CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
FEBRUARY 18, 2002, 7:30 P.M., COUNCIL CHAMBERS

Councilman Charles Cross 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.

Centilli moved and Wells seconded the following motion:

Approve and authorize the minutes of the Regular Meeting of February 4, 2002 at 7:30 P.M., as printed. Motion carried 7-0.

Mr. Brawner welcomed the Grand Blanc government students to the meeting.

ADMINISTRATIVE REPORT:

Mayor Smiley gave Council a copy of the Genesee County Road Commission's update on county primary roads in Burton. Also, he provided a copy of the certified resolution of the Land Use Plan and indicated that there was a new Land Use Plan in place. He hoped to move forward on this issue. The next logical step would be to make zoning text changes that were reflected in the plan. One parcel will be considered for rezoning at the March 12th Planning Meeting.

Mayor Smiley indicated that Standard & Poor upgraded the City's bond rating to an A- rating. This was very good news, yet we received very little press.

The Mayor asked Council for input on the upcoming budget. It is much easier to adjust the budget before it is finalized. He will be presenting the budget to Council April 2nd.

The Mayor requested a finance committee meeting be held to discuss the purchase of Fire Department gear.

The Mayor asked for clarification on a resolution regarding the Diversion Program.

Mr. Hamilton felt no council action was needed to terminate the Diversion Contract. This was not a legislative responsibility but rather an administrative duty.

The Mayor indicated that the Diversion Program will be eliminated and Pat McDougall would be laid off as of April 5th, when the contract expires.

COMMITTEE REPORTS:

Mr. Cross cancelled a legislative meeting that was set for February 19, 2002. The legislative meeting was rescheduled for February 25th at 4:00 P.M. The purpose of the meeting is for discussion concerning a PILOT Ordinance for Blackberry Creek.

AUDIENCE PARTICIPATION:

Mary Crawford, 6203 Briggs, spoke in favor of keeping the Diversion Program. She felt the program was very important and helped many first time offenders.

Mr. Hamilton gave further explanation on the elimination of the current Diversion Program. Due to security reasons and public liability the program can no longer be conducted in the court facility. The diversion program was originally supposed to be self-sustaining. However, it has increased in cost with the City subsidizing the program. Revenues were not meeting the expenditures. With the outlook of providing housing and the increasing cost of the program, it was apparent that there would be a wide margin of deficit there. Therefore, we determined to terminate the existing contract and search for an alternative program.

Mr. Brawner said it was a valuable program and we should look at other alternatives.

Leona Stephens, 3049Vineland, said she was denied the right to speak at the February 12th Planning Meeting regarding the site plan for Atherton Road Sales & Service. She spoke in opposition to the turn around that will be added to that site. She wanted to be assured that there would be no parking in the turn around area.

Don Sanderlin, 4460 Killarney Park, would like an update on the Safety Kleen operations. He thought the business had to go to the Planning Commission before opening again.

Mr. Hamilton thought another division of the company was going to operate out of that facility and would not include any holding materials. They were supposed to come back to the Planning Commission before occupying the site and resuming a new business. Recent inspections didn't seem to reflect any new activity, only some housekeeping.

Mayor Smiley asked Mr. Sanderlin to call his office and they could go out and visit the site this week.

September Misener, 3328 Vassar Rd, requested Council to hold the 2nd Public Hearing for Zoning Case #268 at the Senior Center March 18th due to the predicted large audience participation.

Mr. Major said the new location of the meeting could be posted on the front door of City Hall.

Mr. Hamilton said no further publication was required on this meeting.

Pauline Dargel, 6119 Hugh St, said the Clerk had done a good job on the new precinct boundaries. She spoke in opposition to the ZBA granting a non-conforming use for a new drive at Atherton Road Sales & Service. She opposed the administrative site plan review. She referred to the low-density designation on the Master Plan and felt there should be another public hearing and then adopt the plan over again.

Yulanda Ferguson, 2085 E. Boatfield, asked if Mrs. Tinnin had attended the Master Plan workshops that were held.

Mrs. Tinnin indicated that she did not attend the Master Plan workshops.

