CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 3, 2003, 7:30 P.M., COUNCIL CHAMBERS

Councilman Robert Bement led the Invocation and Pledge of Allegiance.

President Larry Brawner called the Regular Meeting to order at 7:30 P.M.

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

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley; J. Major, DPW Director; Attorney R. Hamilton and G. Webster, City Clerk.

Martinbianco moved and Wells seconded the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of January 20, 2003 at 7:30 P.M. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley said that Mr. Becker and Mr. Harburn did a great job at the audit workshop. The auditors gave the City of Burton a clean opinion. This means that the financial statements presented were in accordance with generally accepted accounting principles.

The Mayor reported that the City of Burton maintained an A- bond rating from Standard & Poors. They made some very positive remarks about the City. Burton has maintained a strong financial performance and coverage level. Home values have increased and commercial business has diversified. The Mayor felt we should be very proud of our financial accomplishments.

The Mayor spoke regarding the focus session that was held on January 22, 2003. Mr. Hamilton facilitated the meeting and prepared a report that was distributed to the Council. The top four goals included: Improvement of City Recreational Facilities, Independent Source of Municipal Drinking Water, Growth and Tax Base of the City and Stricter Ordinance Enforcement. After determining the goals, the focus group suggested ways of implementing these targeted goals.

The Mayor is in the process of preparing the 2003-2004 Budget. He asked Council to submit any suggestions regarding the upcoming budget to Mr. Becker by March 1, 2003. He will be presenting the new budget to Council April 7th.

COMMITTEE REPORTS:

Mr. Bement said the Planning Commission will be meeting February 25, 2003 from 9-11:00 a.m. to continue discussion on ordinance related issues. The last meeting was spent discussing SE Zoning and lot sizes.

Mr. Cross planned to schedule a legislative meeting this week to review firearm shooting in the City of Burton. He has had several complaints from residents regarding this issue.

Mr. Brawner said Item 4 should read final preliminary plat approval instead of final plat approval.

Henry Horton, 6241 Lake Pleasant Rd., North Branch, Rowe Incorporated, was present to discuss the final preliminary plat approval for Phase II of Spring Gardens. He said this was the same map that was provided for the tentative preliminary approval. Upon approval, the developer will proceed in the spring with final plat approval for the construction of roads, water, sewer, etc. This project is located on the south side of Atherton Rd. between Genesee and Belsay. Phase I has been approved and model homes are being constructed.

Mrs. Tinnin wanted to know when tentative approval was given on this project. She asked for clarification on several related items.

Mr. Horton said tentative approval was given in October 2002. Originally, tentative approval was granted in May 2002 by the Planning Commission, however there was a change in ownership, so it was redone. American Land Development of Shelby Twp. is the owner and developer of the property. Final Plat approval for Phase I was given in December 2002.

Mr. Tinnin asked if the moratorium on sewer permits would have any bearing on this project. She wanted to know in what school district this subdivision would be built.

Mr. Horton said they have obtained sewer permits for Phase I and they are tied in. He didn't believe this would hold up Phase II. If they start to build Phase II and the moratorium remains, they won't be able to hook up. He indicated that the subdivision would be built in the Atherton School District. Phase I construction is planned for spring and there are still seventeen lots available. The developer has up to two years after the final preliminary approval to finalize the final plat.

Mr. Martinbianco wanted to know if this plan was amendable. Earlier, proceeding the time American Land Development acquired the project, discussion was held on R-1B lot sizes and the part of the plat that would back up to the rear set back of Eastgate. The opinion at that time was those lots would coincide lot per lot with those that came off of Eastgate. He said the Spring Gardens plat map reflected almost two lots per one of Eastgate's lots. He wanted to know if the Council had the ability to pass Phase II subject to the redraw of those lots. He gave more specific details on aligning Spring Gardens lot lines with bordering Eastgate lot lines.

Mr. Major didn't think we had the ability to require anything other than the size lots that the district allows. Council does have the right to say no and bring it back at a later date. However, this project does meet the requirements of the ordinance and he didn't think we could require that adjustment.

