

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
NOVEMBER 18, 2002, 7:30 P.M., COUNCIL CHAMBERS

PASTOR MELVIN SANTOS OF THE SOUTH FLINT SEVENTH-DAY ADVANTIST CHURCH LED THE INVOCATION.

COUNCILMAN BOB CENTILLI LED THE PLEDGE OF ALLEGIANCE.

THE REGULAR MEETING WAS CALLED TO ORDER BY PRESIDENT LARRY BRAWNER AT 7:30 P.M.

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

MEMBERS ABSENT: None.

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

Martinbianco moved and Cross seconded the following motion:

Approve and authorize the minutes of the following meetings: Special Meeting of November 4, 2002 at 5:30 P.M. and Regular Meeting of November 4, 2002 at 6:30 P.M.
Motion Carried 7-0.

ADMINISTRATIVE REPORT:

Mrs. Webster reported that City Hall offices would be relocating to the new addition. While we will make every effort to keep City Hall open during the move, there will be some disruptions in services when computers, telephones and departments are transitioned into their new areas. Therefore, we are asking for your cooperation by conducting business either before November 18th or after November 22nd.

COMMITTEE REPORTS:

Mr. Cross asked for an update regarding text changes on reader signs.

Mr. Hamilton has spoken with people from the sign companies. They indicated that the signs were adjustable with respect to timing of repeats, brightness and size. He will submit a proposed modification of the existing sign ordinance for the legislative committee to review.

AUDIENCE PARTICIPATION:

Jane Nimcheski, 2429 N. Genesee Rd., suggested Council revisit the fence ordinance. She said there was a potential problem with placement of fences on curved roads. Her neighbor put up a 5-foot fence that encompasses her front yard. She felt the fence should have only been 4-foot high. She said the current fence ordinance did not address these types of circumstances. