 mills; Voted Police (base tax rate) 1.00 mills; Sewer Bond Debt Retirement 2.75 mills; a 93.00 dollar rubbish removal fee on all residential improved parcels and those other parcels that utilize the service; a Property Tax Administration Fee of 1% on all tax statements and additional 4% late penalty charge when delinquent.

Motion carried 5-0.

Cross moved and Zelenko supported the following motion:

9. Approve and authorize budget amendment #1 to the City of Burton 1992-1993 fiscal year budget and to incorporate the said amendment into the City of Burton 1992-1993 fiscal year budget.

Motion carried 5-0.

Zelenko moved and Hammon supported the following motion:

10. Approve and authorize budget amendment #2 to the City of Burton 1992-1993 fiscal year budget and to incorporate the said amendment into the City of Burton 1992-1993 fiscal year budget.

Motion carried 5-0.

Zelenko moved and Walls supported the following motion:

11. Approve and authorize budget amendment #3 to the City of Burton 1992-1993 fiscal year budget and to incorporate the said amendment into the City of Burton 1992-1993 fiscal year budget.

Motion carried 5-0.

Zelenko moved and Walls supported the following motion:

12. Approve and authorize budget amendment #4 to the City of Burton 1992-1993 fiscal year budget and to incorporate the said amendment into the City of Burton 1992-1993 fiscal year budget.

Motion carried 5-0.

Hammon moved and Zelenko supported the following motion:

13. Approve and authorize the Burton City Budget for all General Appropriation Act Funds for the 1992-1993 fiscal year (pages 12-83) and that the Burton City Budget be adopted on a departmental basis.

Motion carried 5-0.

Walls moved and Zelenko supported the following motion:

14. Approve and authorize a millage levy (base tax rate) of 1.94 mills for the Downtown Development Authority in the affected district.

Motion carried 5-0.

Hammon moved and Cross supported the following motion:

15. Approve and authorize the proposed 1992-1993 fiscal year Downtown Development Authority Budget.

Motion carried 5-0.

Hammon moved and Zelenko supported the following motion:

16. Approve and authorize the proposed senior citizen's activity center rental rates effective January 1, 1993.($400 per evening, $250 per afternoon and $100 per meeting)
Motion carried 5-0.

Hammon moved and Zelenko supported the following motion:

17. Approve and authorize a meeting pay rate of 30 dollars for Planning Commission and ZBA members effective July 1, 1992.
Motion carried 5-0.

Hammon moved and Zelenko supported the following motion:

18. Approve and authorize transfer of funds of a total of $25,000 from Senior Citizens/Libraries - Repair & Maintenance and General Fund-Contingency Surplus to Capital Improvements-Memorial Library Improvements in the current 1991-1992 Budget.
Motion carried 5-0.

Walls moved and Zelenko supported the following motion:

19. Approve and authorize amending the current Criminal Diversion Contract as follows:

    1. Amend Section 6, paragraph 2 to read "six-hundred fifty dollars ($650.00) per week, effective July 1, 1992.

Motion carried 5-0.

Cross moved and Hammon supported the following motion:

20. Approve and authorize the Mayor's appointment of Steve Perez 1128 S. Vassar Rd., as the Administrative official on the City of Burton Planning Commission, to fill the vacancy created by Sue Millard's resignation. Term to expire April, 1993.
Motion carried 5-0.

SECOND READING OF AN ORDINANCE:

Walls moved and Zelenko supported the following motion:

1. Approve and authorize Ordinance No. 70-1 (C), to repeal Ordinance No. 70 (C), being an ordinance licensing firearms dealers and regulating the storage of firearms and ammunition within the City of Burton, Genesee County, Michigan.
Motion carried 5-0.

Council recessed for Executive Session at 9:12 P.M. and reconvened at 9:39 P.M.

Meeting Adjourned at 9:40 P.M.

Respectfully Submitted,

William R. Walworth
Burton City Clerk
WRW/cml