

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JUNE 5, 2000, 7:30 P.M., COUNCIL CHAMBERS

Councilman Larry Brawner led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by Paula Zelenko, Council President, at 7:30 P.M.

MEMBERS PRESENT: Brawner, Centilli, Hammon, Martinbianco, Tinnin and Zelenko.

MEMBERS ABSENT: Cross.

OTHERS PRESENT: Mayor Charles Smiley; D. Lowthian, Assessor; D. Halstead, Fire Chief and C. Ladd, Deputy City Clerk.

Martinbianco moved and Centilli seconded the following motion:

Approve and authorize the minutes of the Regular Meeting of May 15, 2000, at 7:30 P.M., with the correction on Page 2, changing Flint City Towing to Burton City Towing. Motion carried 7-0.

ADMINISTRATIVE REPORT:

Mayor Smiley stated that the McDonald's on South Saginaw Street is celebrating their 40th Anniversary and they were also the first McDonald's in Genesee County.

The Mayor said that Memorial Day was a big success. On Saturday we had the Block Clubs and on Sunday we had the Clergy here and about 300 people attended. The Clergy awarded our Police and Firefighters with Certificates of Appreciation. We are blessed to have about 50 churches in the City and the Clergy will try to form a scholarship fund.

The scholarship fund will be for our police and firefighters families. They don't know all the particulars yet, but it sounds very exciting. The Memorial Day events were successful and the weather was great. There were many residents who enjoyed the festivities and I was very proud to be a part of this.

Mayor Smiley said Engine 22, located at Station #2, cannot be repaired, because we can't get parts for them. The salesman of the new truck contacted the officials in Prescott, MI, and they will pay \$12,000.00 for the fire truck. I think the Chief has done an outstanding job in trying to find a buyer. Mayor Smiley requested that we add to tonight's agenda to approve and authorize the sale of Engine 22 to Prescott, MI, in the amount of \$12,000.00.

COMMITTEE REPORTS:

Mr. Martinbianco said the Legislative Committee met on May 24th at 2:00 p.m. for further discussion regarding the PILOT Ordinance for Meadowview Gardens. The committee came up with the kind of PILOT Ordinance that would be fitting to the area and would stay within the boundaries of what MSHDA accepts for potential funding based on income levels. Reflected in the minutes of May 24th, is a 5% annual service charge. The committee, by unanimous decision recommended to the City Council the approval of the PILOT Ordinance for Meadowview Gardens, as amended, and that ordinance reflects the 5% service charge. We are uncertain what The Lockwood Group thinks about the 5% service charge. One of the things we want to impress is that Center Road is on a thoroughfare and is a fast growing area. We also want the ordinance to be compatible with the growth pattern and be consistent with the land uses, not only now, but also in the next 35 years, which would be the life of the mortgage.

Mr. Martinbianco said he thinks the ordinance should be more site specific and that the words "Meadowview Gardens" should be inserted in the ordinance.

AUDIENCE PARTICIPATION:

Patti Moore, 1059 W. Bergin, Flint, MI, spoke about Smitty's towing and said she doesn't think they are professional

and doesn't think he should be doing the towing for the City.

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Ken Reiter, 6146 Wilderness Pointe, explained that he is here to be the spokesperson for the Maple Pointe Subdivision. He said their homes back up to an easement for Consumer's Energy, which is also adjacent to another private land. Recently, a local builder, who is also a neighbor, has brought in heavy construction equipment and has built an off-road motor cross track directly behind our homes. We have called the police numerous times regarding off-road vehicles driving through our private yards, streets, Consumer's Energy easement, the number of vehicles continues to escalate. We think there is a lack of enforcement concerning off-road vehicles, and we would request the City Council to have the City Attorney research and pass an ordinance that would be enforceable by the police department. Possibly the ordinance could limit the time in which the off-road vehicles may operate. Mr. Reiter said another issue is with parking violations occurring in the neighborhood. He asked that the police be given the authority to ticket these vehicles and allow them to be towed. Mr. Reiter also referred to the burned down house located on Hazel Drive and thinks it should be torn down, as it is an eyesore to the neighborhood.

Mark Foy, 6097 Wilderness Pointe, spoke concerning the race track. He said an individual made a request to the zoning board to build a track, but was turned down because it was too close to a residential neighborhood. If someone had gone through the proper channels and it was turned down, how can this track be built and nothing be done about it. He said he too has called the police and nothing has been done.

