CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 4, 2003, 6:30 P.M., COUNCIL CHAMBERS

Council President Larry Brawner led the Invocation and Pledge of Allegiance.

Council President Larry Brawner called the Regular Meeting to order at 6:30 P.M.

MEMBERS PRESENT: Bement, Brawner, Centilli, Cross, Martinbianco, Tinnin and Wells.

MEMBERS ABSENT: None.

OTHERS PRESENT: C. Abbey, City Administrator; Attorney R. Hamilton and G. Webster, City Clerk.

Cross moved and Bement seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of July 21, 2003 at 6:00 P.M.; Special Meeting of July 21, 2003 at 7:00 P.M. and Regular Meeting of July 21, 2003 at 7:30 P.M.

Motion carried 6-0. Martinbianco was not present for this vote.

ADMINISTRATIVE REPORT:

Mr. Abbey said a finance meeting was held to discuss the codification of ordinances. The committee recommended transferring funds for this project. He spoke regarding the three proposals. He asked Council to pass around the proposals and review the information. All of these companies would take our existing ordinances and do a legal review against state and federal statues. Then they would contact us regarding the proposed changes. Any revisions would come before Council. He will provide Council with a copy of the bids. Mr. Abbey recommended accepting the low bid of $14,400.

Mr. Brawner wanted to know if Mr. Abbey planned to make a formal presentation on this issue at the next council meeting.

Mr. Abbey said that this issue has already been to committee. He suggested the Council review the bids and pick the company they prefer, so we can begin the process. At a later date, the Council would review and adopt any revisions. In addition, our legal counsel would review all modifications.

Mr. Brawner asked if Mr. Abbey was requesting that the Council accept one of these tonight.

Discussion continued in reference to the need for the codification of ordinances.

Mrs. Tinnin wanted to know how long the process would take and if updates would be provided.

Mr. Abbey said all companies predicted it would take about nine months to complete the project. They would provide updates. He planned to make copies and distribute this information to Council later in the meeting. A brief discussion was held concerning the payment schedule for the project.

Mrs. Tinnin wanted to know if it was Mr. Abbey's intention to put this on tonight's agenda.

Mr. Abbey asked that the codification project be added to the agenda.

COMMITTEE REPORTS:

Mr. Cross set a legislative meeting for Wednesday, August 13, 2003 at 5:00 p.m. for the purpose of discussion regarding the political sign ordinance. He will distribute packets of information relating to this issue.

Mr. Bement said the Korean War ceremony went very well. Dale Kildee was the main speaker and he did an excellent job. Liz Moss did a nice job organizing the event. It was a good day and the veterans seemed to enjoy the program.

AUDIENCE PARTICIPATION:

Don Sanderlin, 4460 Killarney Pk., said the Korean War ceremony was a good event. He appreciated the nice certificate that was given to the veterans. He felt the old wooden building next to Encore Encore should be torn down. He saw children playing in the abandoned building.

Kenneth Hillier, 2124 Delaney St., wanted to submit a petition opposing the Planning Commission's approval of the Taco Bell site plan. He said Delaney St. residents signed a petition objecting to the proposed one-way entrance. Residents felt this issue was not given enough study or consideration. He asked the Council to reconsider the action taken by the Planning Commission.

Mr. Hillier was instructed to give the petition to the City Clerk.

Pauline Dargel, 6119 Hugh St., wanted to know if Mr. Hamilton had made a determination on the appeal process. She felt the Delaney St outlet was a deviation from the original site plan. She asked for clarification on the sale of property on Boatfield. She wanted to know why the City was installing a roof on DPW at this time, rather than during the renovation process. She wanted to know how that project would be funded.

Larry Petrella, 1081 Howe Rd., said there was a problem with speeding on Arrowhead. He thought police officers should patrol the area. In addition, he would like a code of ethics ordinance added during the codification process. He wanted to know if state ordinances superseded local ordinances.

Mr. Abbey indicated that the codification process does not create new ordinances. The Council deals with new ordinances and this is a review of the existing ordinances. He said state ordinances do supersede local ordinances.

COUNCIL DISCUSSION:

Mr. Brawner reviewed the MERS delegates listed in agenda Items 2 and 3.

Mr. Cross questioned the validity of Mr. Hillier's petition.

