CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 5, 2002, 6:30 P.M., COUNCIL CHAMBERS

Councilman Tom Martinbianco led the Invocation and Pledge of Allegiance.

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

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

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley; J. Major, DPW Director; R. LaDuke, Deputy DPW Director; 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 Meetings of July 8, 2002 at 7:00 P.M., 7:15 P.M., 7:30 P.M., 7:45 P.M., 8:00 P.M., 8:15 P.M., 8:30 P.M., 8:45 P.M., 9:00 P.M., 9:15 P.M. and 9:30 P.M. Special Meeting of July 15, 2002 at 6:30 P.M., Special Meeting of July 15, 2002 at 7:00 P.M. and Regular Meeting of July 15, 2002 at 7:30 P.M. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley gave an update on State Shared Revenue cuts. Correspondence from MML has been forwarded to Council regarding this issue. Burton staff members plan to attend a rally in Lansing August 13, 2002 at 9:00 a.m. in hopes of supporting an override. Everyone is welcome to attend the rally. He referred to a letter from State Representative Paula Zelenko, which strongly supports an override of the Governor.

Mr. Major requested that the final plat approval for Maplewood Meadow Phase #6 and a street name change be added to tonight's agenda. The plat approval is purely a procedural matter and all aspects are in order.

Mr. Major said Attorney David Karr was present to defer demolition action at 1378 Brady Street. Council had received a letter regarding this issue. Mr. Major indicated that the house could be rehabbed. At this point, Council action was required to reverse the demolition process.

Mr. LaDuke gave an update on the weed-cutting job at 5212 Otsego. The report indicated that the City had contacted the elderly homeowner several times before cutting his grass. We tried to be cooperative, but we had to abide by the ordinance once a complaint was filed.

COMMITTEE REPORTS:

Mr. Cross plans to hold a legislative meeting on revolving signs after he meets with Mr. Strasser.

AUDIENCE PARTICIPATION:

Attorney David Karr, 1044 N. Irish Rd., Department of Veteran Affairs, spoke regarding the demolition status of 1378 Brady. He felt this property was salvageable and asked Council to defer any demolition at this time. He said a couple of the nearby neighbors were interested in buying and rehabbing the house.

Cross moved, Tinnin seconded to approve and authorize the suspension of Council action of June 10, 2002 at 7:30 p.m. regarding the demolition of 1378 Brady and add to the agenda as Item 13 to: Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises to be a public nuisance or hazard and to further require the owner(s) or occupants(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled within 180 days.

Mr. Karr said he might need more time to complete the sale on the home.

Mr. Cross suggested that Mr. Karr come back to Council if he needed more time to sell the home.

Mr. Centilli asked that the yard be cleaned up immediately.

Mr. Karr planned to arrange for a clean up of the Brady Street property.

The motion passed 7-0.

Pauline Dargel, 6119 Hugh St., asked for clarification on the deed restrictions that were placed on the old Howlett property on Maple Rd. She felt there should only be 87 units instead of the 99 that were approved by the Planning Commission. In addition, she wanted more information regarding the demolition status of the Shell Service Center located at 4017 Bristol Rd.

John Stapish, P.O. Box 190134, asked for a reconsideration of Council action regarding the demolition of a garage located at 1448 Allen St. He reconstructed the garage and felt that it was structurally sound. In addition, he asked for reconsideration of Council action regarding the demolition of the house at 1456 Allen St. He has done some work on the home and felt it was structurally sound. He said the other repairs were cosmetic in nature.

Larry Petrella, 1081 Howe Rd., spoke in favor of adopting a Code of Ethics Ordinance in Burton.

Don Sanderlin, 4460 Killarney Park., apologized for reporting the wrong information regarding 5212 Otsego. Also, he wanted to know if the development at Genesee and Bristol Rd would include modular or stick built homes.

Arthur Jankowski, 4108 Leith St., felt surplus road dollars should be given back to the residents in the form of tax relief. He spoke in opposition to the Council adding agenda items during the meeting.

