

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
AUGUST 18, 2003, 7:30 P.M., COUNCIL CHAMBERS

Councilman Charles Cross led the Invocation and Pledge of Allegiance.

Vice President Danny Wells called the Regular Meeting to order at 7:30 P.M.

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

MEMBERS ABSENT: Brawner.

OTHERS PRESENT: Mayor C. Smiley; Attorney R. Hamilton and G. Webster, City Clerk.

Cross moved and Bement seconded the following motion:

Approve and authorize the minutes of the following meetings: Regular Meeting of August 4, 2003 at 6:30 P.M. and the Special Meeting of August 5, 2003 at 6:00 P.M. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Smiley announced that the boil water order was lifted today. Residential customers are being asked to flush their plumbing system for 5 minutes prior to water usage. He said the outdoor water ban was still in place. These water issues do not affect private wells.

The Mayor reminded Council that the next regular council meeting was scheduled for Tuesday, September 2nd due to the Labor Day holiday.

Carol LaCross presented the Mayor with a flag on behalf of the Women Moose of Grand Blanc, Chapter 65. She asked that the flag be flown at one of our municipal buildings.

The Mayor was honored to accept the flag and thanked Ms. LaCross on behalf of the City of Burton.

COMMITTEE REPORTS:

Mr. Cross said the legislative committee met to discuss the political sign ordinance. Council members have been provided with a copy of the proposed ordinance. The legislative committee recommended the ordinance be sent to Council. He welcomed any input on the proposed sign ordinance.

Moved by Cross, seconded by Bement to add to the agenda as the First Reading of an Ordinance to regulate the display of political advertising signs in the City of Burton and to provide penalties for the violation thereof. Motion carried 6-0.

AUDIENCE PARTICIPATION:

Yvonne Beagle, 3225 Coin St., said she was a concerned parent with teenage children. She referenced Harry Dzikczek's comments that were made at the July 7th council meeting. He believed there was a drug house on her street. As a concerned citizen, she wanted to know the address of the drug house on Coin Street.

Pauline Dargel, 6119 Hugh St., pointed out that the Parks Committee has not had a quorum to hold a meeting since April. She commented on the proposed political sign ordinance. She felt the political sign ordinance should be amended and incorporated into Zoning Ordinance 19. In the past, there has been a reference to political signs in Ordinance 19. In addition, she asked for clarification on Mr. Hamilton's billing dealing with interrogatories.

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Kenneth Hillier, 2124 Delaney, spoke in reference to a bus stop being installed next to Taco Bell. He wanted to know who would insure the bus stop. He said work had begun at that site before all the discrepancies had been resolved. He felt the Delaney Street residents should be kept informed on this issue.

Gary Card, 2098 Delaney, spoke in opposition to the Planning Commission's approval of the Taco Bell site plan. His concerns included the lack of notification of residents to begin work at the site, not enough time or consideration was spent on the project before it was approved and there was not sufficient reason to add an extra driveway to the Taco Bell property. He felt the residents on Delaney Street would not be able to access or leave their property in the same manner after the new drive was installed. He thought the bus stop was unnecessary and would present a potential safety hazard to area children. In addition, he spoke in opposition to the Muffler Man having a driveway on Delaney St. He wanted the Planning Commission to review this issue and reconsider the site plan.

COUNCIL DISCUSSION:

In reference to Mr. Hamilton's billing, Mr. Cross asked for clarification on the interrogatories.

Mr. Hamilton said that dealt with the circuit court file assigned to Judge Neithercut in the Tinnin vs. Burton case.

Mr. Hamilton said the political sign ordinance should not be added in the Zoning ordinance because of non-conforming use issues and the planning commission's involvement. This would require it to be routed through planning hearings before the matter could be submitted to this board for action. He felt it was appropriate to adopt this as a police power ordinance.

Mr. Cross referred to Ms. Beagle's comments. She wanted to know what house was selling drugs. He didn't think Mr. Dzikczek referenced a specific house when he spoke to Council.

Mr. Hamilton suggested Ms. Beagle contact Bruce Whitman regarding this issue.

Mr. Centilli said Ms. Beagle was concerned because of her children. She would like to know where the drug house was located.

Mr. Martinbianco said giving that type of information might jeopardize a potential ongoing investigation.

A brief discussion continued in reference to the suspected drug house on Coin Street.

Mr. Wells planned to contact Mr. Whitman about this issue and then call Ms. Beagle.

Mr. Cross wanted to know if the Council could legally go back to the planning commission and asked them to review this case.

Mr. Hamilton said the Council could ask them to review the case. However, the jurisdiction for site plan review is clearly the planning commission's jurisdiction under both the state law scheme, as well as the local ordinance. It would be their independent action that would be involved. In addition, non-conforming use rights might be attached to this project. If the Planning Commission conducted additional hearings, they would certainly have to give the petitioner notice and do it in a public forum. He pointed out if there was an amendment to the bus stop issue, it would have to be readdressed anyway.

The Mayor thought Mr. LaDuke was not in favor of placing the bus stop in the right-of-way. He has not met with anyone regarding this issue, so he did not have any more information to add at this time.

