

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

Councilman Robert Bement 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, Tinnin and Wells.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor C. Smiley; C. Abbey, Administrative Assistant; J. Major, DPW Director; D. Halstead, Fire Chief; D. Lacey, Assistant Fire Chief; R. LaDuke, Road Superintendent; D. Lowthian, Assessor; Attorney R. Hamilton and G. Webster, City Clerk.

Martinbianco moved and Cross seconded the following motion:

Approve and authorize the minutes of the Regular Meeting of February 18, 2002 at 7:30 P.M., as printed. Motion carried 7-0.

Due to the correction in the previous minutes, Mr. Bement made the following motion:

Moved by Bement, Supported by Cross to add as agenda 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. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Jerry Thick, 562 Oakbrook, a Burton businessman, thanked fireman Stan DeFreese for contacting him regarding a recent electrical fire at his building. He felt Mr. DeFreese should be commended for going beyond his normal duties at the time of the fire.

Mayor Smiley praised Stan DeFreese for his 43 years of dedicated service as a Burton Firefighter.

The Mayor requested a Finance Meeting be held in the next couple of weeks to discuss the upcoming water rate increases.

The Mayor distributed and reviewed a packet of information pertaining to Burton's new development and the increased tax revenues that it has generated for the City. He gave an overview of a property tax analysis. In addition, he commented on the potential tax revenue that would be generated from the proposed Rizzo development at Bristol and Vassar Roads. The proposed subdivision could generate additional revenues of \$281,589.00. He said new development has had a positive affect on the City as a whole.

The Mayor distributed a copy of the Genesee County PASER Road Condition Survey and the 2001 Street Rating of Burton's local streets.

Mr. LaDuke commented on the Genesee County PASER Road Condition Survey.

The Mayor said there were still 15 miles of gravel roads in the City. He wanted to know if consideration should be given to implementing a new policy for paving the remaining streets. He planned to hold a meeting with residents on April 4th to discuss the Wagner and Pratt street paving project.

The Mayor commented on the Michigan Food Bank. He said Burton has several food bank distribution centers. For every dollar donated to the food bank, it would provide \$14.00 worth of food to a needy family.

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In reply to Mrs. Dargel's comments regarding the Master Plan at the last meeting, Mayor Smiley said that he was not the chairman of that committee, nor did he have any control over the board. The board determines what steps to take in regards to business relating to the Master Plan. He takes resident's concerns and request very serious. He said several changes have been made in the past to accommodate residents' concerns.

The Mayor asked Council to submit any budget requests as soon as possible, because the administration is currently working on the budget.

COMMITTEE REPORTS:

Mr. Wells reported on the finance meeting that was held February 26th. Discussion was held on purchasing decorations for city buildings, turn out gear for the Fire Department and replacement of voter ID cards for the Clerk's Office. The finance committee recommended transferring funds to purchase the turn out gear and ID cards. These recommendations appear on the agenda as Items 4 & 5.

Mr. Cross reported on the legislative meetings that were held February 25th and March 1st. Discussion was held in reference to the proposed PILOT ordinance for Blackberry Creek Village. After lengthy deliberations, the legislative committee recommended the first reading of an ordinance for the Blackberry Creek project.

Moved by Cross, seconded by Bement to add as agenda Item #7, Approve and authorize the first reading of a payment in lieu of property tax ordinance (PILOT) for the housing development to be known as Blackberry Creek Village. Motion carried 7-0.

AUDIENCE PARTICIPATION:

Patrick McDougall, 1309 Knight St, spoke regarding the benefits of the 20-year Burton Diversion Program. His comments focused on local ordinances, statistics, judge referrals, lack of housing for the program and his previous request for city employee status. He requested that Council pass a resolution removing the name City of Burton Diversion Program from any future programs.

Pauline Dargel, 6119 Hugh, commented on her tax assessment statement, the CK Gardens Ordinance, two entries on the attorney's billing and the proposed PILOT ordinance for Blackberry Creek Village. She opposed a 40-year tax abatement for the Blackberry Creek project.

Mary Crawford, 6203 Briggs, spoke in favor of keeping the first time offender diversion program. She felt the council should intervene and save the program.

