CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
MARCH 17, 2003, 7:30 P.M., COUNCIL CHAMBERS

Pastor Henry Horton of Christian Life Learning Center led the Invocation.

Councilman Danny Wells led the Pledge of Allegiance.

Council 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; C. Abbey, Administrative Assistant; R. LaDuke, DPW; J. Major, DPW; Attorney R. Hamilton and G. Webster, City Clerk.

Cross moved and Martinbianco seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of March 3, 2003 at 7:00 P.M.; Special Meeting of March 3, 2003 at 7:10 P.M.; Special Meeting of March 3, 2003 at 7:20 P.M. and Regular Meeting of March 3, 2003 at 7:30 P.M., as printed. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley plans to present the proposed budget April 7th at the State of the City Address.

The Mayor said that Joyce Centilli, Memorial Day Parade Chairman, is working very hard to organize Memorial Day events. We are hopeful that Meijer will contribute $5,000 again this year for our fireworks display.

The Mayor said the City Hall Open House would be held on April 7th from 12-5 p.m. with the State of the City Address following a couple hours later. The Regular Council Meeting will follow at 7:30 p.m.

The Mayor said the MML Legislative Conference would be held March 25th and 26th in Lansing. This is a good opportunity to meet with the league staff and state legislators.

The Mayor said that the Governor, Jennifer Granholm, read to the children of Atherton Schools this week. It was a very exciting day for everyone involved.

The Mayor indicated that the City of Burton was ready to take over the county roads May 1st. He acknowledged that Mr. LaDuke was doing an outstanding job of clearing snow from our roadways.

COMMITTEE REPORTS:

Mr. Cross and Mr. Bement attended the mosquito control meeting that was held in Grand Blanc March 10th.
The meeting concentrated on prevention and non-toxic control methods to help eliminate mosquitoes. Mr. Cross distributed information from the meeting.

AUDIENCE PARTICIPATION:

Don Sanderlin, 4460 Killarney Pk, spoke in favor of allocating funds to help with mosquito control issues. He referenced mosquito control programs that are being used in other communities. He felt we should address this issue before the mosquitoes and the Nile Virus problems escalate.

Douglas McGaw, 5435 Corporate Dr, Attorney for Thompson McCully, spoke in reference to his letter that was sent to Mr. Brawner. He addressed the differences between Atherton School and Thompson McCully. He said some issues such as ponding was directly related to the engineering of the project. Thompson McCully did not do the engineering work. He outlined several specific issues that needed to be addressed and the steps that would be taken to rectify the situation. He said that Thompson McCully had appropriately responded to all issues presented during the course of the project. The remaining concerns would be addressed appropriately and promptly in the spring as promised. He requested that the Council reconsider its vote of March 3, 2003 with regard to the above project and award the project to Thompson McCully. He felt such a decision would save the taxpayers money and would not have an adverse impact on the scheduled hearing.

Bob Walls, 2400 Meadowcroft, Atherton School board member, had no problem with the Council reconsidering this request. However, he felt it was good policy to ask for references when taking bids. He suggested council members look at the work that was done at Atherton School and then decide who should do the job.

Allen Robinson, 6465 Wagner Ave, spoke in favor of reconsidering Thompson McCully, the lowest bidder, to do the work. He wanted to know how many parcels were included in the Pratt and Wagner paving district. He pointed out that there was a lot split since the district was established. He felt the per lot cost should be adjusted to reflect this change. In addition, he asked for further clarification on Item 3 regarding reimbursement costs.

Mr. Major said that there was one lot added due to a lot split, while another lot was eliminated because it was not deemed eligible by the assessor. Therefore, the per lot cost remained the same. He said that Item 3 dealt with a bookkeeping procedure that provided the City for reimbursement on advanced costs associated with the bond sale.

Dave Roach, 3280 Belfast, felt the Council should check references and look at previous projects that were done by the two companies before deciding on a contractor. He hoped the City would save money by picking the right company initially.

Pauline Dargel, 6119 Hugh St, spoke on DPW maps, Pebble Creek special assessment project, the vacant Shell gas station and two of Mr. Tobin's lot splits. Her concerns for Pebble Creek included a single petitioner initiating the project and the per lot special assessment method being used. She wanted to know if the Pebble Creek bond was a separate issue and the cost related to this issue. She felt the old Shell building should be addressed in compliance with Ordinance 19. She felt the station site was established on a different date than was previously indicated. She wanted to know if Mr. Hamilton had an interest in the Davison Oil Company in the past. Mrs. Dargel felt that Mr. Tobin's lot splits were not properly noticed.