COUNCIL DISCUSSION:

Mr. Wells said he didn’t know Mr. Foster in advance of the Covert Road project. He did not support either of his developments.

Mr. Centilli pointed out that the Council did the right thing by voting against these projects.

Mr. Hamilton said the Maple Road deed restrictions were executed, delivered and in place. The City or the surrounding property owners have the ability to enforce the restrictions.

Mr. Hamilton said a notice was sent to Davison Oil referencing our zoning ordinance. He thought the old Shell Service Station might have non-conforming use rights. The company should be contacted again for additional cleanup of the site.

Further discussion was held in reference to the deed restrictions on the Maple Rd. property.

Mr. Brawner asked for clarification on the number of lots that were designated in the deed restrictions.

Mr. Hamilton did not have the deed restrictions or the site plans from the meeting. However, it did appear that the development had more lots than permitted.

Mr. Cross wanted to know who was going to enforce the violation by reducing the number of lots.

Mr. Hamilton said the deed restrictions could be enforced by the Council, Administration or adjoining property owner. This type of issue does not fall within the responsibilities of the Planning Commission.

Mr. Brawner asked Mr. Hamilton to research this issue and report back to Council.

In regards to the Shell Gas Station, Mrs. Dargel said Burton's zoning ordinances have been in place since 1974, while the station was not built until 1976. She felt the company should comply with all ordinances that were in place at that time.

Mrs. Tinnin asked Mr. Hamilton to research this information and verify these dates.

Mr. Hamilton said that he had not checked the provisions of the prior zoning ordinance or the date of the permit. He had only verified that a notice was sent to the company. He will verify the dates regarding this issue.

Mrs. Tinnin was concerned that some council members may have had prior discussions with Mr. Foster before his developments came to the Council.

A brief discussion followed on whether it was appropriate to have early discussions with contractors.

Mrs. Tinnin felt all discussions should be open to the public.

Mrs. Tinnin researched fire inspection fees on behalf of Mr. Battstone, owner of Kraus Fire Equipment. She felt the inspection fees should have been drafted in an ordinance format and reviewed by the Legislative Committee.

Mr. Martinbianco referred to a case called Bolt vs. Lansing. He suggested the fire inspection fees were similar to this case and gave the appearance of an unconstitutional tax.

Discussion continued on fire inspection fees.

Mrs. Tinnin wanted to know if the City could legally collect these fees. She felt more discussion was needed on this topic.

Mayor Smiley said these fees were approved and passed by Council. These inspections are done to protect our fire fighters and surrounding businesses and to comply with the Right-to-Know Laws. Currently, businesses are required to pay for their own inspections. The Council could take money from the General Fund to pay for these inspections. However, he preferred to treat fire inspection fees similar to other user permit fees.

Mr. Hamilton did not have a problem with how the fire inspection fees were passed. Fees can be set or established by resolution or by ordinance. He didn't feel the fire inspection fees related to the Bold Case. The inspection fees were not created to be a revenue generating tax. These fees were intended to cover the costs related to the inspections. If the cost of the inspections does not correlate to the fees being collected, then the issue should be reviewed. The fees can be adjusted, if necessary. He offered other options regarding setting and collecting the fees.

The Mayor planned to review the fire inspection fees within one year. We are open to any suggestions and willing to readdress this issue. He said anyone not complying with the Right-to-Know Laws would be turned in to OSHA. He will not put our firefighter's lives at risk.

Mrs. Tinnin had several concerns regarding the current fire inspection fees. She thought the inspections could be done without implementing the fees.

Mr. Brawner suggested all parties involved meet prior to October 1st to review the fire inspection fees.