Mr. Hamilton said just because the lots comply with the zoning ordinance doesn't mean that we have to approve it. He felt this was the time to address these types of issues. We wouldn't want to give preliminary approval and have the developer proceed and then deny final approval.

Discussion continued on the final preliminary plat approval for Spring Gardens.

Mr. Martinbianco was willing to make an amendment to align the new lot sizes to conform to the existing Eastgate Subdivision. If the amended lot sizes were approved as the preliminary plan, then this would go back to the American Land Development with the understanding that this was the wish of the Council.

Mr. Horton said the Planning Commission tentatively approved this plan, so the developer has continued to move forward with this layout.

AUDIENCE PARTICIPATION:

Mary Crawford, 6203 Briggs, spoke in opposition to the accusations of wrong doings that Mr. Leonard made at the last council meeting. She felt Mrs. Tinnin was encouraging these remarks, as she planned to appear on Mr. Leonard's show. She felt Council was here to serve the City of Burton, not Mr. Leonard's television show. She suggested that Mrs. Tinnin should pick her friends wisely, because we are all judged by the people we call friend and associate. We all know Mr. Leonard has a questionable past. If there is evidence of wrong doings, then he should give it to the proper authorities.

Pauline Dargel, 6119 Hugh St., commented on the upcoming budget, Ordinance 19 referendums and the budget cost cutting plan. She wanted to know if Council had received the cost cutting plan. She spoke in reference to the Governor's request that limited the use of vehicles, cell phones and credit cards for some state employees. She suggested the Mayor give up his city vehicle, because there was no provision that gave him the authority to drive it.

Mr. Brawner indicated that the Council had not received the cost cutting plan.

John Stapish, P.O. Box 190134, complained that Mr. Abbey was not available for his appointment that was scheduled for January 30th.

Don Sanderlin, 4460 Killarney Pk., questioned why Court Street, between Genesee and Belsay Rd, was being worked on when other areas were in need of greater repair. He suggested Court Street businesses help with road repairs and widening in the area.

Larry Petrella, 1081 Howe Rd., spoke on Item 4, regarding Spring Gardens Subdivision Phase II. He wanted to know if residents in the area had been notified of the meeting. He felt a privacy fence should be added between the existing homes and the new development.

Allan Robinson, 6465 Wagner Ave., commented on the repaving of Pratt and Wagner. He wanted to know if the lot split discussed at the January 14th meeting was approved and if the owner would be taxed for two lots. In addition, he wanted to know if the extra lot would be calculated into the paving cost, what company would be doing the work and when the work would be done.

Mr. Brawner said the company was unknown because bids have not even been taken.

COUNCIL DISCUSSION:

In reply to Mr. Robinson, Mr. Major said the owner of lot split would have a double assessment because a new building site has been created. That would add one more parcel to that district. Essentially, that means everyone would be assessed somewhat less to accommodate the additional parcel.

In response to Mr. Sanderlin, Mr. Major said the Court street widening project probably received a favorable rating due to the lane change situation. This will be one of our major streets as of May 1st, so it would be an acceptable FAUS project. We are trying to recapture some of the federal dollars that are allocated for these types of projects.

Mrs. Tinnin wanted to know if we needed to set aside $325,000 for the Transportation Improvement Projects.

Bob Haneline, Rowe Incorporated, said each one of the application projects are rated on a number of criteria, including the condition of the pavement, traffic flow, safety issues, the number of lane miles, etc. Improvements are given a value and they weigh that against the cost of the project.

Mr. Major said we are competing for the federal dollars along with other Genesee County communities. We hope to get our share of the projects, now that we have taken over 40 miles of county roads. We will have a better idea of costs as the applications are reviewed and projects are prioritized.

Mr. Haneline said typically, you would submit more projects than you anticipate would be constructed. Generally, if you submit ten projects, it would be a good year if three were approved because several other communities are competing for these funds, too.

Mr. Martinbianco wanted to know if the deadline to submit the applications was February 15, 2003.

Mr. Major said Transportation Improvement Projects applications have been submitted.

Mrs. Tinnin said the decision on the safety projects would be made by September 2003.

Mr. Major planned to distribute a schedule from the Genesee County Planning Commission as soon as it becomes available. All applicants need to approve this standard type resolution to proceed.

