CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
SEPTEMBER 4, 2001, 7:30 P.M., COUNCIL CHAMBERS

Councilperson Laurie Tinnin led the Invocation and Pledge of Allegiance.

The Regular Meeting was called to order by President Bob Centilli at 7:30 P.M.

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

MEMBERS ABSENT: Martinbianco.

OTHERS PRESENT: Mayor C. Smiley; D. Lowthian, Assessor; R. LaDuke, Road Superintendent; Attorney R. Austin; Dennis Neiman, Bond Attorney and G. Webster, City Clerk

Cross moved and Bement seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of August 20, 2001 at 7:00 P.M. and Regular Meeting of August 20, 2001 at 7:30 P.M., as printed. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Smiley asked Council to allow Dennis Neiman, our Bond Counselor to give his presentation and have Council take action on Item #2, since Mr. Neiman needed to be in Cadillac later that evening.

Council members agreed to let Mr. Neiman give his presentation at that time.

Dennis Neiman indicated this resolution would authorize the Building Authority Contract for the proposed addition of City Hall and DPW. This is the first step in the procedural requirements. It authorizes Mrs. Webster to publish the notice of intent in the local paper. He indicated that the interest rates were currently very attractive. The City will wait until bids are in hand, before the bonds are sold. He was available for any questions that Council might have in regard to this issue.

COUNCIL DISCUSSION ON ITEM # 2:

Mrs. Tinnin asked for clarification on the current interest rates.

Mr. Neiman said if we sold the bonds today, the interest rates would probably be under 5% for 20 years. He could not predict what rates would be in the future. The interest rates will probably total about $160,000.

Mr. Cross said we wouldn’t know the total amount of the bonding until after the bids were submitted.

Mr. Neiman clarified that the contract to bond cannot exceed $2 million.

AUDIENCE PARTICIPATION ON ITEM #2:

Pauline Dargel, 6119 Hugh St, referred to the notice for the proposed expansion and commented on her right to circulate a referendum petition. She asked for clarification on the referendum format.

Mr. Neiman felt it was inappropriate to give legal advice on the referendum issue. He suggested Mrs. Dargel contact a lawyer in regards to the format of the petition. The clerk’s office is under no obligation to assist citizens with the preparation or circulation of petitions. Their job is to review the petition and make a recommendation if it complies with state law.

Mr. Cross asked for clarification on addressing Item #2 out of order.

Attorney Austin said there could be a motion to set aside the regular order of business and move to Item #2 under council action. After the motion is addressed, the regular order of business will resume.

Mr. Cross moved and Mr. Brawner seconded to move Item #2 forward at this time for a vote of a council deviating from the regular agenda. Motion carried 6-0.

A vote was taken on Item #2 and the motion carried 6-0.

ADMINISTRATIVE REPORT RESUMED:

Mayor Smiley announced that Mr. Welch was having a “Good Neighbor Day” September 5th. Bentley Florist would be providing a dozen free roses for people to give to their friends. He wished Mr. Welch good luck with his endeavor.

The Mayor said the Burton Firefighters did an outstanding job collecting $25,000 for the Muscular Dystrophy Association.

He reviewed several grants that the city has received. The Flint Area Narcotics received a $450,000 grant that would be shared with several communities. The Police Department received $57,618.00 for a school resource officer and $78,000 was awarded for the Office of Highway Safety Grant. In addition, the department will receive a Bureau of Justice grant for a total of $38,500.00 with local matching funds of $3,850.00. This is on tonight’s agenda as Item #9.

COMMITTEE REPORTS:

Mr. Cross attended the Genesee County Road Commission meeting last week and discussed the possibility of a Genesee/Lapeer light and a Vassar/ Genesee light. The Commission suggested the city reapply for another traffic study. He asked that Mr. Major reapply for a new study.

Mr. Cross met twice with Mr. Lowthian on the city hall expansion. He gave Council members a preliminary drawing of the proposed council chambers. He planned to visit several other communities that have renovated their city halls. He will keep Council up-to-date on any new developments in regards to the city hall expansion.

AUDIENCE PARTICIPATION:

John Stapish, P.O. Box 190134, spoke on the disrepair of railroad tracks on Belsay Rd. He suggested someone contact the Canadian ambassador to help get the tracks repaired.

Larry Petrella, 1081 Howe Rd, asked for clarification on Item #5 from the last meeting agenda in regards to the easement at the mall. He spoke in opposition to a new culvert being added to his property and to Council guidelines for audience participation. He asked who owned the property behind Bubba’s on Belsay Rd. In addition, he wanted to know if Mr. Centilli was a veteran.

Pauline Dargel, 6119 Hugh St, felt a school resource officer would be appreciated in the community. She asked for clarification on the architect and the concept drawings regarding the city hall expansion. She felt Ordinance 69 should be amended or repealed to reflect changes in the fire hydrant fees. In addition, she spoke in opposition to Items 11, 12 and 13. She felt these resolutions involved the co-mingling of funds for different projects. She opposed money being transferred to complete roads in developments.

Linda Burris-Croley, Crabtree Lane, spoke in reference to Item #13. She wanted to know if there was a contract with developers indicating that the $80,000 from the general fund would be paid back to the city. In regards to Item #9, she was in favor of the grant and wanted to know what equipment would be purchased. She commented on the city’s web page, the status of the storage building and the city hall expansion. She opposed the DPW expansion at this time.

COUNCIL DISCUSSION:

In reference to Mr. Petrella's comments, Mrs. Tinnin asked if Mr. Centilli was a veteran.

Mr. Centilli indicated that was a personal question.

In reference to Mr. Petrella's comments, Mrs. Tinnin asked for clarification on the easement.

A brief discussion was held in regards to the abandonment of the existing easement near Court and Howe Rd.

For more information, the Mayor suggested Mr. Petrella attend the public hearing on September 17th at 7:15 p.m.

In regards to Mrs. Dargel's comments, Mrs. Tinnin asked for clarification on repealing the fire hydrant ordinance.

Mr. Austin thought the Michigan Court of Appeals repealed the fire hydrant fees. If that was true, the ordinance could be repealed, but it wasn't necessarily essential.

Mrs. Tinnin requested that Attorney Austin research the fire hydrant ordinance and provide a written report to Council.

Mr. Austin will provide Council with information relating to the fire hydrant ordinance.

In reply to Mrs. Croley's remarks, Mrs. Tinnin asked for a status report on the storage building.

Mr. LaDuke reported that the storage building was basically completed. Interior units would be completed this winter.

In reply to Mrs. Croley's comments, Mr. Cross wanted to know what equipment would be purchased with the Bureau of Justice Grant.

The Mayor said equipment would be purchased based on the needs of the department.

Mr. Cross provided information on being a veteran.

In reply to Mr. Stapish's comments, Mr. Brawner agreed that the railroad tracks on Belsay Rd were dangerous and in great need of repair.

In reference to Item 9 & 10, Mr. Brawner wanted to know if there would be leans imposed against the Brookwood developer to repair the roads.

Mr. LaDuke said it was the intention of the city to attach the property of both developers to reimburse road repairs.

In regards to Items 11 & 12, Mr. Brawner wanted to know if it was unusual to group CD funds and local street dollars into one resolution.

Mr. LaDuke said this resolution was not unusual and has been done in the past. We will keep a separate accounting of each project and we will billed accordingly. There is no co-mingling of funds. He indicated that the larger projects result in better bids.

Mrs. Tinnin felt that Items 11, 12 and 13 were compound motions. She was in favor of separating Item 11 into two motions so Act 51 dollars would not be co-mingled with CD dollars.

Mrs. Tinnin moved to amend Item 11 to read: Approve and authorize the acceptance of the low bid of Young's Environmental, G-5305 N. Dort Hwy., Flint, MI 48505, in the amount of $186,899.50 for the project known as 2001 CD Street Paving.

Mr. Austin said the motion would be appropriate, provided the motion was a compound motion. He asked Mr. LaDuke, if we were to separate this motion into two separate motions, with two separate dollar amounts could the resolutions stand by themselves.

Mr. LaDuke clarified that this was all one contract with one contractor. It was customary to group paving projects like this in the past. He felt the resolutions should not be altered.

Mrs. Tinnin felt there was enough money available in the local street budget to do the entire project. She opposed transferring any additional funds. However, she felt the amendment would allow for CD dollars to be spent by May 2002.

Discussion continued in reference to the street-paving project.

After questioning Mr. LaDuke about the street-paving contract, Mr. Austin felt confident that this was not a compound motion. Therefore, it should be addressed as one resolution that referred to a single contract and should not be separated. If this resolution failed, another resolution could be offered at that time.

Mrs. Tinnin withdrew the amendment to Item 11.

Mr. Cross asked if Mr. Hamilton owned the property behind Bubba's restaurant.

Mr. Lowthian indicated that Mr. Hamilton does not own the property next to the restaurant.

Mr. Wells attended the U.A.W. Labor Day picnic at Crossroads Village. Approximately 5,000 people were present and it was a very nice for the community.

Mr. Wells congratulated the firemen for their hard work with the Muscular Dystrophy drive. He wanted officials to be aware that complaints had been made that firemen were blocking the I-69 exit ramp, while collecting the donations. He would like something to be done to make this event safer for the firemen, as well motorist.

Mr. Wells announced that the Charlie Russian Golf Outing would be held September 22nd. Proceeds from this worthwhile event will provide scholarships for Bendle students.

In reference to Item 6, Mr. Cross thanked the police department for the fine job answering questions regarding the liquor license.

The owner and architect for Pachyderm, LTD were available for any questions Council might have in regard to the liquor license.

In regard to Item 10, Mr. Cross asked if the city would be collecting any fees on the cell tower co-location.

Mr. Austin indicated that this particular tower was not city owned property, therefore we will not receive any rental fees. He suggested the city adopt an inspection ordinance that would allow the city to collect some fees for tower inspections.

Mr. Brawner asked Mr. Austin, Burton's wireless communication representative, to attend the September 17th meeting to review the co-location application.

Mr. Austin said he would like to attend all meetings dealing with cell tower issues.
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In reference to Item 11, Mrs. Tinnin asked if the city required developers to provide a performance bond to insure all work is completed properly.

Before giving legal advice on this topic, Mr. Austin indicated that he was currently representing Mr. Sekrenes in an unrelated lawsuit.

Mr. LaDuke said projects paid by the city do require a performance bond. However, we did not contribute to these particular projects, so no bond was required. We do have a letter of agreement from Mr. Sabo agreeing to make the needed repairs. The city does plan to complete these projects. The money held in escrow from both Mr. Sekrenes and Mr. Sabo will go towards the roads. A lien will be attached to Mr. Sekrenes' property to insure the reimbursement on that project. As far as Mr. Sabo is concerned, we have over $50,000 of his money that will go towards a $98,000 project. Some of the money will be paid by local street funds. That will be enough to correct some of the cul-de-sacs.

Discussion continued in reference to road projects.

Mrs. Tinnin felt it was more responsible to use Act 51dollars to repair and reconstruct roads rather than general fund dollars, because it will set a precedence. She felt there was no need to transfer additional monies.

A lengthy discussion continued in reference to road projects.

Discussion was held on the paving of Cashin St.

Mrs. Tinnin felt a petition should be generated before paving Cashin St. They should have to pay like my subdivision or anyone else when they want their road paved. It is not right for one subdivision to pay, while others are supplemented through taxpayers dollars. If it is the desire of the administration to use funds to do certain streets, budgeted money is available.

Discussion continued in reference to street paving projects.

Mr. LaDuke is compiling a priority street-paving list and welcomed Council's input on this issue.

Mr. LaDuke said several chip seal projects were done in the past and since have been paved without special assessment. He gave several examples of roads that were paved without special assessment.

Mrs. Tinnin felt that Cashin needed paving but not at the cost of the general public.

Mayor Smiley said State law requires that when you reconstruct a road you must pay 50% of the cost with non local street dollars. The most money we can use from local streets is $24,000. We have been chip sealing that road at a cost of about $13,000 each time. It makes sense for us to transfer the money from general fund at $24,000 to complete this street. It is customary for the city to reconstruct our paved roads.

Mrs. Tinnin felt that the residents should pay for the paving of Cashin Street. She opposed the transfer of funds to do this project.

Lengthy discussion continued in reference to the road paving projects.

Mr. LaDuke welcomes Council input on the street projects and asked Council to please call him in advance if they questions on agenda items. This would help alleviate such lengthy discussions at the meetings.

Mr. Bement called the question on Item 11 and a vote was taken. The motion passed 4-2, with Tinnin and Cross voting no.