John Stapish, P.O. Box 190134, complained that a DPW worker made his employee quit working on one of his homes. He spoke regarding a code of conduct and wanted to know what DPW worker was involved. He felt that dismissal would be a nice punishment for the DPW worker that interfered and harassed him and his employee.

COUNCIL DISCUSSION:

Mr. Cross asked Mr. Hamilton if he had any interest in the Davison Oil Company.

Mr. Hamilton has not represented the Davison Oil Company in the past. He planned to contact Mr. Kruger regarding the old Shell Gas Station on Bristol Rd.

Mr. Cross said there had been some flooding at Vineland and Atherton Rd.

Mr. LaDuke said that he has addressed that issue. The road crews have been melting frozen tubes under driveways to help water flow better and prevent flooding.

In reference to Item 9, Mr. Cross wanted to know if Mr. LaDuke would be receiving a pay increase for assuming the duties of Street Administrator and overseeing Act 51 responsibilities.

Mr. LaDuke would not be receiving a pay increase for assuming the responsibilities related to Act 51.

In response to Mrs. Dargel's comments, Mrs. Tinnin wanted to know if the old gas station needed to be occupied.

Mr. Hamilton said it appeared from assessment records that the Shell Gas station predated the existing ordinance. This location may be exempt from the current ordinance because of the non-conforming use statue. He will contact Mr. Kruger to clean up the area and determine future plans for the site. All gas tanks, pumps and lines have been removed. He suggested contacting DEQ regarding the status of the property.

Discussion continued in reference to the old Shell Gas Station and Action Automotive sites.

Mr. Hamilton suggested moving forward with the least complicated issue, which would be the demolition of the old Action Automotive building. This facility is still considered a gas station. The City should move slower with the Bristol Road site reviewing and weighing all legal aspects that might be involved.

Mrs. Tinnin suggested reviewing the current ordinance and perhaps changing it to help better protect the City. She hoped the Bristol Road site would at least make some repairs.

Mr. Hamilton said that the Bristol and Center Rd intersection was a potentially good site for development.

Mr. Cross preferred that property owner's fix up their problem homes. However, he said the City has been working with some of these vacant properties for years and not much has been done to improve the sites.

In response to Mrs. Dargel's comments, Mrs. Tinnin asked for clarification on the special assessment project costs.

In reference to Item 7, Mr. Major said this relates to two notices of intent, one bond issue, with two series of sales. There would actually be two bond sales. The Pebble Creek bond sale would be approximately 4 million dollars and the smaller bond would cover the street paving districts, which would be for $430,000. He felt it was in the best interest of the City to have two bond series.

In reference to Item 3, Mrs. Tinnin thought this was different from when we started taking action on this matter. She felt this should have been published in this manner.

Mr. Major said this is not the notice of intent for referendum. This procedure provides for eligible repayment for the City. It accommodates the accounting or clerical procedure that has moved the bond sale forward.

Mr. Hamilton said this is done to help expedite the project so the City can move ahead with the business at hand.

Mr. Major explained that the engineering costs are utilized and spent well in advance of the bond sale. This simply provides a way to move the project along.

Mrs. Tinnin had several concerns with the Pebble Creek special assessment project. She said that the Council did not know anything about Mr. Eister, the developer. She wanted to know why he hasn't come forward and explained his intentions regarding this issue. She felt the City was applying for this special assessment bond. The gravel streets should not be combined with this development.

Mrs. Tinnin continued to voice her concerns regarding Burton Commons and Pebble Creek.

Mr. Major said the City has always been looking for a larger bond issue. This should contribute to lower interest rates and more bidders, which will benefit the City of Burton overall. He continued to explain the benefits to having a Series I and Series II bond sale.

Mrs. Tinnin wanted to know if Mr. Becker and the bond counsel saw the minutes and resolutions from the meetings. She said no other community was doing special assessments for private enterprises.

Mr. Major said that the Mr. Becker and the bond counsel were well aware of all bonding issues and procedures that have been done. Everything is being done properly. Other communities are participating in this type of special assessment method.

Mrs. Tinnin felt we should wait for developers to put in their own infrastructure. She wanted to know why we were in such a hurry to encourage development. We are taking a risk by providing good faith and putting our credit on the line for one person.

Mr. Martinbianco felt this project was an extension of what's already been done in this area. He was confident that homes would sell in the Grand Blanc area. He supported this endeavor and felt we should take advantage of the low interest rates that are available. This would prove to be beneficial to the homeowners. He appreciated all the work that Mr. Major had done on the special assessment projects. He wanted to know if Mr. Major would become a contractual employee now that he was retired.