Mrs. Tinnin hoped the whole stretch of Belsay Rd could be done at one time.

Mr. Martinbianco agreed that he would like to see Belsay Rd completed.

Mr. Major said some of the Belsay Rd repairs would begin this spring. He will keep Council updated on this issue.

Discussion continued in reference to the FAUS Funding and Transportation Improvement Projects.

Mrs. Tinnin requested that the legislative committee review the use of city vehicles, credit cards and cell phones. With predicted shortfalls, we needed to realign our spending. She said a lot of city vehicles were being used and she didn't necessarily feel they were being used for city business. Cell phone stipends should be addressed. These are just checks being paid out to 19-20 employees for phone usage. She had no idea what was going on with credit cards, but she hoped to be enlightened soon. She had concerns with how these things were being used or misused.

Mr. Bement thought the whole Council should be involved if these items were going to be reviewed. He felt this might be a budget issue, too.

Mrs. Tinnin felt the legislative committee should deal with these types of city policies first.

Mr. Cross felt these policies were administrative issues. Then it would be the Council's responsibility to provide the money.

Mr. Hamilton said anything that relates to budget issues could be reviewed by the finance committee. Any expenditures that are made are within the scope of the budget and audited. If a budget modification were made that related to those particular items, it would be a finance committee matter. If it related to implementation of policy, it may be through the legislative committee. Therefore, it could relate to both committees, neither of which can really take any action, because ultimately it is the full Council's decision.

Mr. Martinbianco said the legislative committee would address policy concerns. The finance committee gets involved only during the budgetary process when funds are allocated for those independent departments. If requisite funds are available, then they can be accessed within charter limits by the Mayor or his designee in varying degrees of responsibility.

Mr. Cross said he would research these issues and put them on the Monday legislative meeting.

Mrs. Tinnin thought there were a lot of loopholes in the current credit card policy. She would like to give Mr. Cross some of her suggestions regarding these issues. She would be happy to draft up some ideas.

In reference to Mr. Austin's billing, Mr. Martinbianco was concerned with the $600.00 plus bill that dealt with Mr. Stapish's demolition property.

Mr. Hamilton said the court order provided for a stay with the implementation of a timetable. This would help guarantee continuous progress within the 120-day period. Mr. Stapish's attorney submitted an unsatisfactory schedule and Mr. Austin has been working with him to develop a more acceptable, progressive timetable. This timetable will be submitted to the judge for his approval.

Mr. Major agreed that all parties involved have been working on a more acceptable work schedule. Now, Mr. Stapish is in the position to pull building permits. He said that the 120-day clock is ticking from December 18th.

Mr. Brawner asked for clarification on Mr. Austin's billing for January 17th.

Mr. Hamilton explained that two or three attorneys were present for pretrials depending on the caseload. This is reflected in Mr. Austin's billing.

In reference to Mr. Hamilton's billings, Mrs. Tinnin wanted to know why entries dated back to November.

Mr. Hamilton did not submit his billings earlier because he had been out of town.

Mrs. Tinnin referred to a billing for special assessment procedures for 5 ½ hours. She felt this was a total waste of taxpayer money. There wasn't a 7-0 vote from the Council or a valid petition from the property owner. She didn't understand why we even continued with the special assessment procedures.

Mr. Hamilton said that he spent that period of time on those procedures. The first meeting related to the appropriate authorization to sign and the second meeting dealt with the special assessment procedures and whether the property owners were willing to sign a petition to commence the proceedings. The proceedings were underway at that time, notices were sent out and we had to make the determination whether the matter would continue. The owners were unwilling to sign prior to the closing and that's what happened to the project.

Mrs. Tinnin said the ordinance clearly states that special assessment procedures can only be initiated by a 7-0 vote of Council or a signed petition from the property owner. She strongly opposed the steps that were taken to move the project to this point. She felt area residents should have been notified before this process was started.

Mr. Major said all parties involved requested that our attorney be present for the special assessment discussions.

Mrs. Tinnin moved to subtract $522.50 from the amount of $3,320.00 to: Approve and authorize the Attorney Billing (Richard Hamilton) from November 14, 2002 to January 16, 2003 in the amount of $2,798.50.