Michael Warren, 6138 Wilderness Pointe, noted that he and Mr. Gibbons have nearly had an altercation. He said Mr. Gibbons back yard abuts his back yard, and he revs his engine and going up and down the streets. He has been very threatening and although the police are called, nothing gets done.

Tiffany Bryant, 4286 Wilderness Ct., said the track abuts the corner of her back yard. She said they built the house a year ago, and this has become such a problem, that they are moving.

Kevin Olds, 6174 Wilderness Pointe, said the Police Department has released names and addresses of people who have made complaints. I understand this is against Michigan Statute. After one of the neighbors filed a complaint, Mr. Gibbons went over and harassed the neighbor.

Charlie Warren, 6154 Wilderness Pointe, said Mr. Gibbons has taunted his daughter-in-law, and we want to know why he is getting away with such conduct. He said he has put up a privacy fence and had to pay \$50.00 for approval and yet there is a racetrack built and nothing can be done. The kids in the neighborhood need to be protected and we have tried to reason with this man, but he seems to think he can to whatever he wants. He does wheelies up and down the street and has made statements that he knows someone in Burton and nothing will be done to him. What is our next step if we can't get anything done from the police?

Judy Wilbur, 6184 Wilderness Pointe, said there is an easement next to our lot, but there are little children in this area. She also spoke about the house on Hazel Drive, which abuts her back yard. She said this is a hazard for children and has concerns about one of them being hurt. The field has also caught on fire and hopes to not have this happen again.

Emil Joubran, 6137 Wilderness Pointe, said you people asked us for help before the election, and now we need your help. If this man bothers my neighbors, then he bothers me also. Please help us.

Colleen Corey, 4232 Peacock, spoke about Smitty's Towing, stating that used parts were used on her van and then was told her van couldn't be repaired after spending \$600.00. She said she had someone else fix it for \$38.00 and thinks he is very unprofessional.

Connie Ezell, 1350 Thompson Rd., Fenton, MI, said she owns and operates Burton Towing on Bristol Road. She respectfully requests an answer whether a written reply has been received from Attorney Hamilton, as requested at he last meeting. She asked if the Council had inquired about any problems with the towing service or if there has been any discussion or change of status. She asked if the Charter has been looked at and if the principles have been questioned.

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Kevin Olds, 6174 Wilderness Pointe, read Section 20.003 of the zoning ordinance regarding site improvements. He said that Mr. Gibbons is in violation of the City's ordinance.

Mark Boyce, 6109 Wilderness Pointe, stated that if and when anything is done about the race track, he should be required to demolish it so others don't come in and use it.

John Stapish, 5160 E. Atherton Rd., spoke about No Parking and No Loading on Bergin Street until 3:00 P.M. on weekdays. He also spoke about the \$25.00 service charge he received from the DPW for grass cutting. He said there was also a 15% administrative charge and thinks this is too much.

Jan Bolen, 1169 Howe Rd., asked for an answer to her question at a previous council meeting. She had asked what the plans are for the entrance on Howe Road and if the Munson entrance would have a gate. She also spoke regarding the names of the complainant being given out when this is not supposed to be done.

Terryl Sperlich, 1253 Howe Rd., said she has also put in calls to the police department and didn't receive an immediate response. She asked that when the audience speaks to the Council, they be given an immediate reply instead of making replies during council discussion.

Pauline Dargel, 6119 Hugh St., said at the May 15th Council Meeting, she asked if the Clerk's Department had given Council the letter from the Department of Treasury. She said she would like an answer to this question. She also asked who the host of the web page is and inquired about the status of the computer person for the City. She asked if Zoning Case #249 (ZI-MAR) would be heard at the Senior Center because she hasn't seen the legal notice in the paper. She noted that the Planning Commission did not set the public hearing for the text change in Ordinance #19. She asked about the FOIA request she filed on May 25th regarding the property between I-69 and Tamale-O'Malleys. She inquired about charges showing on the attorney billing with the letters CAP and asked if they stood for Community Accountability Project, something that is taking over for the Criminal Diversion Program.

Linda Burris-Croley, 6223 Crabtree Lane, spoke regarding the following items: no minutes being taken at the Parks and Recreation Workshop by the secretary; discussion of a possible millage increase; the Parks and Recreation minutes not having a signature by the secretary; an error in wording on page 3, under audience participation of the Parks and Recreation Minutes, should read Skate, not State; status of the computer person for City Hall and Council receiving city mail at their homes.

Larry Peel, 6145 Wilderness Pt., said he is concerned about the safety of the children in this area. He asked that on behalf of the children, the Council work expeditiously on this problem.

Larry Petrella, 1081 Howe Rd., asked for an update on the murder at the post office behind city hall. He said he also stands in support of the residents on Wilderness Pointe.

COUNCIL DISCUSSION:

Mr. Martinbianco said after listening to the residents complaints concerning the motor cross, he thinks the Police Chief would be the first person to look at the situation and find out what their options are. The next issue is the use of the Consumer's right-of-way and enforcement of the noise ordinance. Possibly the Code Enforcement Officer could make a decision as to what someone is legitimately entitled to do on their own property and more importantly what they are entitled to do for the peace of the neighborhood. Those things should be communicated to the Police Chief.

Mr. Martinbianco said he is concerned about the complainant's name being given out. He would like to see some evidence that it happened and if it did, then other departments should be allowed to give the names out also. He said if this is the case, then the police official who gave out the information, should be disciplined.

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Mr. Martinbianco inquired about item #12 on the agenda. He asked Mayor Smiley if all demolitions would be handled in the same manner in the future. He asked if this demo would be done on an individual basis or with other demolitions.

Mayor Smiley said this property is a major problem and a safety hazard for the woman. The Mayor said he is unaware if there are other demos that need to be done at this time, but if there are, they could be done together.

Mayor Smiley said Mr. Gibbons is neither his friend nor a friend of the Council, to his knowledge. He said steps are being taken to stop the situation and if he finds out that names were given out and who did so, that person would be disciplined, because this is City policy. However, sometimes 911 gives out an address and he has no control over that situation. He said everyone knows they are not allowed to use the Consumer's right-of-way property. If the police are watching the people using the Consumer's property, then he needs to be made aware of this.

Mayor Smiley also addressed the communication problem and stated that he and his staff are available to answer any questions prior to the meeting and then he would have the answers at the meetings.

Mr. Martinbianco asked if it is true that the people on Hazel Dr. requested a temporary permit for living quarters while the burnout is being taken care of.

Mr. Hammon said they had gone before the Zoning Board with their request.

Mr. Brawner offered to meet with the Police Chief on behalf of the residents on Wilderness Pointe to try and get this problem resolved. He said in reference to Mrs. Ezell's situation, that he too wished Mr. Hamilton or Mr. Austin had attended the meeting to get this situation resolved.

Mr. Centilli noted that he visited the house on Hazel Dr. and saw about 200 cats. He said he would offer to go out there with the Code Enforcement Officer and talk with Mr. Gibbons regarding the motor cross issue, and make a report back to the Mayor and Council.

Mr. Hammon said when Mr. Gibbons came before the Zoning Board, his variance was denied because of the health, safety and welfare of the residence. He said if anyone had called him, he would have returned the call. He said if the house should be on the demolition list, he would be in favor of it. Mr. Hammon asked Mayor Smiley if a spill or overflow went too the Gibson Drain.

Mayor Smiley said there is a State and Federal mandate that when there is an overflow or spill, the municipality is to be notified of such. He said neither Burton nor Flint Township had been notified. The Mayor said in regards to the burned out home, the laws must be followed, but this is still under investigation and we will get the information as soon as possible. In regards to the murder at the post office, he said this is still under investigation and he has nothing to report.

Mr. Hammon addressed the issue of the letter from the Treasury Department. He said there was no carbon copy to the Council. There was a letter written by an irate resident to the Treasury Department, but their findings showed no illegal activity.

Mayor Smiley said he is looking into getting new mailboxes, with locks, for the Council and Administration.

Mr. Centilli said there was a sewer spill at the corner of Fenton and Bristol Roads which back up about a mile. There was raw sewage going into the Gibson Drain. There was also a spill at Stanley and Genesee Roads and none of the spills were reported. The pump stations are being idled down so they don't have to open a six foot drain. He said he

has been keeping track of this situation. He said he would suggest that the building permits not be issued until something is done about the spills.

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Mr. Hammon said if there is sewage being spilled into the Gibson Drain over the last two years, he would like to know about it, as Mr. Hardin is responsible for this situation and the residents shouldn't be exposed to this type of environment.

Mr. Centilli noted that there could be serious health problems resulting from these spills.

Mrs. Tinnin stated that in regards to the motor cross, there is a noise ordinance that should be complied with and she would give a copy of this to the residence. She read a portion of the ordinance to the audience.

Michael Warren, 6138 Wilderness Pointe, said he spoke with Mr. Abbey concerning this issue and he said the only ordinance being broken is the noise ordinance. He said if the police come out several times on the same complaint, then the person is to be ticketed. He is trying to get this resolved.