Don Embury, 3447 Killarney Park, commented on tax base and development in Burton. He would like the City to provide cheap leaf bags again in the future. He wanted to know if he could burn leaves at his home.

Linda Burris-Croley, 6223 Crabtree, asked for clarification on enforcing deed restrictions on developments. She spoke in regards to the Mayor's administrative report.

COUNCIL DISCUSSION:

In response to Mrs. Dargel's comments, Mr. Hamilton did not know what judges were assigned to the Pollock or Atlas Door case. He gave a brief update on both cases.

In reply to Mrs. Croley's remarks, Mr. Hamilton said deed restrictions are enforceable as a matter of contract. The adjacent property owners or the City itself could do the actual enforcement.

The Mayor indicated that the deed restrictions were recorded at the register of deeds. He agreed that the restrictions were enforceable and would hold up in court.

Mr. Cross asked for clarification on subdivision deed restrictions.

Mr. Hamilton said it depends on how the document was drafted. The subdivision could enforce a deed restriction.

Mr. Cross asked for clarification on residents burning leaves.

Fire Chief Halstead said it was illegal to burn leaves under Rule 310 of Public Act 451. Trees, logs, brush and charcoal can be burned, as long it doesn't offend others.

Mr. Cross asked for clarification on the occupancy capacity at the bingo hall.

Assistant Fire Chief Lacey briefly spoke on the occupancy capacity of the building. He said the number of square feet in a building determines the occupancy capacity of the building. He would be glad to provide Council with more information on this issue.

Mrs. Tinnin said Ordinance 91-C, relating to CK Gardens, became invalid as of December 15, 2001 because the project did not receive funding. Therefore, it is probably not necessary to repeal that ordinance.

Mrs. Tinnin commented on the elimination of the Diversion Program and Mr. McDougall's job. She said the Council was informed that this was an administrative decision. She suggested Mr. McDougall take this issue up with the administration.

Mr. Cross asked if Mr. McDougall was continuing to phase out his current client log.

Mr. McDougall said he had no job position or place to meet with clients. There is no place for him at Burton's courthouse or the County. He has 30 days to close out the current files and is doing this work at his home.

Mr. Abbey said the Council has the authority to fund the program, if they choose to do so. Originally, the Diversion Program was supposed to be self sufficient, not subsidized by the taxpayers. This program has been successful for first time offenders. However, the City has lost a great deal of money subsidizing the program. The deficit for this year is estimated at about \$14,000. Mr. McDougall knows why this has come before us. The judge has indicated a lot of things have happened. He was given 7 ½ weeks notice that the program would be eliminated. He is a contractual employee and his contract will soon expire. He said an executive session could be called to discuss this sensitive issue, if council chooses to do so. He felt this was the right decision to protect the taxpayers. The taxpayers should not have to pay to protect the criminal acts of others.

Mr. Martinbianco asked if there was going to be a budget transfer to handle the predicted \$14,000 deficit for this year's program.

Mr. Abbey said usually this deficit is absorbed by the Police Department budget. He hoped Mr. Dougall would encourage ongoing clients to pay their retribution fees.

Mr. McDougall indicated that he was not getting the first time referrals and his caseload has dropped dramatically. He felt there had been a break down in the system.

A lengthy discussion continued in reference to the elimination of the current diversion program. There will be no more new referrals to this program. Other discussion issues included Mr. McDougall's request for full time employment, the responsible party for the program, alternative diversion programs, removing the name of the current diversion program, project funding and housing costs.

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Mr. Abbey will continue to review the Burton Diversion Program. He will keep Council informed of any further developments.

Mr. Brawner felt we should wait until April 5th to make any final decisions on this matter.

Mr. McDougall wanted to be included in the process, as information was being reviewed.

Mrs. Tinnin asked why the legislative minutes for Blackberry Creek weren't completed when the finance meeting minutes were done.

Mrs. Webster said two different clerks, with two different caseloads were working on those minutes. The legislative meetings were held last Monday and last Friday. Those PILOT meetings have proven to be very lengthy and therefore take longer to type. Under the Open Meetings Act we have eight business days to complete the minutes in a rough draft form. That time has not expired. On the other hand, the finance meeting was held last Tuesday and it was much simpler, lasting approximately 40 minutes.