Mrs. Paula Zelenko, State Representative 50th District, 5425 Sitka, spoke on Governor Engler's veto of $845 million that had been appropriated for local revenue sharing. She strongly supported an override of the Governor's action. She thought the House would probably override the Governor. However, she did not know if there were enough votes in the Senate for the override. She encouraged everyone to contact their state legislators to voice their concerns with the loss of the state-shared revenues. She invited everyone to attend the override rally in Lansing on August 13th beginning at 8:30 a.m. She predicted Burton would lose 1/3 of their state-shared revenues, totaling approximately $1.84 million. The impact of this loss would present an immediate hardship and devastate our local communities.

Mrs. Tinnin sent Mrs. Zelenko a letter supporting the override of the state shared revenue cuts.

Discussion continued on the possibility of state shared revenue cuts.

Mr. Cross commented on the fire inspection fees as they related to the closing of Laidlaw. He said the loss needed to be made up somewhere. We must have the inspections to provide for public safety. He was willing to look at the fee structure, again.

Mr. Brawner wanted to know if the houses at Bristol and Genesee Road would be stick built.

Mr. Major pointed out that anyone could purchase a lot in Burton and place a modular home on it.

Mayor Smiley supports requirements such as 4 –12 pitched roofs for modular homes.

Mr. Major said the City could no longer modify the Michigan Building Codes to accommodate our particular standards.

There was a brief discussion on the Michigan Building Codes.

Mr. Wells said he never met Mr. Foster in advance of the Covert Road project and that Mrs. Tinnin's allegations were false. He wanted to know why she continually pursued the administration and certain council members.

Martinbianco moved and Cross seconded the motion to add as Item 14: Approve and authorize the final plat approval for Maplewood Meadows #6. The motion carried 7-0.

Martinbianco moved and Cross seconded the motion to add as Item 15: Approve and authorize the street name change of Sycamore Maple to Aspen Circle in Maplewood Meadows #6. The motion carried 7-0.

Mr. Martinbianco supported local control and the override of the Governor's veto. He wanted to know if the Administration had developed a plan in anticipation of the state shared revenue cuts.

The Mayor indicated that the Administration was developing a plan to accommodate the cuts, if necessary. The Mayor will keep Council informed on this very important issue.

Mr. Cross said the Code of Ethics is still on the Legislative agenda. Mr. Petrella was welcome to submit any information regarding this issue.

Mrs. Tinnin strongly opposed the payout of unused sick, personal and vacation days for administrative staff. She felt these individuals should use the days or lose them.

Mr. Brawner said his only suggestion was to have administrators use a maximum of ten vacation days, similar to the unions.

Mrs. Tinnin proceeded to offer an amendment to Ordinance 68C.

Tinnin moved and Martinbianco seconded the following motion: Approve and authorize the Introduction of an Ordinance No. 68-26 C, amending Ordinance No. 68 C, Compensation for Administration Officers of the City of Burton: Amending Sec. 8 (I) Unused Sick /Personal Days. Administrative Officers, excluding elected Officials, may accumulate unused sick/personal days until a maximum 60 days accumulated bank has been created. Upon termination of his or her employment, payment shall be made in full to administrative officers (excluding elected officials) for all accumulated unused sick/personal days. This bank will only be paid once upon termination of employment.

Mr. Martinbianco said that he did not have a copy of Ordinance 68-26C. He wanted to know why Mrs. Tinnin was singling out the Charter Officials.

Mrs. Tinnin felt all administrators were covered under Section 8.

Mr. Martinbianco suggested this issue be sent to the Legislative or Finance Committee for review.

Mrs. Tinnin wanted the amendment addressed at tonight's meeting.

Mr. Brawner asked for clarification on the vacation days.

Mrs. Tinnin said they would have to use them or lose them. They should not get paid for vacation days at the end of the year. She felt most payouts were too high.

Mr. Cross said that he was always paid for his unused vacation days at GM. He felt this policy would have an adverse affect on absenteeism at work. He wanted to review this issue before any action was taken.