Mr. Hamilton informed Mr. Card two weeks ago that the ordinance required that the decision of a site plan had to be appealed within seven days. The E-mail that was sent was done so in excess of seven days. Mr. Hamilton did not review the Planning Commission minutes nor did he attend the meeting. However, it was his understanding that the Planning Commission took final action to approve the site plan, with some conditions. The appeal had to be submitted within seven days. There was nothing received by the City within that time frame. His concern is that if this body did accept an appeal, outside the scope of authority provided for by the ordinance, we would be subject to challenge by the property owner. If there wasn't a final decision made by the Planning Commission, maybe some form of action could be pursued. He wanted to know if there was still some matter being considered by the Planning Commission regarding the Taco Bell case.

Mr. Bement thought all issues regarding the Taco Bell site plan had been agreed upon and finalized by the Planning Commission that night.

Mr. Hamilton said that was his understanding, also. On that basis, we couldn't accept the E-mail as an appeal notice of the Planning Commission's decision.

Mr. Martinbianco said that the minutes reflected a 6-0 approval of the site plan, contingent upon the DPW recommendations and following stipulations agreed upon by Taco Bell. These stipulations included a five-foot sidewalk, a bus stop enclosure on Delaney Street, filling in the ditch in the green belt area, a north entrance on Delaney Street designated as one way and a left hand turn sign. It does appear that the Planning Commission took affirmative action on that issue.

Mr. Hamilton said that Mr. LaDuke was concerned with the proposed bus shelter being placed in the public right away. He suggested that Mr. LaDuke examine that situation closely and make an independent determination as to whether it might pose a hazardous situation. If there is a problem, then Taco Bell should be notified that that portion of the site plan should be amended to remove the bus shelter. If it didn't appear to be a safety hazard, we would require Taco Bell to give us an agreement that they would indemnify us, or insure us, before the placement of that structure, as well as an agreement that they would maintain the structure.

Mr. Abbey said Taco Bell had to make several concessions to make the plan work. He understood that most of residents' concerns were addressed. They thought a way to alleviate the problems would be to add the one-way drive on Delaney Street. He said the Planning Commission did make a final disposition on this issue. Affirmative action was taken and the site plan was approved.

Mr. Brawner asked for clarification on the appeal process. He understood that the appeal time had lapsed.

Mr. Hamilton agreed that the time had lapsed.

Mr. Cross wanted to why they were adding a new roof to DPW at this time and how would it be funded.

Mr. Abbey said the roof was addressed at budget time. Mr. Riess set aside some money for that to be done last year. It was not part of the original bids for the expansions. It has taken so long, because there are only a few companies that do that type of work. He said there are leaks in the garage area and it needs to be repaired. In addition, they plan to replace the gas storage tank behind the DPW. There is a need for larger storage capacity. This work might be done at the same time as the roof.

Mr. Cross would like Mr. Abbey to contact the police department regarding the speeding on Arrowhead.

Mr. Abbey will relay that information to Mr. Duplanty. He said the speed control device would be used again, once it has been repaired.

Mr. Cross has been getting a lot of complaints on loud radio music rattling windows. He would like the police to stop motorist and discuss this annoying problem with them.

Mr. Abbey will relay this information to the police chief.

Mrs. Tinnin asked for an update on all of the demolition hearings. In reference to Mr. Sanderlin's comments, she wanted to know the status of the vacant Encore, Encore building.

Mr. Abbey gave a brief update on the demolitions. He said that Encore Encore was not on the demolition list. However, the building is for sale.

Mr. Brawner thought Mr. Sanderlin was referring to Waldorf's Plumbing, not Encore Encore.

Mr. Abbey said that Mr. Waldorf's building is also for sale. He said if the building was open and there was access to children, we would board it up under an emergency situation. We have a right to do that. He planned to make a courtesy call to Mr. Waldorf before proceeding with this action.

Mrs. Tinnin said that she received a complaint regarding the noise at the Nightingale.

Mr. Abbey will relay this problem to the police department.

Mr. Hamilton has received a number of recent citations regarding the Nightingale site. In addition, he said there has been some enforcement with speeding on Coin and Connecticut.

Mr. Abbey said that Mr. Duplanty was sent to Coin and Connecticut to look into the situation. He has written several citations in the area.

Mrs. Tinnin asked for clarification on the Delaney Street appeal. She wanted to know if residents and the developer could meet to clarify some of these concerns.

