CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
SEPTEMBER 16, 2002, 7:30 P.M., COUNCIL CHAMBERS

Councilman Bob Bement led the Invocation and Pledge of Allegiance.

Council President Larry Brawner called the Regular Meeting to order at 7:30 P.M.

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

MEMBERS ABSENT: Martinbianco.

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

Bement moved and Tinnin seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of September 3, 2002 at 7:00 P.M. and Regular Meeting of September 3, 2002 at 7:30 P.M. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Smiley said a ribbon cutting ceremony was held at Bendle High School for the opening of the new basketball courts and skate park. The facility was dedicated in honor of Chris Wells. Safety Equipment was provided by the Chris Wells Memorial Fund.

The Mayor attended the MML Conference that was held in Dearborn. He said the conference was very informative. He indicated that the NLC Conference would be held in Utah, beginning December 7th. Council needs to select a voting delegate and alternate delegate for that convention. This resolution was on the agenda.

Mr. Major referred to a letter from Mr. Maranzano of CN North America Railroad. He said the Genesee Rd. railroad tracks have been scheduled for temporary repairs this year.

COMMITTEE REPORTS:

Mr. Cross scheduled a legislative meeting for September 26, 2002 to be held at City Hall. The purpose of the meeting is for discussion of a telecommunications ordinance. This will allow the City to receive its fair share of the communication funding next year. If we are not in compliance with the new state law, we could be fined up to $40,000 a day.

Mrs. Tinnin asked for further clarification on the proposed telecommunication ordinance.

Mr. Hamilton offered detailed information regarding the proposed telecommunication ordinance. He said this refers to a new state law that deals with permission for telecommunication companies to utilize the public right-of-ways. The new act provides for the state to set up a uniform rate schedule rather than each individual municipality setting up their own permit structure. These funds would then be reimbursed to the municipalities on the same basis as the Act 51 formula. If we opt out at the state level, then we would not receive anything from the companies that are currently exempt. If our fees are not determined to be reasonable, the public service commission could impose a fine of up to $40,000 a day for the overcharge. Basically, we need to adopt an ordinance to opt into the state law by passing a resolution authoring the Mayor’s office to be our local administrator of the permit structure.

The Mayor said we joined with the City of Troy and PROTECT to help develop a franchise fee structure for those businesses that felt they were exempt from right-of-away charges.

Mr. Major said through our membership with PROTECT we have worked out a statewide fee structure. This will provide a uniform fee structure for telecommunication companies that utilize Burton's right-of ways. Also, this would cover the grandfathered state chartered telephone companies, which have previously been exempt.

Mr. Hamilton said the statewide fee structure was estimated to bring in 30–40 million dollars a year. That pool of money would then be distributed similar to the Act 51 formula, which is based on the lineal feet of various road classifications.

Mr. Major said companies would still be required to obtain a local permit to cover inspection services.

Mr. Brawner said that he had distributed a letter from Mrs. Dargel and a response from the Disability Network. She feels there is a lack of accessibility to the handicap parking lot. The Mayor met with representatives from the Disability Network regarding this issue. Mr. Brawner thought we should decide as a group whether to move future meetings to another location during City Hall renovations.

AUDIENCE PARTICIPATION:

Robert Guiles, 4397 Columbine, thanked the Mayor, Mr. Abbey and the Police Chief for the improvements that have made at the southwest corner of Columbine and Judd. He wanted City officials to enforce no parking zones, eliminate parking on the sidewalks, stop people from blocking traffic and partying in the street and have the residents clean up broken glass from the roadway.

Mrs. Dargel, 6119 Hugh Street, felt there was a lack of accessibility to the handicap parking lot. She would like all meetings moved to another location during City Hall renovations.

Joseph Hardacre, 6321 Wagner Ave, wanted the City to move forward with his paving project that has been certified. He said the residents are ready to assume the bond issue alone, even if the other paving projects are not going to be done at this time.

Arthur Jankowski, 4108 Leith St, spoke in opposition to Ordinance 54 that permits sump pump inspections. He will not let anyone into his home to make a sump pump inspection. In addition, he commented on the fees being charged for impounded vehicles.

COUNCIL DISCUSSION:

Mr. Major discussed information regarding the Pratt and Wagner street paving project. With Council's concurrence, he planned to set the first public hearings to address the Wagner, Pratt, Brabbs and Nelson Court street paving projects.

Mr. Hartacher felt that the cost to pave his road would increase in the future. Also, he wanted to take advantage of the low interest rates.

Discussion continued in reference to the street paving projects.

Mrs. Tinnin felt Council should hear from other residents before making any decisions on these projects.

Mr. Cross wanted to know if homeowners had to let the inspectors into their homes under the provisions set in Ordinance 54.

Mr. Hamilton said if the homeowner doesn't voluntarily permit access to his home and there is probable cause to suspect there is a violation, a warrant could be issued to authorize the inspection.

Mr. Major said most homeowners have been very cooperative with the inspections. They understand the adverse affect of storm water flowing into the sanitary sewer system. Everyone will be affected if the infiltration doesn't get under control. Homeowners are given ample time to correct the problem and direct storm water into the proper location. Currently, the City and the Drain Commission are working in conjunction to help elevate problems in Lapeer Heights.

In response to Mrs. Dargel's comments, Mrs. Tinnin felt there needed to be some discussion on changing the meeting place.

The Mayor said that he would do whatever it takes to make sure City Hall is accessible and available to all residents. The City paid an extra employee to be on site during the planning commission meeting to make sure that Mrs. Dargel's needs were met. He felt there were no barriers that would prevent residents from attending the meetings. However, future meetings could be moved if the Council wished to do so. The paving should be completed by the next regular council meeting.

Discussion continued in reference the accessibility of City Hall.

Mr. Hamilton pointed out that notices had already been sent out for the upcoming Zoning Board meeting. He said that the Zoning Board had independent jurisdiction and could determine the location of future meetings. Also, the Council could determine where their meetings are conducted.

Mr. Hamilton asked that an Executive Session be held at the close of this meeting to discuss pending litigation.

Discussion continued in reference to the accessibility of City Hall.

Mr. Brawner indicated that this meeting was not moved because the administration assured him that they would do whatever was necessary to make certain everyone could attend the meeting and no council members called him to move the meeting.

Mr. Centilli said that he personally checked the handicap entrance and found it to be satisfactory.

Moved by Cross, seconded by Wells to go into Executive Session following Item 7 to discuss pending legal litigation. Motion carried 6-0.

In reference to Item 2 regarding Mr. Hamilton's billing, Mrs. Tinnin asked for the current status on Safety Kleen.

Mr. Hamilton gave a report on the status of Safety Kleen. The Zoning Board postponed action regarding a variance request by Safety Kleen. The ZBA asked the attorney to meet with the company representatives for further clarification on what type of work was actually going to be done at the site. He met with Mr. Gomez of Clean Harbors to discuss their future plans for the site. To his knowledge, there has not been any operating activity at that location. He said Clean Harbor purchased the non-liquid disposal of Safety Kleen. The company plans to use the site as an intermodal transfer area. They plan to bid on events such as the demolition of buildings and site clean up. Also, they are looking for other business opportunities for that site, such as an aggregate transfer station. This would be an M-2 use in an M-1 zone. This would not be covered by the scope of the variance that they are currently requesting. They are coming back to the ZBA September 19th to modify their request to include the ability to transfer aggregate materials. He said action would probably be postponed Thursday night until an amended petition was filed and everyone involved was re-notified.

Discussion continued in reference to the Safety Klean site. The company indicated that they would not be handling liquids.

Mayor Smiley referred to the letter from Clean Harbors dated September 9, 2002. Clean harbors has invited everyone to attend an open house at that site, Wednesday, September 18th from 6:00-8:00 p.m. The open house will feature a tour of the site along with an informational meeting.