Motion died for lack of support.

In reference to Item 4, Mr. Martinbianco made the following amendment. Approve and authorize the final preliminary plat approval as revised to reflect the alignment of lots on the east side of proposed Dahlia Dr. to coincide with the rear lot lines of existing lots of Eastgate Plat # 7, lots 156-168 respectively for Spring Gardens Subdivision Phase II, Section 26, R-1B Zoned.

Mr. Cross supported the motion for discussion. He asked for further clarification on the proposed amendment.

Mr. Martinbianco felt that the lot lines on Dahlia Dr. should be realigned to match the lot lines in the existing Eastgate Subdivision. Essentially, this would combine two proposed lots along Dahlia Dr. into one bigger lot so they would be consistent with the bordering lots in the existing subdivision. He said this would make for much better neighbors, have fewer drain problems and help with the flow of traffic onto Atherton Rd.

Mr. Horton, a representative for the developer, said that the drainage issues were considered in this layout. Front drainage has been addressed in Phase I and back drainage is being brought forward to the road along some grading that has been dictated by the plat. The engineer's plan for final grading will be verified by the DPW. In addition, the developer felt that off setting the lots were more attractive. He said the lot size did not allow for the lines to coincide.

Mr. Brawner asked if this was the same map that was presented to the Planning Commission.

Mr. Horton said this was the same map that went to Planning. The only addition was the required agency approval and areas along the map that were incorrect, such as set back requirements. The other map included the topography. This basically is the tentatively approved plan that met with DPW and zoning approval.

Mr. Cross wanted to know what kind of screening would be added to separate this development from the existing Eastgate Subdivision.

Mr. Horton didn't feel screening was necessary because this was a residential project. He didn't think any screening was planned at this time.

Mr. Major said that screening was not a requirement of our zoning ordinance. That would be left to the discretion of the properties owners.

Mrs. Tinnin wanted to know where the open space would be located.

Mr. Horton said the Spring Gardens Public Park has been added in Phase I to accommodate for open space. In Phase II, they are maximizing the use for housing.

Mrs. Tinnin said we should start growing smarter. In the last ten years our SEV has increased about 100%. Residents have expressed their desire for open space. She said our new master plan alludes to school property as open space. Personally, she didn't think that was considered open space. In addition, she was concerned with the lot sizes. She said lots of this size weren't selling, especially in the Atherton School District. Therefore, she did not see a demonstrated need for the development. She knew the zoning was in place so it really didn't matter. She was not going to support this project tonight.

Mr. Horton said the developer feels that the area would only support these lot sizes. He feels newer, smaller homes on smaller lots would sell in this area.

Mrs. Tinnin said Mr. Tobin is putting smaller houses on smaller lots and they are not selling in the Atherton School District.

Mr. Horton said that could be due to marketing or some other reason. This company has a marketing plan that they feel will be successful.

Mr. Wells thought this property was zoned R-1B when the project started and the developer still planned to develop it as R-1B. He questioned why the Council would change things at this point.

Mr. Horton said this property was zoned R-1B and it was the intent of the developer to develop it as R-1B housing.

Mr. Martinbianco understood that when the decision was made to make this R-1B, the developer indicated a willingness to maintain those lot sizes where they abut existing neighborhoods. It is a matter of consistency and what expectations were at the point the plans were designed.

Mr. Bement asked for a clarification on the number of lots that were involved in the amendment. He wanted to know if this would be coming back before the Council for final approval.

Mr. Martinbianco gave further clarification on the affected lots.

Mr. Hamilton clarified that this amendment would only affect those lots attached to 156-168 of the existing Eastgate Subdivision. He said the final plat approval would come back before the Council.

Mr. Major said essentially, this would reduce the number of lots in the proposed subdivision.

Mr. Hamilton said this would be about a 5 or 6 lot reduction.

Mr. Brawner said that would increase the lots from 70 feet to about 100 feet. That would be quite large.

Mr. Hamilton suggested that Council table action on Item 4 until the next meeting. This would give us time to have a diplomatic discussion with the developer.