Mr. Hamilton said the first communication the City received in reference to the Delaney Street appeal was nine days later. It was not even an appeal. There may have been some different interpretation if it had been within the time period for an appeal. If Mr. LaDuke determines the bus stop is a safety issue, it should be brought back to the Planning Commission to amend that particular issue. If he determined it was not a safety hazard and it could be placed there safely, the City should still require an indemnification agreement backed by an insurance certificate and a maintenance agreement that Taco Bell was responsible for the structure.

A brief discussion continued in reference to the Taco Bell site plan.

Mr. Wells moved, seconded by Cross to add as Item 7 to: Approve and authorize the transfer of not more than $15,000 from the General Fund Surplus to the Building Department for the purpose of codification of all City of Burton ordinances.

Mrs. Tinnin said the low bid was $13,440. She wanted to amend the motion.

Mr. Abbey said this just represented a $15,000 transfer from General Fund Surplus to the Building Department. That would more than cover the expenditure. We are not entering into the contract yet. That will be a separate resolution that the Council will enter into a contract by choosing company A, B or C and picking the exact amount.

Mr. Cross clarified that this only meant that we are going to spend up to $15,000 on this project. We are not picking a company tonight.

Mr. Wells said we are just trying to initiate the process tonight.

A brief discussion continued in reference to the transfer of funds for the codification of ordinances.

Mr. Abbey will provide the Council with packets of information regarding the bids for the codification of ordinances.

A vote was taken to add Item 7 to the agenda. The motion carried 7-0.

Mr. Wells wanted to know if the fence went up by the Bendle skatepark.

Mr. Abbey did not know if the fence had been installed by the skatepark.

Mr. Wells gave a brief update on the skatepark. He said the Mayor and Mr. Abbey have been working with residents to help alleviate some of their concerns. He said an eight-foot fence will be installed near the area and stricter park hours will be enforced.

A brief discussion was held in reference to the problems at the skatepark.

Mr. Martinbianco commented on the notice regarding the sale of city property. He said the notice dated July 16th, indicated that the administration proposed to sell Lot #28 of the Atherton Homestead. The property will be sold to the highest bidder. The notice was being published in The Flint Journal, posted on the property and mailed to adjoining property owners. The communication should be considered as the required seven-day notice for the disposal/sale of city property.

Mr. Martinbianco spoke in reference to the ongoing problem with the demolitions. He asked that Council be provided with a status report on all demolition properties before the next council meeting. He was greatly concerned with the escalating attorney bills associated with the demolitions. He hoped the codification of ordinances would help with the demolition process.

Mr. Abbey hoped the codification of ordinances would have a positive affect on the demolition procedure. He spoke in reference to the high cost of legal bills associated with one particular set of homes that has repeatedly caused ongoing delays in the court process. One individual owns 11 parcels on the demolition list and he still refuses to address the violations. We had two court hearings within two days. Another hearing is set for later this month. Our staff has spent two years of their time and effort into trying to resolve this issue.

Mr. Martinbianco suggested their expert and lawyer together with our expert and lawyer to do a walk through and create a reasonable punch list of what should be done.

Mr. Abbey said we have been through this process three times and still nothing has been accomplished.

Mr. Martinbianco said we shouldn't have to keep going through this and the neighbors don't deserve to live next to these kinds of properties. We would prefer the homes were brought up to code and in circulation.

Mr. Martinbianco wanted to know if the Mayor would be attending the next council or planning meeting. The charter does indicate that he can send a designee to the council meetings. However, he felt the Mayor's attendance would have a positive influence on many issues.

Mr. Wells has expressed his concerns with the attorney regarding the demolitions. He has even talked to the neighbors regarding their ongoing complaints with these properties. We want them to voice their concerns to the judge. This situation has gone on way too long.

Mr. Hamilton has received phone calls from five individuals regarding the demolition hearings on these homes. He thought their input would be beneficial during these proceedings. The judge needs to understand that forty-four neighbors are being affected by these dilapidated homes.

Mrs. Tinnin thought our ordinances should be tightened up to alleviate some of these problems associated with the demolition procedure.

