

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 4, 2002, 7:30 P.M., COUNCIL CHAMBERS

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

The Regular Meeting was called to order by President Larry Brawner at 7:30 P.M.

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

MEMBERS ABSENT: Wells.

OTHERS PRESENT: J. Major, DPW Director; R. LaDuke, Deputy DPW Director, Attorney R. Hamilton and G. Webster, City Clerk.

Cross moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of January 21, 2002 at 7:00 P.M. and Regular Meeting of January 21, 2002 at 7:30 P.M.
Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mr. LaDuke reported that the snow removal crew did a great job clearing the roads after the recent snowstorm. Some mailboxes needed to be replaced due to weight of the snow knocking them down while plowing. He was available to answer any questions that related to Item #3 on the agenda.

Mr. LaDuke reported that the Mayor supported the Legislative Committee's recommendation to deny the PILOT ordinance.

Mr. Major reported on the Audit Workshop that was held January 23rd. The City has a comfortable cash reserve and our bond rating was upgraded to an A- mostly due to our strong housing market. It was projected that the current budget would be able to absorb predicted shortfalls in state shared revenue.

To his knowledge, Mr. Major indicated that no formal complaint had been filed in regard to the adoption of the Master Plan.

Mr. Major said Attorney Hamilton has provided a report on the focus session that was held January 8th. The administration wanted some direction on what to do next with the focus report.

The Fire Department requested a Finance Meeting be set after February 18th to consider the purchase of turnout gear. A report will be prepared in advance of the meeting, after the bids arrive February 11th.

Mr. Major said the south Center Road driveway would be closed indefinitely after February 11th due to the construction of the City Hall addition. The groundbreaking ceremony for the City Hall addition will be held February 8th at 11:00 a.m. Refreshments will be served in the council chambers.

The Mayor plans to hold a townhall meeting February 18th at 6:30 p.m. for the purpose of public input on the upcoming 2002-2003 Budget.

COMMITTEE REPORTS:

Mr. Cross reported that a legislative meeting was held January 22nd regarding the Burton Commons PILOT ordinance. The committee rejected the PILOT project for the following reasons: there was no demonstrated need for affordable housing in that area, the cost to the city would far exceed the benefits, it would over burden storm and water systems and put a strain on police and fire services.

REGULAR COUNCIL MEETING MINUTES

Mr. Cross moved and Mr. Centilli seconded the following motion to approve and authorize the recommendation from the Legislative Committee Meeting of January 22, 2002 to deny the proposed PILOT Ordinance for Burton Commons. Motion carried 6-0.

AUDIENCE PARTICIPATION:

Jim Callison, 4457 Briar Lane, spoke in opposition to the Burton Commons PILOT ordinance and low-income housing. He felt there should be more notifications to residents in regards to these issues.

Mr. Cross indicated that many issues are published in the Suburban News.

Mr. Brawner said the City tries to keep the public informed by contacting the local newspapers on important issues.

Alfreda Dewar, 2237 Glade, wanted to know if the developer could still build apartments even after the denial of the PILOT ordinance.

Mr. Brawner said the property is currently zoned multiply family. If the developer owns the property, he has the right to build on it. He would still have to appear before the Planning Commission and follow specific ordinance guidelines.

Mr. Martinbianco referred to a letter from Attorney Austin regarding the Land Use Map as it related to the Master Plan. Mr. Martinbianco's interpretation was that the Burton Commons property was not zoned multiple family, but instead is currently zoned agriculture vacant under the Master Plan.