Mr. Centilli referred to a newspaper article that stated this was a common way for employees in this area to receive their sick and vacation pay. He compared wages of other government officials with Burton and pointed out that many of our administrators are paid considerably less than similar sized communities. He strongly opposed the ordinance amendment.

Mrs. Tinnin said salaries should be looked at as a separate issue. She spoke in opposition to the MERS pension plan. She felt fringe benefits increased the salary of the administrators. She questioned Mr. Brawner about his City pension and MERS retirement package.

Mr. Brawner was not prepared to act on this issue tonight. He wanted to know why Mrs. Tinnin continually picked on the Administration so harshly. He did not agree with the amendment and suggested sending the issue to committee for review. In addition, he felt his pension issues had nothing to do with the motion at hand.

Mr. Hamilton asked for clarification on the motion. He wanted to know if this was a motion for a first reading of an ordinance or a motion to add this to the agenda.

Mrs. Tinnin said the motion was to add this to the agenda as a First Reading.

The motion to amend Ordinance 68-26C was denied 6-1, with Bement, Brawner, Centilli, Cross, Martinbianco and Wells voting no.

Martinbianco moved and Cross seconded the motion to send the proposed amendment of Ordinance 68-26C, Section 8, (I) to Legislative Committee for review.

A brief discussion was held in reference to what committee should review the ordinance amendment.

Mr. Hamilton said it would be appropriate to send this issue to either committee for review.

Major Smiley pointed out that the Council had just approved Ordinance 68-26C and the budget allocations as of July 1, 2002. He said the unions had negotiated the MERS pension plan years ago and actuaries are 30% ahead of schedule. He felt it was time to address the agenda items at hand.

Mr. Brawner would not be voting to send this issue to the Legislative Committee.

The motion to send the ordinance amendment to committee was denied 4-3 with Bement, Brawner, Centilli and Wells voting no.

Mr. Centilli felt that Mrs. Tinnin should prove the false acquisitions that were made about council members.

In reference to Mr. Hamilton's bill, Mrs. Tinnin wanted an update on Avalanche and Hicks vs. Glasco-Cooper & City of Burton. In fact, she wanted to be updated on all litigation pending against the City of Burton that involved Mr. Hamilton. She wanted a summary at the next meeting.

Mr. Hamilton said those cases did not appear on his bill.

Mrs. Tinnin apologized and said the information appeared on Mr. Austin's bill. She still wanted an update on these issues.

Mr. Hamilton said Attorney Goodstein was handling the tax tribunal case with Avalanche. He will ask Mr. Austin to provide a report on the Hicks, Glasco-Cooper matter for the next meeting.

In reference to Item 5, Mr. Martinbianco asked for clarification on the Term Street Bridge repairs.

There were no structural repairs made to the two-lane bridge when it was last paved. The bridge did qualify for a Federal Grant, which will pay 95% of the $400,000 project cost. The City's portion will be $50,000. The bridge is currently safe for traffic. This is a preventive replacement that will ensure the soundness of the bridge for the next 40 years. Act 51 dollars will be used for this project.

In regards to Item 8, Mr. Cross hoped that the administration would continue to pursue full traffic signals for the intersections of Genesee/Lapeer and Vassar/Lapeer. He feels these intersections are a safety hazard without full signals.

Mr. Brawner asked if there would be any financial cooperation with the Center Rd traffic light.

Mr. Major said McDonald's has allocated $25,000 for this project and the Mayor has some form of financial commitment from Meijer's. He will continue to keep Council updated on this issue.

In regard to Item 11, Mr. Cross asked if this was a blanket agreement with the City to trim trees.

Mr. LaDuke indicated that this was a City wide tree-trimming project.

Mr. Wells said trees needed to be trimmed at the south entrance of the Meijer's driveway near Atherton Road, as well as the northeast corner of the Genesee/Atherton intersection.

Mrs. Tinnin said that Mr. Stapish asked Council to reconsider the demolition of his garage located at 1448 Allen.