Mr. Cross suggested that Mr. Bement take the Council's concerns back to the Planning Commission.

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Mr. Bement had reported on the Taco Bell site plan on two previous occasions. He thought this issue had been resolved during the planning commission meeting. The Taco Bell representatives seemed to respond to all the concerns during the meeting. With the information that was provided, the board felt that they had taken the appropriate action. Mr. Bement would be happy to take the Council's concerns back to the Planning Commission.

Mrs. Tinnin said they have already started construction at the Taco Bell site. By waiting two weeks, they could pretty much have things completed. The residents want to know the impact of adding a bus shelter to a public right-of-way. She felt the residents should be informed on these issues. She felt this was really a new business, not just a site plan, if they're adding Long John Silver. It should be treated like a new business. She wanted to know how they were going to hold up development on the project, until the Planning Commission meets in two weeks.

Mr. Hamilton didn't know they were working at the site. He assumed they had pulled the proper permits and started the work. If Mr. LaDuke has determined that the bus stop was a hazard, then ultimately the site plan should be amended to reflect that change. The property owners should be notified that this is being addressed.

Mrs. Tinnin wanted to know how the residents would be notified. She said Mr. Card and Mr. Hillier needed to be updated on this situation in writing. It is their choice, whether they decide to pursue the issue.

Discussion continued in reference to the Taco Bell site plan.

Mr. Wells will call Mr. LaDuke and Mr. Strasser tomorrow regarding this issue. He will have someone contact Mr. Card as soon as possible.

Mr. Martinbianco asked for clarification on the water ban situation. He said that Jeff Wright's memo indicated that the total ban on outdoor water use has been lifted. Water customers are advised they may begin using water in compliance with the Water Conservation Program. Outdoor watering is allowed only on Tuesday, Thursday and Saturday until September 1, 2003.

The Mayor said that was correct.

Mr. Martinbianco was very concerned with the problems relating to Mr. Stapish's demolitions. He was under the impression from the last meeting that this was going to be resolved no later than August 20th. Now, it appears this whole process has been postponed until next month. He did not understand why Mr. Cross and Mr. Wells were added to the witness list. He didn't feel these gentlemen knew the conditions of the homes. This whole ordeal continues to frustrate him because another \$600.00 has been attributed to the prosecution of this case.

Mr. Hamilton gave a very detailed report on the Stapish trail from last week. He said the plaintiff has brought up numerous issues that he would like to be examined, primarily dealing with the Council's decision to demolish these homes. The problem at this point in time is that the judge perceives this as a status quo situation and nothing of a particular urgency. Mr. Hamilton thought bringing in the residents would have an impact on the judge. Mr. Wells had discussed this issue with some of the neighbors and they volunteered to testify. The purpose for having Mr. Cross available was to help describe the nature and actions of the hearings. That is why Mr. Wells and Mr. Cross became involved in those proceeding. Due to several problems with the court docket this case was postponed again. So we really never got a chance to resolve the issue. It is important to us. We have to get prepped and we have to get ready for our hearings as they come up. There is no one more frustrated than we are because we would certainly like to bring this to a close. Unfortunately we don't have docket control.

Mr. Martinbianco thanked Mr. Hamilton for the report on the Stapish case.

Mr. Martinbianco welcomed the young men that were present at the Council meeting. He hoped it was a good learning experience for them.

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Mr. Wells indicated that he was also very frustrated with the Stapish case. He thought Mr. Martinbianco might be a better witness to go before the judge due to all his experience on Council.

Mr. Martinbianco felt Mr. Wells would represent the best interest of the City during the trial.

Mr. Bement wanted to know exactly what Council wanted him to relay to the Planning Commission in reference to the Taco Bell site plan or did someone intend to follow up through the departments. He would be happy to convey any message back to the Planning Commission.

Mr. Wells said that Planning Commission would not be able to address this issue until September 9th, by that time the work could be completed.

Mr. Wells planned to make a few phone calls regarding the Taco Bell site plan and then he would contact the Delaney Street representatives with his findings.

Mr. Cross thought the administration should handle this issue and then Mr. Wells could contact Mr. Card. If anything does go back to Planning, he would like Mr. Bement to keep the Council informed.

Mrs. Tinnin wanted to know why it took Mr. Hamilton nine weeks to answer the interrogatories.

Mr. Hamilton didn't feel it was appropriate to discuss pending litigation at a city council meeting.

Mr. Wells said we wouldn't be discussing this issue at the advice of the attorney.

Mrs. Tinnin said she wouldn't be voting on the billing because the attorney answered nine weeks after the fact. She said per the court rule he only had 28 days to answer the interrogatories. She said that she didn't care to give the attorney money for no reason.

In reference to Mrs. Dargel's concerns about the city watering their lawn, Mr. Centilli said the city had installed a new well pump and they were testing it. He wanted her to know that we were watering the lawn with well water.

Mr. Wells spoke regarding paving the unique streets. He wanted to know if there was any more information regarding the funding of these projects. He is looking for some kind of process on that issue to keep it moving along. He said some of the people on these streets are circulating petitions and would like to see the projects moved forward. He felt we had a great opportunity to take care of some of these uniquely different situations. Some of these streets would probably never get paved unless the city helps them out.

Mr. Martinbianco said we had discussed the possibility of a \$5,000 match for these two miles of unique streets. We discussed it only within that realm and we really didn't talk about part and parceling out individual areas. I think we left the meeting with the distinct impression that we were going to talk about this issue after Labor Day. There may well be some of these streets that are ready to go with their petitions. He said a lot of details still needed to be addressed regarding these issues. He suggested a meeting be set for the second week of September to continue this work.

A brief discussion continued in reference to addressing the issues involving the unique streets.

Mrs. Tinnin requested that Mr. LaDuke be present for this meeting. She wanted to know if we were requesting that people come in if they are ready. She wanted to know how people would be notified of these special meetings regarding the streets.

Mr. Wells thought it would be appropriate to notify the residents regarding their individual road.

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Mr. Hamilton said the Council should establish some criteria for the determination of which ones the City would financially support. It would be easier to establish those criteria and estimate the cost before the petitions are signed.

Mrs. Tinnin was concerned that all city contributions wouldn't be equal to everyone involved. She said some of the costs on these streets are much higher than others. How is the DPW proposing to equalize the amounts that were going to contribute on some streets versus others? What type of quality of grade paving are we going to do on those that are more expensive than those that are cheaper to do?

Mr. Martinbianco said Mr. LaDuke gave us a snap shot on a couple of streets. He had sent out an inspector and some preliminary site evaluation was done. He said many aspects have to be determined as we put this process together and evaluate them on a consistence basis.

Discussion continued in reference to setting the criteria for the unique streets.

The Council set a workshop for September 15th at 6:00 p.m. to discuss the paving perimeters of the dirt streets.

Mrs. Tinnin asked for clarification on a \$1,000 payment for a Harley Davison motorcycle lease. She wanted to know if the motorcycles were donated or the City was paying for them.

The Mayor was not aware of the payment. He said Mr. Becker would have that information.

Mr. Cross thought there was a one-time charge per year to use the motorcycles each year.

Mrs. Tinnin asked for clarification on the building inspector position.

Mr. Hamilton said the City is advertising in the trade journals for a new building inspector. Mr. Abbey spoke about this at a previous meeting. He has been in contact with other municipalities regarding this issue.

Mrs. Tinnin asked for further clarification on the sign ordinance.

Mr. Hamilton said we have deleted the provision relating to the duration before and after the elections that the time signs can be displayed. The sizes were changed somewhat and are limited by square footage determination rather than a height by width. This will better accommodate the length of the candidate's names.

Mr. Cross said we deleted the portion that dealt with number of signs that can be placed on a residential parcel. There is no limit to the number of signs that can be placed in a yard.

Mr. Bement felt that attorney's billing questions should be directed to the respective attorney prior to the regular council meeting. He felt it was only common courtesy to contact the proper person and clarify further information on their billings. The attorney might not be able to recall every specific detail regarding the billing. He felt it would be more professional and courteous to clarify billing questions in advance of the meetings. He felt this would solve some of the problems dealing with these particular agenda items.

Mrs. Tinnin felt it was much cheaper to ask her questions at the meetings, especially in lieu of looking at some of these bills and what's being charged. She felt this was saving the taxpayers money. Not only that, she said it was sometimes difficult to get a hold of the people when you call their office and she prefers open meetings. She thinks asking these questions here is just within the realms of her responsibility.

Mr. Bement appreciated her comments, however, he didn't agree with them. He said we are all human and this would be a better way to handle these circumstances. He said that was his opinion.

Mrs. Tinnin thanked Mr. Bement for his opinion.

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COUNCIL DISCUSSION ACTION:

Moved by Cross, seconded by Bement to add to the agenda the First Reading of an Ordinance to regulate the display of political advertising signs in the City of Burton and to provide penalties for the violation thereof.
Motion carried 6-0.

COUNCIL ACTION:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from July 30, 2003 to August 12, 2003 in the amount of \$3,377.50.

Motion carried 6-0.

Bement moved and Cross seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from June 23, 2003 to July 31, 2003 in the amount of \$4,243.50.

Motion carried 5-1 with Tinnin voting no.

Centilli moved and Bement seconded the following motion:

3. Approve and authorize the Attorney Billing (Richard Hamilton) from August 1, 2003 to August 13, 2003 in the amount of \$1,971.25.

Motion carried 5-1, with Tinnin voting no.

Martinbianco moved and Centilli seconded the following motion:

4. Approve and authorize the Mayor and City Clerk to enter into a contract with American Legal Publishing Corporation for the purpose of codifying all ordinances.

Motion carried 6-0.

FIRST READING OF AN ORDINANCE:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the First Reading of an Ordinance to regulate the display of political advertising signs in the City of Burton and to provide penalties for the violation thereof.

Motion carried 6-0.

Meeting Adjourned at 9:00 P.M.

Gayle Webster
Burton City Clerk

GW/cml