COUNCIL DISCUSSION:

Mr. Cross wanted to know if there was a drain by the stop sign next to Atherton Road Sales & Service. He has received complaints of water standing in that area after the snow melts. Sometimes the snow is plowed too high in the area where the school bus picks up children.

Mr. Major did not know where the company plowed their snow or if there was drain on that corner. He agreed that a drain would probably help the situation. He will check into the drainage situation at that site.

In reply to Mrs. Stephens's remarks, Mr. Bement commented on the public participation that was held at the last Planning Commission meeting. He felt there was just a misunderstanding on this issue.

Mrs. Tinnin commented on the last Planning Commission Meeting. She said Mr. Young had suggested there should be another public hearing to make sure the Land Use Plan was adopted in accordance with proper procedure. Mr. Hohloch agreed with this reasoning. She referred to research that she had done on this topic. She felt the public wasn't able to speak on the Land Use Plan at recent meetings.

Moved by Tinnin, seconded by Martinbianco to add as Item #6, to approve and authorize the City Council to hire an outside attorney to thoroughly investigate the procedures adopting the Future Land Use Plan.

Mr. Wells opposed hiring another attorney to review Master Plan procedures. He said the Planning Commission has approved and adopted the Master Plan.

Mr. Hamilton gave a synopsis on procedures that were followed with the adoption of the Master Plan. He indicated that all statutory procedures under the Metropolitan Planning Commission Act were followed when adopting the Master Plan. He said a public hearing was properly noticed and held within the requirements of the statue. The public does not adopt the Master Plan. The Planning Commission through deliberations took action on the Master Plan. He was not aware of any procedural errors that didn't comply with the statue.

Discussion continued on the procedures used in the adoption of the Master Plan.

Mrs. Tinnin said the January 8th meeting was posted as a workshop and felt the public didn't get a chance to speak on the Master Plan. She said there was no minutes for the December 4th meeting at which time the Master Plan was presented.

Mr. Hamilton clarified that the January 8th meeting, at which the plan was adopted, was not a workshop. It was a regularly scheduled Planning Commission Meeting. They are fully authorized to take any action within the scope of their authority at a regularly scheduled meeting. That's what they did. He reviewed details relating to the Land Use Map. A map revision relating to a portion of Section 3 had not been submitted by the planner and remained classified as low residential.

Mr. Wells asked Mr. Hamilton again if all procedures were followed regarding the adoption of the Master Plan.

Mr. Hamilton agreed all adoption procedures were followed.

Discussion continued in reference to the adoption of the Master Plan.

Mr. Martinbianco asked the Clerk for clarification on the certification of the Land Use Plan.

Mrs. Webster indicated that Mrs. Ladd took the minutes to that meeting. To her knowledge, the January 8th meeting was recorded as a regular planning meeting, which included a recess session. There was no separate workshop meeting called.

Mr. Hamilton clarified that it was a regular planning meeting. Two recesses were called during the meeting. Mr. Piggott requested we have a prepared resolution for adoption of the Land Use Plan. He typed the resolution during the recess.

Mr. Wells felt there were excellent people sitting on these boards and we should not set a precedent by second-guessing decisions. He said Mr. Hamilton answered all his questions and Mr. Brawner attended all the meetings. His mind was at peace that proper procedures were followed. He would not support a motion to hire an outside attorney to review this matter. He felt this matter should be put behind us and move on.

Mr. Brawner has been a member of the Planning Commission for a number of years and attended all the Master Plan meetings. Mr. Hamilton was in attendance at those meetings and gave assurances that we were doing everything legally. Mr. Brawner said that Mr. Hamilton has been our City attorney for 25 years. He was not going to second guess his legal expertise on municipal government. He thought it would be like a slap in the face to hire another attorney, just to try and find an opinion that disagrees with Mr. Hamilton. At what point do we stop. He didn't think the taxpayers wanted to pay the additional money, just because a few people disagreed with what has happened. We have a Master Plan that was adopted and in place. Unless a higher authority comes forth and indicates there is a problem, he would abide by Mr. Hamilton's expertise. He was not going to support the motion to hire an outside attorney.