Mr. Major said Mr. Stapish started the demolition process without a permit and then began rebuilding the structure with out a permit. A stop work order was placed on the garage. The structure is sound and able to be rebuilt. He suggested Council rescind the action on the garage and require Mr. Stapish to pull a building permit.

Cross moved and Tinnin seconded the motion to: Approve and authorize the suspension of Council Action of July 22, 2002 at 8:30 p.m. regarding the demolition of the garage located at 1448 Allen and add to the agenda as Item 16: Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled immediately, as of August 6, 2002, and have all work completed on house within 60 days.

Mayor Smiley set a Council Workshop for August 19th at 6:30 p.m. for purpose of discussion regarding the take over of County roads. He said that Mr. Daley has agreed to fix Lapeer and Belsay roads before the City takes the roads over next April. Paving the local gravel streets would also be a topic of discussion that night. The administration welcomes ideas relating to these two topics.

Mr. Cross was thankful that the Belsay Road railroad tracks have been repaired.

Mr. LaDuke said the road crew would begin training with the new crack seal equipment. Their first project will be to repair the Senior Center parking lot.

COUNCIL DISCUSSION ACTION:

Cross moved and Tinnin seconded the motion to: Approve and authorize the suspension of Council Action of June 10, 2002 at 7:30 p.m. regarding the demolition of 1378 Brady and add to the agenda as Item 13 to: Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled within 180 days. The motion carried 7-0.

Martinbianco moved and Cross seconded the motion to add as Item 14: Approve and authorize the final plat approval for Maplewood Meadows #6. Motion carried 7-0.

Martinbianco moved and Cross seconded the motion to add as Item 15: Approve and authorize the street name change of Sycamore Maple to Aspen Circle in Maplewood Meadows #6. The motion carried 7-0.

Tinnin moved and Martinbianco seconded the motion to: Approve and authorize the Introduction of an Ordinance No. 68-26 C, amending Ordinance No. 68 C, Compensation for Administration Officers of the City of Burton: Amending Sec. 8 (I) Unused Sick /Personal Days Administrative Officers, excluding elected Officials, may accumulate unused sick/personal days until a maximum 60 days accumulated bank has been created. Upon termination of his or her employment, payment shall be made in full to administrative officers (excluding elected officials) for all accumulated unused sick/personal days. This bank will only be paid once upon termination of employment. The motion was denied 6-1, with Bement, Brawner, Centilli, Cross, Martinbianco and Wells voting no.

Martinbianco moved and Cross seconded the motion to: Send the proposed amendment for Ordinance 68-26C, Section 8, (I) to Legislative Committee for review. The motion was denied 4-3 with Bement, Brawner, Centilli and Wells voting no.

Cross moved and Tinnin seconded the motion to: Approve and authorize the suspension of Council Action of July 22, 2002 at 8:30 p.m. regarding the demolition of the garage located at 1448 Allen and add to the agenda as Item 16 to: Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled immediately, and have all work completed on house within 60 days. The motion carried 7-0.

COUNCIL ACTION:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 10, 2002 to July 31, 2002 in the amount of $3,486.25.

Motion carried 7-0.

Centilli moved and Cross seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from June 13, 2002 to July 11, 2002 in the amount of $1,277.60.

Motion carried 7-0.

Centilli moved and Wells seconded the following motion:

3. Approve and authorize the Attorney Billing (Richard Hamilton) from July 15, 2002 to July 31, 2002 in the amount of $2,802.50.

Motion carried 7-0.

Bement moved and Cross seconded the following motion:

4. Approve and authorize Mayor Charles Smiley or Treasurer Bradley Becker as designated signatories for Community Development Block Grant reimbursements.

Motion carried 7-0.

Centilli moved and Bement seconded the following motion:

5. Approve and authorize the Mayor and City Clerk authority to execute an engineering design contract with Rowe Incorporated on behalf of the City of Burton and its City Council for replacement of the Term Street Bridge over Thread Creek in the amount of $30,130.00. (DPW Job #02-004-P)

Motion carried 7-0.