Mrs. Webster will give council a copy of the letter at the end of the meeting.

Mrs. Tinnin had concerns with the possibility of Canadian waste coming into the site. Also, she had concerns with the trains tying up crossings for extend periods of time. She felt we needed grate separations at railroad crossings.

Mr. Hamilton said Clean Harbor indicated that they wouldn't be transporting any Canadian waste to the site.

Mr. Centilli said the company could haul waste from Canada once they received the M-2 variance. He didn't want that corner to become a dumping area or gravel site and opposed the M-2 variance request.

Mr. Hamilton suggested adding a condition to the variance that would prohibit incoming waste materials.

The Mayor suggested that the new company dispose of our household waste materials, such as paint. He felt the company was receptive to making sure that our resident's needs were met.

Mr. Major said the company does have a right to come in and present their case.

Discussion continued in reference to the Safety Klean site.

Mr. Cross would like a copy of Mr. Hamilton's letter referring to Blackberry Creek.

In reference to Zoning Case #273, Mr. Bement indicated that the Planning Commission denied the first request of R-1B lots. The Planning Commission recommended that the developer change the lots to R-1A.

The Council went into Executive Session at 8:50 p.m.

The meeting resumed at 9:20 p.m.

Mr. Brawner set a Special Meeting for October 7, 2002 at 6:30 p.m. to be held in the Council Chambers. The purpose of the meeting is for discussion and possible action concerning the "Take Over of County Roads".

Mrs. Tinnin wanted to know when the curb cut would be done at the corner of Davison and Center Rd.

Mr. Major said the Road Commission is suppose to do the curb cut. It should be the next logical step in the process; however, we do not have any jurisdiction over that area.

A brief discussion continued in reference to the Davison Road curb cut.

Mrs. Tinnin wanted to know why we were in such a hurry to take over the county roads before they finish the maintenance that they promised to do.

Mr. Major said some road maintenance was part of the agreement. Also, there is a deadline that has to be met.

The Mayor said they would only receive money the first of May or October. We need to organize crews and order equipment so we will be prepared for a May transition.

Mr. Brawner felt there were still some major conditions and concerns regarding the county road take over.

COUNCIL DISCUSSION ACTION:

Moved by Cross, seconded by Wells to go into Executive Session following Item 7 to discuss pending legal litigation. Motion carried 6-0.

COUNCIL ACTION:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from August 28, 2002 to September 11, 2002 in the amount of $2,855.75.

Motion carried 6-0.

Bement moved and Centilli seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from August 19, 2002 to September 11, 2002 in the amount of $1,211.25.

Motion carried 6-0.

Cross moved and Centilli seconded the following motion:

3. Approve and authorize the setting of a 2nd Public Hearing for Zoning Case #273 on Monday, October 21, 2002 at 7:00 P.M.

Motion carried 6-0.

Bement moved and Cross seconded the following motion:

4. Approve and authorize the setting of a 2nd Public Hearing for Zoning Case #274 on Monday, October 21, 2002 at 7:15 P.M.

Motion carried 6-0.

Centilli moved and Cross seconded the following motion:

5. Approve and authorize the request for a Sanitary Sewer Installer's License for Dave Schultz, dba Schultz Plumbing and Heating, 4310 Jameson, Saginaw, MI 48603.

Motion carried 6-0.

Centilli moved and Cross seconded the following motion:

6. Approve and authorize the request for a Water Main Installer's License for Dave Schultz, dba Schultz Plumbing & Heating, 4310 Jameson, Saginaw, MI 48603.

Motion carried 6-0.

Cross moved and Centilli seconded the following motion:

7. Approve and authorize Charles Smiley as the voting delegate and Doug Halstead as the alternate at the National League of Cities' Annual Business Meeting held on Saturday, December 7, 2002.

Motion carried 6-0.

Meeting Adjourned at 9:30 P.M.

Gayle Webster, City Clerk