Mrs. Tinnin spoke in regards to the issue of Burton Towing, noting that possibly Mayor Smiley could speak with the City Attorney regarding the meeting between Mr. Hamilton and Mrs. Ezell's attorney, to expedite the matter. She also asked in regards to item #12 on the agenda, if the Council was to have received a copy of the report on the investigation of the premises. She was advised yes.

Mrs. Zelenko responded to Mr. Petrella's concern about the murder. She stated this is still under investigation and there is nothing to report at this time. She asked Mayor Smiley if there is any progress in getting someone on staff that would be responsible for the computers. She also inquired about the web page.

Mayor Smiley said he has someone working on the computers at this time, trying to get everything caught up. He also has Sgt. Udell from the Police Department working on them. The new budget has money set aside to hire someone. The Mayor said the web page is on the list of items to be done.

Mrs. Zelenko asked the Mayor when Zoning Case #249 would be coming back for review.

Mayor Smiley said he didn't know.

Mrs. Zelenko asked Mr. Centilli if there had been any further discussion at the Parks and Rec meeting concerning the entrance on Howe Road adjacent to Mrs. Bolen's property.

Mr. Centilli replied nothing has been discussed since last May.

Mrs. Zelenko addressed the concern of Mr. Stapish. She asked if there was an officer that was in the area during school times?

Mayor Smiley said an extra lane was put in with CD dollars and was to be utilized for the school to offset the problem that Mr. Stapish was having. The teachers have their own parking lot, so it could be the parents who are parking. He said he would call Mr. Angle to try and find out what is happening.

Mrs. Zelenko said she agreed that it could be the parents parking there and not the teachers.

Mr. Centilli said he has discussed this with the Mayor and the lot on the south side of Mrs. Bolen will have a cyclone fence so people won't be cutting through her lot into the wetlands.

Mrs. Tinnin noted that Council received a letter from Mr. Becker at the last budget workshop on May 27th. She said she has several questions regarding the CAP program, because it sounds very much like that of the Criminal Diversion Program. She would like the Criminal Diversion Officer to come in and give the Council an update regarding the older version. She has left a message for Mr. Austin to contact her regarding this issue.

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Mr. Martinbianco said Mr. Austin should have contacted all interested parties in CAP, at a staff meeting rather than contacting them by phone on an individual basis.

Mr. Centilli noted that the knowledge he has on the sewage problem is at the request of the Mayor. He asked me to check out this situation.

Mr. Hammon said Mr. Hohloch is in the audience and welcomed him back. He said he did a good job when he was a member of the Zoning Board of Appeals.

Mr. Hammon said that regarding Item #7, he would like to request that along with the percentages, the dollar amount also be given.

Mr. Martinbianco stated in regards to item #7, that the numbers will be fluctuating and it may be difficult to put a dollar amount, but the installation costs could be listed.

Mrs. Tinnin inquired about item #7, asking if the roads that were taken over by the City, does the Act 51 money cover the operation cost?

Mrs. Zelenko replied, just the maintenance.

Mrs. Tinnin asked the Mayor in regards to item #9, if the City had approached Davison Township about their share of the cost of Vassar and Atherton Roads.

Mayor Smiley said no, they will pay 50% when we reconstruct the road.

Mr. Martinbianco asked Mayor Smiley at what point would he be willing to issue such a request for investigation of the house on Hazel. There are other buildings out there that could use the same attention.

Mayor Smiley said as soon as he gets the okay from the insurance company, we could move forward with it. Right now it is still under investigation. He said this question may need a legal opinion, but this situation will be alleviated as soon as possible.

COUNCIL DISCUSSION ACTION:

Moved by Hammon, seconded by Martinbianco to add Item #13 to the agenda, as follows:

Approve and authorize the sale of Engine #22 from Fire Station #2, to Prescott, MI, in the amount of \$12,000.00.
Motion carried 6-0.

COUNCIL ACTION:

Centilli moved and Tinnin seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from May 10, 2000 to May 31, 2000, in the amount of \$3,266.50.
Motion carried 6-0.

Martinbianco moved and Centilli seconded the following motion:

2. Approve and authorize moving the Regular Council Meeting from July 3, 2000 to July 10, 2000, due to the holiday.

Motion carried 6-0.

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Hammon moved and Centilli seconded the following motion:

3. Approve and authorize the Mayor's appointment of Ian Hohloch, 4222 Hedgethorn Ct., Burton, MI, to the Planning Commission. The appointment is due to the resignation of Homer Berry and will expire April, 2002.
Motion carried 6-0.