Mr. Cross said that Mr. Perlman and Mr. Lowthian were present to answer any question Council might have in regard to the PILOT for Blackberry Creek Village.

Mr. Martinbianco asked for an update on the Davison Road widening project.

Mr. Major said the widening project should begin around June and be completed by November 15, 2002. He will keep Council updated on this project as he receives new information.

Mr. Martinbianco asked about the traffic signal that was to be installed at the Potter and Belsay road intersection.

Mr. Major said he was not in opposition to adding a signal at that location, however he didn't think the Road Commission would approve a signal for that location. He was looking into the possibility of adding a temporary traffic signal at that location, during peak traffic times.

Mr. Martinbianco asked when the last inspection was done at Safety Kleen.

Chief Halstead said an inspection was conducted about three weeks ago at Safety Kleen. Presently, there are no other operations except moving containers off the site.

Mr. Major said the company needed to come back to the Planning Commission before resuming any other operations. This has not been done. The Mayor is planning a visit to the site. He hoped to have more information at a later date.

Mr. Martinbianco asked for an update on the proposed Wagner & Pratt street-paving project.

Mr. Major said a petition has been circulated for the Wagner & Pratt street-paving project. The design process has not changed. There needs to be a favorable response of 51% at the upcoming meeting. He felt the best way to finish the remaining street paving projects was to combine some of the streets.

Mr. Cross asked if the demo list was completed.

Mr. Abbey hoped to have a completed demo list to Council by April 2nd. Approximately 45 homes have been identified. The City is still conducting title searches on some of the properties to make sure all homeowners were notified of the demo status. There may be some overlap of demo properties with County tax forfeiture properties. The list of confiscated properties will probably be available in July or August.

Mr. Cross said many of these homes are a deterrent and an eye sore. He felt we should have someone purchase these rundown properties and have new homes built.

Mrs. Tinnin wanted to know when the Mayor was holding the meeting with residents on the Wagner & Pratt paving project.

The Mayor said that meeting was scheduled for April 4th at 7:00 p.m.

In reference to Item 3, Mr. Major pointed out that the private street would not have city services. The garbage pickup would be on Genesee road. The sanitary sewer lines are not presently installed on that street. There are plans to do this in the near future.

Mr. West was fully aware that there would not be city services on a private street.

Mrs. Tinnin asked if the neighbors were informed of the lot split on Dortch Drive.

Mr. Major said all notifications had been made.

In regard to Item 6, Mr. Centilli asked if this resolution called for hiring an outside attorney.

He was informed that resolution would allow for an outside attorney.

Mr. Bement was amazed that no one realized that agenda Item 6 was supposed to be added to the last meeting. He misspoke by voting yes on this particular motion. His intention was to vote no. He opposed hiring an outside attorney.

Mr. Wells and Mr. Centilli thought the motion had originally past.

In reference to Item 7, Mrs. Tinnin spoke in opposition to the PILOT ordinance for Blackberry Creek Village. She wanted to know how this project would benefit the City, as compared to how much it would cost the City. She felt the addition of 800 people, that would not be paying taxes, would burden city services.

Mr. Arabbo, developer for Blackberry Creek, gave a detailed explanation on revenue lost versus tax abatement. He felt there was nothing wrong with this type of growth as long as it has been well planned. He would make sure that it was a good quality development.

Mr. Cross spoke in favor of the PILOT ordinance for Blackberry Creek Village. He felt the development would bring more business to our community and provide nice affordable housing for residents. He said each PILOT ordinance should be reviewed and should stand on its own merits.

Mr. Bement spoke in favor of the Blackberry Creek development. He thought it would provide affordable housing and bring new business into the area. He would be voting in support of this project.

Mr. Brawner agreed that each of these projects should be weighed on their own merit.

Mr. Wells said we should consider our vision and where we want to take the City. There is nothing around this area and no one complained as the PILOT was reviewed. He looked at the longevity and type of project that was to be built. He thought this project would prove to be beneficial for Burton and help explode the Center Rd corridor.