Mr. Cross said the Council has even requested a zoning change from the Planning Commission on a parcel of land that residents had the most concerns with. It will change the zoning of the property from multiple to single family.

Mr. Bement said discussion was held at the last Planning Commission in regards to the adoption of the Master Plan. There was a consensus that everything was done legally in accordance with the attorney. The same people will disagree with the plan a second time. He felt this motion should be turned down. He thought it would be a waste of money for another attorney to say that we met all our obligations. He opposed hiring another attorney to review the Master Plan procedures.

Mr. Brawner indicated that this was a motion to add Item #6.

A roll call vote was taken and the Clerk inadvertently indicated that the motion was denied 4-3. The motion was not added to the agenda.

CORRECTION:

The motion to add Item #6 actually passed 4-3.

Moved by Tinnin, seconded by Martinbianco to add as Item #6, to approve and authorize the City Council to hire an outside attorney to thoroughly investigate the procedures adopting the future land use plan. The motion carried 4-3, with Brawner, Centilli and Wells voting no.

Mr. Martinbianco asked for clarification on what would succeed the current Criminal Diversion Program.

Mr. Hamilton said the current contract with Mr. McDougall would be phased out. We will honor that contract and then determine what other alternative diversion programs are available. He agrees that the theory of a diversion program is beneficial to everyone. We should consider the budget constraints as we move forward with a new program. The program's revenues lagged substantially behind operating expenses at this point in time. He noted that Mr. McDougall had requested additional compensation independent of providing a site for his program.

Mr. Martinbianco agreed that he did request full-time status for the current fiscal year.

Mr. Hamilton will keep Council updated on this issue.

Mr. Cross spoke with Mr. McDougall regarding this matter. He said Mr. McDougall would not be accepting new cases, however he planned to complete his existing caseload.

Mr. Martinbianco commented on the letter regarding the County Primary Roads. He felt the letter inferred that it was a foregone conclusion that this was going to happen. He thought the City should not have spent $30,000 for a study if we planned to take over the roads anyhow. Through the study, Rowe was to establish some ground rules on taking over the roads and prove if it was financially feasible to do so.

The Mayor felt we should take responsibility for our county roads. He explained the county only has certain target dates for the transition of the roads.

Mr. Major said if we take over the county roads, we would ask Mr. Hammon to give us the dollars that they would have given to the road commission to supplement these roads.

The Mayor would provide the road study as soon as it becomes available.

Mr. Centilli felt it was better to take over the roads going into the summer season rather than winter. That would give us some time to work on the problem areas before adverse weather begins.

A brief discussion continued on the possible take over of county roads.

Mr. Cross said that Lapeer and Belsay Roads are in bad shape. He felt the Road Commission should hand over some money for those roads immediately, so repairs could begin.

In response to Mr. Sanderlin's comments, Mr. Wells would like an update on the Safety Kleen facility.

The Mayor planned to have Mr. Sanderlin accompany him on a visit to the site next week. He hoped to gain some insight on their current and future operations.

Mr. Centilli asked if Rowe would be completing the road study by May 1st.

The Mayor hoped the study would be completed by that date.

Mr. Brawner hoped we would be able to alleviate some of the resident's concerns in regard to the Safety Kleen issue.

Mrs. Tinnin asked for clarification on the administrative site plan review regarding Atherton Road Sales and Service.

Mr. Major said an administrative review was done because all the details were worked out at the Zoning Board of Appeals. It was a foregone conclusion, once they went to the Zoning Board of Appeals that they were going to expand their operation. The ZBA had granted them the various conditions on how they would expand and where they would expand. Therefore, the administrative review supported the ZBA recommendation. This will allow a gravel turn around with some birming, screening and fencing.

A brief discussion continued in reference to Atherton Road Sales & Service.

Mr. Major said a site plan is on file and the Planning Commission concurred with it. The DPW will try to make sure the company complies with the Zoning Board's restrictions. In addition, the representative from Atherton Road Sales & Service has signed an agreement to do meet the required conditions.