Martinbianco moved and Wells seconded the following motion:

6. Approve and authorize the City Controller/Treasurer to transfer $40,000.00 from 2002-2003 Major Street/ Unappropriated Surplus to DPW Job #02-004-P.

Motion carried 7-0.

Centilli moved and Wells seconded the following motion:

7. Approve and authorize Mayor Charles Smiley as the official representative and Councilman Bob Centilli as the alternate official representative at the Annual Business Meeting of the Michigan Municipal League held in Dearborn, MI on September 11, 2002.

Motion carried 7-0.

Centilli moved and Wells seconded the following motion:

8. Approve and authorize the Mayor and City Clerk authority to execute a traffic signal agreement on behalf of the City of Burton and its City Council with the Genesee County Road Commission for the installation of a traffic actuated signal on Center Road at the north Meijer's service drive and Loder Court.
Motion carried 7-0.

Cross moved and Martinbianco seconded the following motion:

9. Approve and authorize the Controller/Treasurer to transfer $50,000.00 from the 2002/2003 Major Street/ Unappropriated Surplus to DPW Job #02-007-P/Center Rd. Traffic Signal at north Meijer's service drive and Loder Court.
Motion carried 7-0.

Centilli moved and Cross seconded the following motion:

10. Approve and authorize the City of Burton Water Department to execute a franchise water service agreement through the Genesee County Drain Commission with the City of Flint, for Discount CD's & Tapes, 3201 S. Dort Hwy., Lots 356, 357, 358 & 359 of Chambers Subdivision, with tap-in fees paid in full, as per City Ordinance #6.
Motion carried 7-0.

Bement moved and Cross seconded the following motion:

11. Approve and authorize the acceptance of the low bid of Aspen Tree Service, 8204 Neff Rd., Mt. Morris, MI 48458, in the amount of $89.00/hr for crew, equipment and brush chipping and $2.00/inch for stump removal for the project known as: Tree Trimming, Tree and Stump Removal.
Motion carried 7-0.

Cross moved and Wells seconded the following motion:

12. Approve and authorize the Mayor and Clerk to enter into a contract with Aspen Tree Service, 8204 Neff Rd., Mt. Morris, MI 48458, in the construction amount of $89.00/hr for crew, equipment and brush chipping and $2.00/inch for stump removal for the project known as: Tree Trimming, Tree and Stump Removal, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents.
Motion carried 7-0.

Cross moved and Tinnin seconded the following motion:

13. Aprove and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises at 1378 Brady St. to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled within 180 days.
Motion carried 7-0.

Martinbianco moved and Cross seconded the following motion:

14. Approve and authorize the final plat approval for Maplewood Meadows #6.
Motion carried 7-0.

Wells moved and Bement seconded the following motion:

15. Approve and authorize the street name change of Sycamore Maple to Aspen Circle in Maplewood

Meadows #6.

Motion carried 7-0.

Cross moved and Tinnin seconded the following motion:

16. Approve and authorize the Standard Resolution for Step V of the Burton City Demolition Procedure, determining said premises to be a public nuisance or hazard and to further require the owner(s) or occupant(s) to: 2. Alter by repair the structure to Burton City Code with a Building Permit to be pulled immediately, as of August 6, 2002, and have all work completed on house within 60 days.

Motion carried 7-0.

SECOND READING OF AN ORDINANCE:

Bement moved and Wells seconded the following motion:

1. Approve and authorize the second reading of an ordinance for Zoning Case #272 to rezone property from SE to R-1A located at Genesee Rd., south of Bristol Rd., SPID #59-34-200-027, #59-34-200-028, #59-34-200-29 and #59-34-200-030 for the purpose of single-family housing (Claro Recto, 46500 Maidstone, Canton, MI 48187).

Motion carried 7-0.

Meeting Adjourned at 9:20 P.M.

Gayle Webster, City Clerk