Mr. Austin ruled that it was appropriate to take a roll call vote on calling the question. It takes a 2/3 vote to move forward and cut off debate. That motion carried 4-2. He said Council could immediately take action on Item 11.

Moved by Tinnin, supported by Cross to amend Item #12 to read: Approve and authorize the Mayor and Clerk to enter into a contract with Young's Environmental, G-5305 N. Dort Hwy., Flint, MI 48505, in the construction amount of One Hundred Eighty Six Thousand, Eight Hundred Ninety Nine Dollars and 50/100 ($186,899.50) for the projects known as: 2001 CD Street Paving Projects, with acceptance of low bids of Young Environmental, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, and the receipt of the bond sale proceeds by the City's Controller/Treasurer.

Mr. Brawner wanted to know where the rest of the money would come from to complete these projects, if the amendment was approved.

Mrs. Tinnin indicated this would authorize the CD funds to be spent on road projects.

In reference to the attorney's earlier ruling, Mr. Brawner said this amendment would void the contract.

Mr. LaDuke said the contract was bid as a whole. He was not sure if certain projects could be subtracted from the total contract. If something was eliminated, he would have to go back to the contractor to bid a smaller package. He felt the original bids were very competitive and there was a good chance that the prices would be higher than they are now.

Attorney Austin made an earlier ruling that this was not a compound motion.

Mrs. Tinnin felt it was a compound motion. She said this included Division A-F as one motion.

Mr. LaDuke repeated that this is one contract with one contractor. The contract is separated into Divisions internally just to keep tract of specific projects and funding. The city has done divisions like this for years.

The Mayor wanted to know what would be done with the local street portion of this contract. This would do away with Hidden Trails, Brookwood, Chicory and Cashin.

Mrs. Tinnin said her intent was to go ahead with the CD allocations to expedite things. She felt that the urgency has not been established for the rest of the streets, except Hidden Trails. She felt all the projects should not be compounded together with the CD street allocation funds. Local Street projects could be addressed separately by Council.

Discussion continued in reference to the amendment to separate CD dollar projects from local street projects.

The Mayor said there was not enough time to do that, since the projects were delayed due to the release of CD allocations. We only have a window of opportunity to fix these streets this year. We do not have time for bids at this late date.

Mrs. Tinnin pointed out that we should have liens placed on the developer's property.

The Mayor said the attorney is in the process of putting a lien on the developer's property. He is trying to do that without going to court. He suggested Council talk to Mr. Hamilton about that issue. We intend on getting the money back from the developers. In the meantime, we need to fix the roads for our residents.

Discussion continued in reference to the road projects.

Mrs. Tinnin asked that the attorney expedite placing the liens on these properties. In addition, she felt there was a sufficient amount of money available to do the street projects without transferring money from the general fund.

The Mayor clarified that Council would have to appropriate the money out of the surplus to pave these roads. These streets were not budgeted in the local street fund. The money could be transferred from unappropriated surplus of general fund to have the work done. It is cleaner to take the money from General Fund.

Mr. LaDuke did not have a problem from a financial standpoint of transferring $80,000 from unappropriated road surplus. However, he did feel it would be a problem splitting up the contract. If he used the money in his current budget, it would be taken away from something else.

Mrs. Tinnin asked if there was enough money in his current budget to do this entire project.

Mr. LaDuke said there was enough money, but it would take from other projects, such as crack sealing.

The amendment on Item 12 failed 4-2, with Bement, Brawner, Centilli and Wells voting no.

A vote was then taken on the main motion of Item 12.

COUNCIL DISCUSSION ACTION:

Moved by Cross, seconded by Brawner to move Item #2 forward at this time for a vote of a Council deviating from the regular order of the Council. Motion carried 6-0.

Bement called the question on Item 11 and a vote was taken. The motion passed 4-2, with Tinnin and Cross voting no.

Moved by Tinnin, seconded by Cross to amend Item #12 to read: Approve and authorize the Mayor and Clerk to enter into a contract with Young’s Environmental, G-5305 N. Dort Hwy., Flint, MI 48505, in the construction amount of One Hundred Eighty Six Thousand, Eight Hundred Ninety Nine Dollars and 50/100 ($186,899.50) for the projects known as: 2001 CD Street Paving Projects, with acceptance of low bids of Young Environmental, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, and the receipt of the bond sale proceeds by the City’s Controller/Treasurer. Motion failed 4-2, with Bement, Brawner, Centilli and Wells voting no.