Martinbianco moved and Brawner seconded the following motion:

4. Approve and authorize the Mayor's appointment of Jesse Smith, 2188 Scottwood Avenue, Burton, MI, to the Board of Review for a 3-year term ending July 1, 2003.
Motion carried 6-0.

Hammon moved and Centilli seconded the following motion:

5. Approve and authorize the request for a Sanitary Sewer Installer's License by Steve Wagner, dba Wagner "The Dirt Digger", Inc., 7151 Silver Lake Rd., Fenton, MI 48430.
Motion carried 6-0.

Martinbianco moved and Brawner seconded the following motion:

6. Approve and authorize the request for Watermain Installer's License by Steve Wagner, dba Wagner "The Dirt Digger," Inc., 7151 Silver Lake Rd., Fenton, MI 48430.
Motion carried 6-0.

Martinbianco moved and Centilli seconded the following motion:

7. Approve and authorize the Mayor and City Clerk, on behalf of the City of Burton and its City Council, to execute a traffic signal agreement for Center Road at Maple Avenue (GCRC Signal #T224) for operational costs at seventy-five (75%) percent GCRC and twenty-five (25%) percent City.
Motion carried 6-0.

Hammon moved and Centilli seconded the following motion:

8. Approve and authorize the Mayor and City Clerk, on behalf of the City of Burton and its City Council, to execute a traffic signal agreement for Genesee Road at Maple Avenue (GCRC #T260) for operational costs at twenty-five (25%) percent GCRC and fifty (50%) percent City and twenty-five (25%) percent Grand Blanc Township.
Motion carried 6-0.

Martinbianco moved and Centilli seconded the following motion:

9. Approve and authorize the Mayor and City Clerk, on behalf of the City of Burton and its City Council, to execute a traffic signal agreement for Atherton Road at Vassar Road (GCRC Signal #T256) for operational costs at fifty (50%) percent GCRC and fifty (50%) percent City.
Motion carried 6-0.

Centilli moved and Tinnin seconded the following motion:

10. Approve and authorize the Mayor and City Clerk, on behalf of the City of Burton and its City Council, to execute a traffic signal agreement for Lapeer Road at Vassar Road (GCRC #T303) for operational costs at fifty (50%)

percent GCRC and fifty (50%) percent City.
Motion carried 6-0.

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Centilli moved and Martinbianco seconded the following motion:

11. Approve and authorize the calling of a public hearing on June 19, 2000, at 5:30 p.m. The hearing is for the purpose of considering the proposed additional .11 mill to be levied on the 2000 tax roll for general fund operating purposes. This hearing is pursuant to Act 5, P.A. of 1982, as amended.
- Motion carried 6-0.

Hammon moved and Centilli seconded the following motion:

12. Approve and authorize the acceptance of the Report to the Burton City Council on Investigation of Potential Nuisance or Hazardous Condition of Premises on the following property located in the City of Burton, and set a Public Hearing date and time of July 10, at 7:00 P.M. to consider any objections and/or favorable comments relative to the premises of 4381 Apache, Lot 102 Maple Court No. 3, SPID #59-10-577-010 or any other date and time Council prefers, allowing 10 days notice to property taxpayers for the scheduled hearing.
- Motion carried 6-0.

Centilli moved and Martinbianco seconded the following motion:

13. Approve and authorize the sale of Engine #22 from Fire Station #2 to Prescott, MI Fire Department, in the amount of \$12,000.00.
- Motion carried 6-0.

INTRODUCTION OF AN ORDINANCE:

Centilli moved and Martinbianco seconded the following motion:

1. Approve and authorize the introduction of an Ordinance, being the PILOT Ordinance, to provide for a service charge in lieu of taxes for a proposed multi-family dwelling project for elderly persons of low and moderate income to be financed or assisted pursuant to the provisions of the Michigan State Housing Development Act of 1966, as amended.

Martinbianco moved and Hammon seconded the following amendment to the ordinance:

Approve and authorize the introduction of an Ordinance, being the PILOT Ordinance, to provide for a service charge in lieu of taxes for Meadowview Gardens (The Lockwood Group) for a proposed multi-family dwelling project for elderly persons of low and moderate income to be financed or assisted pursuant to the provisions of the Michigan State Housing Development Act of 1966, as amended.

Amended Motion carried 6-0.

Main Motion carried 6-0.

Meeting Adjourned at 9:32 P.M.

Cheryl M. Ladd, CMC/AAE

Deputy City Clerk

CML