Mr. Hamilton said in theory the judge was being asked to second-guess the Council's decision. His position is that these homes aren't really that bad. There are other houses in the neighborhood that are just as bad and are not being dealt with and it is a case of selective enforcement. Mr. Hamilton feels the neighbors could influence this case by letting the judge know they have been living next to these bad conditions for seventeen years and the home has never been occupied. The neighbors just want the homes to be maintained. The judge doesn't want to be responsible for tearing down someone's home. No one does. But the judge doesn't know how exasperating this situation has been for the Council and the staff. It's our job to make him fully aware of this serious situation. The case will be going back before the judge in the middle of the month.

Mr. Brawner said it was inevitable that these particular properties would end up in court whether the codification of ordinances was done or not.

Mr. Hamilton felt our demolition procedures were pretty good. We have due process requirements of public hearings and there are some tough decisions to make as we go through those hearings. It is not an easy process no matter what the ordinances say.

Mrs. Tinnin asked for clarification on the workshop scheduled for Tuesday at 5:00 p.m. She wanted to know who called that meeting.

Mr. Wells called the meeting for the purpose of discussion regarding the proposed Genesee County Park millage. There was a meeting scheduled for 6:00 p.m. tomorrow, so he thought it would be a good time for this. Amy McMillan will be present to provide information regarding this issue. It will be a joint workshop for the Council and the Parks and Recreation Commission.

Mr. Cross agreed to set the informational workshop along with Mr. Wells.

Mr. Brawner said there would be a joint workshop August 5th at 5:00 p.m. to discuss the proposed county park millage. At 6:00 p.m. the Council will be discussing the paving of remaining gravel roads.

In reference to Item 4, Mrs. Tinnin wanted to know when the public would be expected to see an increase in their water bills.

Mr. Abbey said residents would see the increase on their next billing cycle after the effective date of September 1st.

Mrs. Tinnin said Council had voted on this issue during budget time.

Mr. Abbey said that Mr. Wright thought the increase would be pasted on sooner. Originally, we thought the increase would be effective August 1st. That did not happen. Now, Detroit will pass the increase on September 1st.

Mrs. Tinnin said she voted no on this issue originally because developers still owed us water and sewer money.

Mr. Brawner said that Mr. Hamilton's bill came in late and would be added to the August 18th meeting agenda.

COUNCIL DISCUSSION ACTION:

Moved by Wells, Seconded by Cross to add as Item 7 to: Approve and authorize the transfer of not more than $15,000 from the General Fund Surplus to the Building Department for the purpose of codification of all City of Burton ordinances. Motion carried 7-0.

COUNCIL ACTION:

Wells moved and Cross seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 16, 2003 through July 30, 2003 in the amount of $2,428.92.

Motion carried 7-0.

Bement moved and Martinbianco seconded the following motion:

2. Approve and authorize the certification of Tom Strasser as the Employee Delegate and Debra Krupp as the Employee Alternate to the annual MERS meeting.

Motion carried 7-0.

Martinbianco moved and Wells seconded the following motion:

3. Approve and authorize the appointment of Charles Abbey as the Officer Delegate and Dennis Lowthian as the Officer Alternate to the annual MERS meeting.

Motion carried 7-0.

Martinbianco moved and Bement seconded the following motion:

4. Approve and authorize the Water Commodity Charge to be increased to $2.21 per 100 cubic feet with an effective date of September 1, 2003.

Motion carried 6-1, with Tinnin voting no.

Cross moved and Wells seconded the following motion:

5. Approve and authorize the request for a Sanitary Sewer Installer's License for Alan Gobrogge, dba Affordable Excavating, Inc., PO Box 141403, Grand Rapids, MI 49514-1403 (Alan Gobrogge, 2531 Elmridge NW, Walker, MI 49544).

Motion carried 7-0.

Cross moved and Martinbianco seconded the following motion:

6. Approve and authorize the request for a Watermain Installer's License for Alan Gobrogge, dba Affordable Excavating, Inc., PO Box 141403, Grand Rapids, MI 49514-1403 (Alan Gobrogge, 2531 Elmridge NW, Walker, MI 49544).

Motion carried 7-0.

Wells moved and Bement seconded the following motion:

7. Approve and authorize the transfer of not more than $15,000 from the General Fund Surplus to the Building Department for the purpose of codification of all City of Burton ordinances.

Motion carried 7-0.

Meeting Adjourned at 7:45 P.M.

Gayle Webster
Burton City Clerk

GW/cml