Moved by Cross, seconded by Martinbianco to table Item 4 until the next Regular Council Meeting scheduled for February 17, 2003 at 7:30 p.m. Motion carried 5-2, with Tinnin and Wells voting no.

COUNCIL DISCUSSION ACTION:

Moved by Martinbianco, seconded by Cross to amend Item 4 to read: Approve and authorize the final preliminary plat approval, as revised, to reflect the alignment of lots on the east side of proposed Delia Dr. to coincide with the rear lot lines of existing lots of Eastgate Plat # 7, lots 156-168 respectively for Spring Gardens Subdivision Phase II, Section 26, R-1B Zoned. Motion is pending.

Moved by Cross, seconded by Martinbianco to table Item 4 until the next Regular Council Meeting scheduled for February 17, 2003 at 7:30 p.m. Motion carried 5-2, with Tinnin and Wells voting no.

COUNCIL ACTION:

Bement moved and Wells seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 15, 2003 to January 29, 2003 in the amount of $5,408.75.

Motion carried 7-0.

Cross moved and Bement seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from November 14, 2002 to January 16, 2003 in the amount of $3,320.00.

Motion carried 6-1, with Tinnin voting no.

Wells moved and Bement seconded the following motion:

3. Approve and authorize the Attorney Billing (Richard Hamilton) from January 17, 2003 to January 28, 2003 in amount of $2,778.75.

Motion carried 7-0.

Tabled until the next Regular Council Meeting scheduled for February 17, 2003.

4. Approve and authorize the final preliminary plat approval for Spring Gardens Subdivision Phase II, Section 26, R-1B Zoned.

Moved by Wells, Seconded by Bement, Carried _____.

* Pending Amendment:
Approve and authorize the final preliminary plat approval as revised to reflect the alignment of lots on the east side of proposed Delia Dr. to coincide with the rear lot lines of existing lots of Eastgate, Plat # 7, lots 156-168 respectively for Spring Gardens Subdivision Phase II, Section 26, R-1B Zoned.

Moved by Martinbianco, Seconded by Cross, Carried _____.

Cross moved and Martinbianco seconded the following motion:

5. Approve and authorize a Resolution Approving Transportation Improvement Projects (T.I.P.) which the City will be applying for funding:

WHEREAS, the City of Burton, at a regularly schedule city council meeting, discussed the projects for which the City will be submitting applications for the 2004-2008 Transportation Improvement Projects (T.I.P.); and

WHEREAS, the City of Burton recommends the following projects be submitted for funding: Court St., from Genesee Rd. to Belsay Rd. (resurface or widen); Center Rd., from Lapeer Rd. to Court St. (resurface); Belsay Rd., from Maple Rd. to Atherton Rd. (resurface); Center Rd., from Court St. to Davison Rd., (resurface); Atherton Rd., from Center Rd. to Genesee Rd. (resurface); Atherton Rd., from Belsay Rd. to Vassar Rd. (resurface); Lapeer Rd., from Belsay Rd. to Vassar Rd.; Lapeer Rd./Belsay Rd. Intersection (safety); Lapeer Rd./Genesee Rd. Intersection (safety); and Lapeer Rd./Vassar Rd. Intersection (safety).

NOW, THEREFORE BE IT RESOLVED THAT:

The City of Burton, State of Michigan, hereby approves the following projects to be submitted for 2004-2008 Transportation Improvement Projects (T.I.P.) funding: Court St., from Genesee Rd. to Belsay Rd. (resurface or widen); Center Rd., from Lapeer Rd. to Court St. (resurface); Belsay Rd., from Maple Rd. to Atherton Rd. (resurface); Center Rd., from Court St. to Davison Rd., (resurface); Atherton Rd., from Center Rd. to Genesee Rd. (resurface); Atherton Rd., from Belsay Rd. to Vassar Rd. (resurface); Lapeer Rd., from Belsay Rd. to Vassar Rd.; Lapeer Rd./Belsay Rd. Intersection (safety); Lapeer Rd./Genesee Rd. Intersection (safety); and Lapeer Rd./Vassar Rd. Intersection (safety).

Motion carried 7-0.

Meeting Adjourned at 8:50 P.M.

Gayle Webster
Burton City Clerk

GW/cml