Mr. Hamilton clarified that there was a difference between the requirements and conditions of the zoning ordinance and the action taken by the Planning Commission regarding the adoption of the Master Plan. The Master Plan is designed to provide a direction for the future. The Planning Commission attempted to look at conditions that presently exist, those conditions that may exist in the future and how things should progress in the city. The day-to-day control of what's permitted on this property is not a function of the Master Plan. It is a function of the zoning ordinance. That property has been zoned multiple family for a number of years under the existing zoning ordinance. The action taken by the Planning Commission was not designed to modify the existing zoning ordinance. It was designed to provide a Master Plan, which will be implemented by the Planning Commission. That has not yet taken place. It is important for everyone to understand and have no misconception of what has occurred. According to Mr. Austin's opinion, the Master Plan that was adopted by the Planning Commission has provided that in the future this property should be used for single-family residential purposes. The existing zoning ordinance, as it stands, provides that that property is zoned and can be used for multiple family purposes. The next logical step for the Planning Commission is to begin making amendments to the existing zoning ordinance, which would implement the ideas that they have generated from the Master Plan process. That has not yet occurred. The action taken by the city council this evening does not relate to the zoning of that property. The Council only denied the PILOT Ordinance. A PILOT ordinance is an ordinance where the city would grant certain concessions with regard to real property taxes. A primary example of a PILOT ordinance, which has been in place for a number of years, is the senior citizen high-rise on Center Rd. The action taken by the Planning Commission earlier in January had nothing to do with zoning. It had to do with the Master Plan. The property remains zoned multiple family. The owner of the property is not entitled, based the action of this council, to a special concession in regards to the taxes. He felt the gentlemen had an agreement to buy that property based on the approval of a PILOT ordinance. That did not happen. He thought the man would probably look somewhere else to do a project.

Gary Kautz, 4062 Woodrow, said with the growth of our city, Fire Station #2 should be rebuilt before renovations were done on city hall.

Bernard Meader, 4220 Risedorph, spoke in opposition to building low-income housing in the north end of Burton. Due to the flooding of the Burton Commons property, he felt the land should be utilized as a wild game sanctuary.

Ray Barr, 2273 Covert Rd, asked for clarification on the two conflicting statements made by Mr. Martinbianco and Mr. Hamilton. He wanted to know if the land was zoned for farming or multiple family.

Mr. Martinbianco referred to Mr. Austin's opinion regarding the Master Plan. It states that the Land Use Map classification reflects low-density residential usage for the Burton Commons property.

Mr. Hamilton clarified the difference between the future Land Use Map (the Master Plan Map) and the existing zoning ordinance, which are two different documents. The Planning Commission, under the new Land Use Map, designated this area as single family. Something has to happen before it actually becomes single family. The zoning ordinance has to be changed. The plan for the future is to do that. The existing situation is that the property is zoned multiple family. Another step has to be taken to get to the new zoning.

Mr. Barr wanted to know if the owner was the only person to request the rezoning of that property.

Mr. Hamilton said the rezoning could be initiated at the request of the Planning Commission, City Council or the Administration.

Discussion continued in reference to the rezoning of the Burton Commons property.

Mr. Barr requested that the Planning Commission rezone the property known as Burton Commons.

Mr. Hamilton said that this type of request would need to be made at a Planning Meeting.

Mrs. Tinnin asked if the Administration had initiated rezoning of some Belsay Rd property in the past.

Mr. Major said he would have to research this issue. He was not aware of any Belsay Rd property that was rezoned by initiation of the administration.

Ralph Misener, 3328 Vassar Rd, spoke in opposition to the adoption of the Master Plan. He said that there was a petition submitted to council with 353 signatures requesting the proposed Master Plan be presented to the public in an open forum. He didn't feel that was acknowledged.

Mitchell Franks, 4306 Farmcrest, spoke in opposition to low income housing in Burton. He brought up the issue of rezoning the Burton Commons property. He felt single family homes were appropriate for that area.

Mark Newman, 2299 Melody Lane, spoke against low income housing for the Burton Commons property. He wanted some direction on how to submit a formal request to the Planning Commission or City Council to rezone the property to single family residential or wetlands.

Mr. Brawner explained the next step for the Planning Commission was to work on the zoning ordinance to reflect the intentions of the Master Plan. The next meeting is scheduled for February 12th at 6:00 p.m.

Roberta Compton, 5347 Lapeer Rd, spoke in opposition to low income housing for the Burton Commons property. She asked when this property was designated multiple family zoning.

Mr. Hamilton repeated that this property was zoned multiple family on the current zoning map and has been for about 20 years. However, the future Land Use Map reflected low density residential.

Diana Dumbler, 4231 Leith St, requested the Council or Planning Commission to initiate the rezoning of the Burton Commons property. She said this is what the people want.