Mr. Abbey said that Mr. Major is being paid on a contractual basis to handle the current bond process. He is being paid straight wages until other staff members are brought up to speed on his job responsibilities. If we see a need for Mr. Major to continue working for an extended period of time, then we will enter into a contract. There is enough money in the current budget to meet our immediate financial needs.

Mr. Hamilton said as long as sufficient funds were in the budget he could be paid on a part time or contractual basis.

Mr. Martinbianco commented on the take over the county roads. He thought it was a good idea to heat tubes to keep the water flowing to prevent flooding. He reported on some flood areas that needed to be addressed.

Mr. Martinbianco felt there was not sufficient support to overturn action that was taken at the last meeting with regard to awarding a contract for paving work. He acknowledged that Thompson McCully was successful with the Dort Hwy. project. He said the problems with the Atherton School project proved to be an unfortunate experience and he hoped the issues would be resolved in a timely fashion.

Mr. Martinbianco asked for clarification on the Tobin lot-split publication.

Mr. Abbey said Mr. Strasser dealt with this matter as an administrative site plan. There were some time constraints that had to be met by Atherton Road Sales. He will look into the issue farther.

Mr. Martinbianco wanted to know if this procedure was handled out of the norm. He wanted Mr. Strasser to contact him or Mr. Brawner for further explanation on this matter.

Mr. Martinbianco spoke in reference to a new oversight water board that was being established to address concerns relating to rate increases being set by the Detroit Water Board.

Mr. Bement spoke briefly on the Atherton Road Sales public hearing. He said they were under some kind of time constraint. There were no questions at the Planning Commission relating to any procedural issues.

Mr. Wells said Mr. Wright discussed the possibility of creating a local water board to determine the feasibility for Genesee County to have its own independent water system. He felt Mr. Wright was doing a fine job. Mr. Wells thinks we should explore the possibility of leaving the Detroit water system.

Mrs. Tinnin wanted to know if Mr. Major's job would be replaced.

Mr. Abbey said this matter would be discussed during the upcoming budget.

Mrs. Tinnin wanted to look at the monthly expenditures for February and March. In addition, she wanted to see the check registers for this time period. She pointed out that she was entitled to this information per the Charter.

Mr. Brawner said that the Council does receive a copy of the monthly expenditures.

Mrs. Tinnin wanted to know who checks went to in February and March.

The Mayor said there were policies and procedures in place for Council to monitor monthly expenditures.

Mr. Wells wanted to know what Mrs. Tinnin was looking for in the check register. He said it was hard for staff to get their work done now, without asking them to provide even more documentation.

Mrs. Tinnin wants to see who we are issuing checks to and insisted on seeing copies of all check registers for February and March.

Mr. Brawner planned to discuss this matter further with Mr. Becker before anything would be done.

Mr. Cross wanted the City to step up patrol on vehicles being sold off vacant lots. He felt we should be enforcing our ordinances.

Mr. Abbey thought it would be difficult to address this issue, due to budget cuts and the amount of overtime involved with this endeavor. He planned to discuss this matter with DPW staff to see what could be done.

Mrs. Tinnin spoke in reference to a man on Surrey Lane that was ticked for an unlicensed vehicle. He said there were 41 other violations in the neighborhood that were not ticketed. She said if we do it to one, it should be done to all.

Mr. Abbey explained that we only have one code enforcement officer and he works on a complaint basis. Mr. Abbey said the man on Surrey Lane was mad because the City made him take down a snow fence that he had up for two years.

Mr. Hamilton requested an Executive Session after Item 9 for purposes of discussion of negotiation of contract.

Martinbianco moved, Cross seconded to go into Executive Session after Item 9 for the purposes of discussion of negotiations of a contract under Section 8, E of the Open Meetings Act. Motion carried 7-0.

In reference to Item 2, Mrs. Tinnin asked for clarification on Mr. Hamilton's billing regarding a letter to the Flint Journal addressing FOIA costs and an entry relating to ADA issue.

Mr. Hamilton said the letter was in reference to the cost of a FOIA request that dealt with bids and contracts. The Journal wanted the cost waved. He provided them with a break down of costs relating to request. He said we aren't in a position to wave the cost because we have a policy that doesn't provide for that. The ADA issue was generated by a complaint of alleged violations dealing with construction at City Hall.

In reference to Item 9, Mrs. Tinnin asked if Mr. LaDuke was a member of SEIU and if he was part of the SEIU pension.