COUNCIL ACTION:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from August 15, 2001 to August 29, 2001, in the amount of $2,725.50.

Motion carried 6-0.

Brawner moved and Cross seconded the following motion:

2. Approve and authorize the publication of a Building Authority Contract Notice, not to exceed $2,000,000.00, for the purpose of City Hall and Department of Public Works expansion.

Motion carried 6-0.

Brawner moved and Bement seconded the following motion:

3. Approve and authorize Mayor Charles Smiley as the voting delegate and Council President Robert Centilli as the alternate for National League of Cities Annual Business Meeting to be held December 8, 2001 in Atlanta, GA.

Motion carried 6-0.

Cross moved and Brawner seconded the following motion:

4. Approve and authorize Stephen L. Perez as the Officer Delegate and Bradley C. Becker as the Officer Alternate to serve at the 2001 MERS Annual Meeting.

Motion carried 6-0.

Cross moved and Bement seconded the following motion:

5. Approve and authorize Debra Krupp as the Employee Delegate and David W. Marshke as the Employee Alternate to serve at the 2001 MERS Annual Meeting.

Motion carried 6-0.

Brawner moved and Bement seconded the following motion:

6. Approve and authorize the request from Pachyderm, LTD. for a new Dance Permit to be held in conjunction with 2000 Class C licensed business with Entertainment Permit, located at G-1408-1410 E. Hemphill Rd., Burton, MI 48529, Genesee County.

Motion carried 6-0.

Bement moved and Cross seconded the following motion:

7. Approve and authorize the application for a Sanitary Sewer Installer's License for Reiner Wedel, dba Reiner Wedel Custom Homes, 2785 N. Geeck Rd., Corunna, MI 48817.

Motion carried 6-0.

Cross moved and Brawner seconded the following motion:

8. Approve and authorize the application for a Watermain Installer's License for Reiner Wedel, dba Reiner Wedel Custom Homes, 2785 N. Geeck Rd., Corunna, MI 48817.

Motion carried 6-0.

Cross moved and Wells seconded the following motion:

9. Approve and authorize the Mayor and City Clerk to enter into an agreement with the Bureau of Justice Assistance to provide a match of $3,850.00 for a local law enforcement block grant in the amount of $34,650.00 to be spent on Police Department equipment. The total amount available for equipment, including the grant and the match, will be $38,500.00.

Motion carried 6-0.

Wells moved and Brawner seconded the following motion:

10. Approve and authorize the date of September 17, 2001 at 7:00 P.M., or any other later date and time as a special City Council meeting for review and approval/denial of an application for a wireless communication system to co-locate on an existing cell tower. New application WCS #01-03 by Cricket Michigan Property Co., 1305 Jolly Rd., Lansing, MI 48911, at a location of 1202 N. Genesee Rd.

Motion carried 6-0.

Brawner moved and Wells seconded the following motion:

11. Approve and authorize the acceptance of the low bid of Young's Environmental, G-5305 N. Dort Hwy., Flint, MI 48505, in the amount of $457,822.11 for the projects known as 2001 CD & Local Street Paving.

Motion carried 4-2 with Cross and Tinnin voting no.

Wells moved and Brawner seconded the following motion:

12. Approve and authorize the Mayor and Clerk to enter into a contract with Young’s Environmental, G-5305 N. Dort Hwy., Flint, MI 48505, in the construction amount of Four Hundred Fifty-Seven Thousand, Eight Hundred Twenty Two Dollars and 11/100 ($457,822.11) for the projects known as: 2001 CD & Local Street Paving, contingent upon the submittal and approval by the City Attorney of the required bonds and insurance documents, and the receipt of the bond sale proceeds by the City’s Controller/Treasurer.

Motion carried 6-0.

Brawner moved and Bement seconded the following motion:

13. Approve and authorize the transfer of $80,000.00 from the General Fund Surplus to Local Streets Contractual for the completion of Brookwood Pointe and Hidden Trails Subdivision paving. Monies to be reimbursed back to General Fund by the developer.

Motion denied 4-2 with Cross and Tinnin voting no.

Meeting Adjourned at 9:40 P.M.

Gayle Webster, CMC
City Clerk

GW/cml