Mrs. Tinnin indicated that Mr. Bement was the council representative for the Planning Commission. He will let everyone know how the residents feel on this issue. She suggested the residents come to the next Planning Commission and voice their opinion on rezoning this property to single family, open space or agricultural. She said the current Land Use Map shows open agricultural for that property. The current zoning map is RM. There is a conflict in the two different maps. She asked for clarification on the Municipal Planning Act, Section 125.36 that discusses how the two maps come together.

Sam Costanza, 2217 Covert Rd, offered some history on the Burton Commons property. He asked if the City of Burton was bound by action taken by the township. He opposed the current zoning of the property.

Mr. Hamilton said under the provisions of the city charter all existing valid ordinances, which were in place by the township, were incorporated and became city ordinances at that point in time. In 1974, the city adopted a new zoning ordinance, so the zoning of that property has been in place for about 26 or 27 years.

Mark Brook, 4232 Beechwood, spoke in opposition to the Burton Commons project. He felt the City was taking kick backs on this project to get it done.

Mr. Brawner explained that the Council was supportive of the residents and had voted 6-0 to deny the PILOT project for Burton Commons.

Gary Mollosiau, 2041 Wilmar, asked for further clarification on the PILOT program, ownership of the property, current zoning and if the apartment complex could be built.

Mr. Hamilton felt the developer's interest in this property was based on the PILOT ordinance. That is no longer an option. However, if plans are submitted and comply with our ordinances the property is zoned multiple family, it is possible that the apartments could be built.

Mr. Brawner suggested the issue of rezoning the property be discussed at the next Planning Commission.

Lester Tanner, 4230 Leith St, opposed the Burton Commons project. He felt the elected officials should do what the people wanted.

Pauline Dargel, 6119 Hugh St, offered background information on the first zoning map. She said the administration has directed the DPW through the Planning Commission to initiate rezoning of property in the past. She suggested council make a motion to direct the Planning Commission to eliminate the multiple family zoning and change it to resemble the surrounding area. In addition, she commented on the Second Reading of an Ordinance and a complaint filed in reference to the Open Meeting Act and the Master Plan.

Marsha Tinetti, 2227, Briar Lane, asked for further clarification on the zoning of the Burton Commons property.

Duane Burnash, 2239 Covert Rd, thanked the legislative committee and council for recommending denial of the PILOT ordinance. He wanted to know what to do to get the property zoned back to single-family.

Mr. Hamilton said given the monumental task that the Planning Commission has before it dealing with the amendments of the zoning ordinance along with other pertinent issues, for peace of mind for these folks, he suggested council move this matter along.

Mr. Centilli moved and Mr. Martinbianco seconded the motion to approve and authorize council to take the necessary steps to initiate a rezoning of the subject parcel of land presently known as Burton Commons from R. M. (residential multiple) to R1B or R1A. Motion carried 6-0.

Kay Southern, 4318 Lila St, hoped that Mr. Bement was going to be at the next Planning Commission meeting to support the residents that attended tonight's meeting. She thanked Mrs. Tinnin for circulating the petitions for tonight's meeting.

Mr. Misener pointed out that the Mayor appointed the Planning Commission. He told the residents if they didn't like what the Planning Commission was doing, there were other sources to contact. He suggested residents hire their own attorney to deal with this matter.

Mr. Brawner suggested residents contact council members if they needed more information on the PILOT ordinance.

Mr. Meader asked if the law had changed on streets that were designated but never opened. He wanted to know if the unused street could be turned back to the adjoining neighborhoods. He didn't think any one could build on the Burton Commons property because Gilkey Creek runs under it.

COUNCIL DISCUSSION:

Mrs. Tinnin wanted to know the timetable for bringing the zoning text up to date with the Land Use Map.

Mr. Hamilton said that schedule is up to the Planning Commission. They have completed the first step by completing the Master Plan. This set goals, principal and ideas as to where the city wants to go twenty years down the road. The zoning map specifies what's happening currently. The next process is to bring the zoning text partially along that line. This process is complicated, time consuming and will take quite awhile to accomplish.

Mrs. Tinnin thought the changes in the map and text should be done simultaneously.

Mr. Hamilton gave further clarification on this issue. The Master Plan had to be in place before the zoning text was amended. The City Council will act on zoning text issues after recommendation from the Planning Commission.

Discussion continued on the Master Plan, Land Use Map and amending the zoning ordinance text.