Mr. LaDuke said that he was not a member of the SEIU and has been an administrator for two years. He will still have a SEIU pension.

Council went into Executive Session at 9:10 p.m.

The Regular Council Meeting resumed at 9:40 p.m.

Martinbianco moved, seconded by Cross to add as Item 10, to approve and authorize the Attorney, Mayor and Clerk to enter into agreement provided by Wellborn Foundation to continue mediation process on ADA issues. Motion carried 7-0.

COUNCIL DISCUSSION ACTION:

Martinbianco moved, Cross seconded to go into Executive Session after Item 9 for the purpose of discussion of negotiations of a contract under Section 8, E of the Open Meetings Act. Motion carried 7-0.

Martinbianco moved, seconded by Cross to add as Item 10, to approve and authorize the Attorney, Mayor and Clerk to enter into agreement provided by Wellborn Foundation to continue mediation process on ADA issues. Motion carried 7-0.

COUNCIL ACTION:

Bement moved and Cross seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from February 26, 2003 to March 12, 2003 in the amount of $2,938.75.

Motion carried 7-0.

Wells moved and Centilli seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from February 28, 2003 to March 13, 2003 in the amount of $2,113.75.

Motion carried 7-0.

Bement moved and Wells seconded the following motion:

3. Approve and authorize the following resolution: BE IT RESOLVED, relative to the 2003 Special Assessment Districts: P-99-1, P-00-3, P-02-2, P-03-1, W-03-1, and SS-03-1, "The City may, in the future, issue bonds in connection with the capital improvements being paid for in part by the appropriation discussed herein, and for all other appropriations specifically relating to the heretofore mention special assessment districts, and, to the extent such bonds are issued, the City fully intends to be reimbursed for such costs temporarily advanced."

Motion carried 6-1, with Tinnin voting no.

Cross moved and Wells seconded the following motion:

4. Approve and authorize Standard Resolution #4 for P-03-1Pebble Creek Subdivision Asphalt Paving with curb and gutter Special Assessment District:
    A. Accept and file Special Assessment Roll;
    B. Set date of Monday, March 31, 2003, at 6:00 P.M. for the Second Public Hearing;
    C. Instruct the City Clerk through the Department of Public Works to provide notifications of said Districts as per Ordinance #12.

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Centilli seconded the following motion:

5. Approve and authorize Standard Resolution #4 for W-03-1Pebble Creek Subdivision Public Municipal Watermain Special Assessment District:
   A. Accept and file Special Assessment Roll;
   B. Set date of Monday, March 31, 2003, at 6:15 p.m. for the Second Public Hearing;
   C. Instruct the City Clerk through the Department of Public Works to provide notifications of said Districts as per Ordinance #12.

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Cross seconded the following motion:

6. Approve and authorize Standard Resolution #4 for SS-03-1 Pebble Creek Subdivision Public Municipal Sanitary Sewer Special Assessment District:
   A. Accept and file Special Assessment Roll;
   B. Set date of Monday, March 31, 2003, at 6:30 P.M. for the Second Public Hearing;
   C. Instruct the City Clerk through the Department of Public Works to provide notifications of said Districts as per Ordinance #12.

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Wells seconded the following motion:

7. Approve and authorize the date of Tuesday, May 13, 2003 at 4:00 P.M. to receive bids at City Hall for the sale of Special Assessment Limited Tax Bonds and at 5:30 P.M. for a Special City Council meeting to consider accepting the bids and award the sale of Special Assessment Limited Tax Bonds Series I / P-99-1, P-00-3 and P-02-2 and Series II / W-03-1, P-03-1 and SS-03-1.

Motion carried 6-1, with Tinnin voting no.

Cross moved and Martinbianco seconded the following motion:

8. Approve and authorize the Mayor and City Clerk to execute the authorization for changes in the standard street lighting contract with Consumers Power Company for:
   1) Four (4) new locations on Maple Road at the Maplewood Meadows Entrances, at the developer's sole cost.

Motion carried 7-0.

Cross moved and Wells seconded the following motion:

9. Approve and authorize the appointment of Ralph LaDuke as the Street Administrator for the City of Burton, Michigan, "who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to Public Act 51/Section 13 (7).

Motion carried 7-0.

Cross moved and Bement seconded the following motion:

10. Approve and authorize the Attorney, Mayor and Clerk to enter into agreement provided by Wellborn Foundation to continue mediation process on ADA issues.

Motion carried 7-0.

Meeting Adjourned at 9:45 P.M.

Gayle Webster
Burton City Clerk
GW/cml