Mrs. Tinnin asked for clarification on the status of the CK Garden PILOT Ordinance. She didn't think CK Gardens was going to commit to any kind of development. Therefore, she felt the ordinance should be repealed.

Mr. Hamilton said the CK Garden issue should be researched and then the appropriate action could be taken.

A brief discussion was held in reference to the status of the CK Garden PILOT Ordinance.

After researching this topic, Mr. Major will update the Council on his findings.

Mrs. Tinnin wanted both Attorneys to provide information on Burton land that they have a vested interest in.

Mr. Hamilton will provide this information to Council.

In reply to Mrs. Stephens' comments, Mr. Centilli said the ZBA requested a slight berm and a six-foot privacy fence along Mrs. Stephens' lot line. The ZBA's recommendation should prove to work to her advantage. This will give her additional privacy.

Moved by Tinnin, seconded by Cross to amend Item #5, by adding, at the Senior Citizen Center with the Regular Council Meeting immediately following at 7:30 P.M. Motion carried 7-0.

Moved by Martinbianco, seconded by Tinnin to table action on Item #5 until the final Council passage of Zoning Text changes that would come from the Master Plan Use Map. Motion was denied 5-2, with Bement, Brawner, Centilli, Cross and Wells voting no.

The motion passed to amend Item #5 to reflect the 2nd Public Hearing for ZC #268 would be held at the Senior Citizen Center March 18th at 6:30 p.m. with the Regular Council Meeting immediately following at 7:30 P.M.

Mr. Brawner asked the Clerk to advertise for a Zoning Board Alternate position in the local newspaper, with the deadline for application being set for March 8th. He planned to address this issue at the Regular Council Meeting on March 18th. He asked the Clerk to inform prior applicants of this opening.

Mr. Wells asked if we were going to vote on Item #6.

Mr. Centilli felt the motion was carried to add Item #6.

Mr. Brawner said Item #6 was not added to the agenda.

Mr. Hamilton said the motion to add Item #6 did not pass.

No further action was taken on Item #6.

COUNCIL DISCUSSION ACTION:

Moved by Tinnin, seconded by Martinbianco to add as Item #6, to approve and authorize the City Council to hire an outside attorney to thoroughly investigate the procedures adopting the future land use plan. The motion carried 4-3, with Brawner, Centilli and Wells voting no.

Moved by Tinnin, seconded by Cross to amend Item #5, by adding, at the Senior Center with the Regular Council Meeting immediately following at 7:30 P.M. Motion carried 7-0.

Moved by Martinbianco, seconded by Tinnin to Table action on Item #5 until the final Council passage of Zoning Text changes that would come from the Master Plan Use Map. Motion was denied 5-2, with Bement, Brawner, Centilli, Cross and Wells voting no.

COUNCIL ACTION:

Centilli moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from January 30, 2002 to February 13, 2002 in the amount of $2,013.50.

Motion carried 7-0.

Cross moved and Bement seconded the following motion:

2. Approve and authorize the Mayor and City Clerk to convey the City Hall/DPW site to the City of Burton Building Authority. This conveyance is a procedural matter required by the Contract of Lease with the Authority. The property being conveyed is commonly known as 4303 South Center Road and the assessment roll parcel identification number is #59-34-300-035.

Motion carried 6-1 with Tinnin voting no.

Centilli moved and Cross seconded the following motion:

3. Approve and authorize the reorganization of Precincts 1 through 12, as recommended by the Election Commission.

Motion carried 7-0.

Centilli moved and Wells seconded the following motion:

4. Approve and authorize the AV Counting Board, Precinct 13, for all future elections that apply, as recommended by the Election Commission.

Motion carried 7-0.

Wells moved and Bement seconded the following motion:

5. Approve and authorize the setting of a 2nd Public Hearing for Zoning Case #268 on Monday, March 18, 2002 at 6:30 P.M., at the Senior Citizen Center with the Regular Council Meeting immediately following at 7:30 P.M.

Motion carried 7-0.

Meeting Adjourned at 9:00 P.M.

Gayle Webster, CMC
City Clerk

GW/cml