Mr. Martinbianco wanted to know if the Planning Commission should begin the text amendments by sectioning off the City.

Mr. Hamilton felt sectioning of the City would prove to be very expensive due to notification issues. He suggested the text changes should be attempted as a whole project. Then a public hearing could be conducted in reference to the whole ordinance.

Mr. Cross suggested the composite changes be published in the local paper.

Discussion continued on procedures dealing with zoning ordinance amendments.

Mrs. Tinnin commented on a Master Plan workshop that should have been held after the last Planning meeting. She felt people were denied their right to have a workshop that would have given them some direction on the adoption of the Master Plan. In reference to zoning notifications, she indicated that the city has a healthy general fund balance of \$1.8 million. She thought it was important to notify residents on land issues.

Mrs. Tinnin suggested residents come to the next Planning Commission Meeting and demand that they be notified when land near them is going to be rezoned.

Mr. Martinbianco said that trash on Dallas and Bellingham didn't get picked after the recent snowstorm.

Mr. LaDuke said he would check into the matter tomorrow.

Mr. Cross asked that a street light north of Lapeer Rd on Kettering be repaired. He asked for this to be taken care of at an earlier meeting.

Mr. Cross planned to set a legislative meeting to address the Blackberry PILOT at a later date, because Mr. Wells was not available tonight.

In reference to Item #3, Mrs. Tinnin asked for clarification on the different options for Neighborhood Parks. In addition, she wanted to know if Mr. Angle from Bendle Schools had acknowledged the acceptance of the park money.

Mr. LaDuke said a Bendle School representative is on the Park's Board. He explained that CD dollars could only be used in certain areas of Burton. The Park's Commission has proposed a skate/basketball park for Bendle. The school representative has addressed this issue with the Bendle Board of Education and they have accepted our proposal. The project has been designed and should be completed in the spring. He estimated the cost of the project to be \$17,343.00.

A brief discussion continued as Mr. LaDuke gave a brief update on other neighborhood park projects.

Mr. LaDuke indicated that Mr. Centilli and Mr. Heffner have volunteered to help with the skate/basketball park project.

In regards to the Second Reading of an Ordinance, Item 1, Mrs. Tinnin asked for clarification on the first reading of the ordinance to rezone the property on Belsay Rd.

Mr. Hamilton assumed that there was an introduction of this ordinance at which time this meeting was set for tonight. This is consistent with the Charter requirements.

Mr. Major agreed that the first reading, which was also the second public hearing, was held January 21st and it was consistent with Charter requirements, past practice and according to State law.

A brief discussion was held in reference to police power ordinances versus zoning ordinances.

COUNCIL DISCUSSION ACTION:

Moved by Cross, seconded by Centilli to approve and authorize the recommendation from the Legislative Committee Meeting of January 22, 2002 to deny the proposed PILOT Ordinance for Burton Commons. Motion carried 6-0.

Moved by Centilli, seconded by Martinbianco to approve and authorize council to take the necessary steps to initiate a rezoning of the subject parcel of land presently known as Burton Commons from R. M. (residential multiple) to R1B or R1A.

COUNCIL ACTION:

Centilli moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 16, 2002 thru January 30, 2002 in the amount of \$3,579.50.

Motion carried 6-0.

Bement moved and Cross seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from January 22, 2002 thru January 31, 2002 in the amount of \$1,170.00.

Motion carried 6-0.

Centilli moved and Bement seconded the following motion:

3. Approve and authorize the transfer of unspent 2000 CD dollars from Neighborhood Parks (2,779.25 and Street Improvements (+-19,000.00) to 2001 Neighborhood Parks, to be used for CD eligible projects.

Motion carried 6-0.

SECOND READING OF AN ORDINANCE:

Tinnin moved and Bement seconded the following motion:

1. Approve and authorize the Second Reading of an Ordinance to rezone property located at 4162 S. Belsay Rd. and Parcel #59-35-200-003 and #59-35-200-002 from SE to R-1A for the purpose of residential development (Rizzo Development, 5273 Empress Dr., Grand Blanc, MI 48439).

Motion carried 6-0.

Meeting Adjourned at 9:20 P.M.

Gayle Webster, CMC
Burton City Clerk

GW/cml