Mr. Cross indicated that these apartments would provide for affordable and moderate income housing to the area. Rental units would run from \$700-\$800 plus. These types of apartments could not be built without tax relief.

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Attorney Michael Perlman gave more specific details on the project. He spoke on mortgage information, the quality of the apartment complex, the size of the apartments, the lower monthly rent payments due to the tax abatement, the analysis of affordable housing study, the dependable management skills and the advantages of the PILOT financing.

Mr. Centilli asked for clarification on who was going to build and manage the complex. In addition, he asked about the maintenance of the apartments and how long Mr. Arabbo planned to own them.

Mr. Perlman said Mr. Arabbo's company, S&S Builders, would construct the apartments. Village Green would manage the apartments. They have many years of management experience that includes 26,000 units. They are committed to maintaining the roads and housing for many years.

Mr. Cross said that if Mr. Arabbo sells the property, it would revert back to the full tax roles. He has done a lot of homework on this project and felt it would be a good project for Burton.

A lengthy discussion continued in reference to the PILOT for Blackberry Creek Village.

Mr. Perlman indicated that they would like to start the project by May 1st. This would allow them to save money on tap-in fees. He projected that it would take up to eight months to complete the project.

Mr. Centilli spoke in support of the Blackberry Creek project. He felt the apartments would be nice and contribute to commercial spin off in the area. It would bring more people to Burton, which in turn would increase the census count and state revenues.

In addition, Mr. Perlman felt it would have a positive affect on the Atherton School system.

Mr. Brawner reminded everyone that the next meetings would be held March 18th at the Senior Center. The Second Public Hearing for Zoning Case #268 will start at 6:30 p.m. The Regular Council Meeting will follow at 7:30 p.m.

COUNCIL DISCUSSION ACTION:

Moved by Bement, Supported by Cross to add as agenda Item #6, Approve and authorize the City Council to hire an outside attorney to thoroughly investigate the procedures adopting the Future Land Use Plan.
Motion carried 7-0.

Moved by Cross, Supported by Bement to add as agenda Item #7, Approve and authorize the first reading of a payment in lieu of property tax ordinance (PILOT) for the housing development to be known as Blackberry Creek Village. Motion carried 7-0.

COUNCIL ACTION:

Centilli moved and Wells seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from February 13, 2002 to February 27, 2002 in the amount of \$3,448.00.

Motion carried 7-0.

Centilli moved and Wells seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) February 4, 2002 to February 27, 2002 in the amount of \$2,047.50.

Motion carried 7-0.

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Cross moved and Martinbianco seconded the following motion:

3. Approve and authorize the waiver of Ordinance #45 and grant permission to the DPW/Building Division authority for the issuance of a building permit to Todd and Sandy West of 1482 Alberta Ave., Burton, MI 48509 for the construction of a new single family dwelling on the approximate south ½ of Parcel #59-23-100-007 in Section 23, created by lot split #01-60 as approved by the City's Planning Commission on 9/11/01 to be commonly known as 5181 Dortch Drive.

Motion carried 7-0.

Wells moved and Bement seconded the following motion:

4. Approve and authorize the Finance Committee's recommendation to transfer \$5,240.00 from General Fund to the Election's Department for Voter ID card replacement costs, as specified in PSI Quotation.

Motion carried 7-0.

Wells moved and Centilli seconded the following motion:

5. Approve and authorize the Finance Committee's recommendation to transfer \$22,700.00 from General Fund to the Fire Department for safety equipment.

Motion carried 7-0.

Martinbianco moved and Bement seconded the following motion:

6. Approve and authorize the City Council to hire an outside attorney to thoroughly investigate the procedures adopting the Future Land Use Plan.

Motion denied 4-3 with Bement, Brawner, Centilli and Wells voting no.

Cross moved and Bement seconded the following motion:

7. Approve and authorize the first reading of a payment in lieu of property tax ordinance (PILOT) for the housing development to be known as Blackberry Creek Village.

Motion carried 6-1, with Tinnin voting no.

Meeting Adjourned at 10:00 P.M.

Gayle Webster
Burton City Clerk

GW/cml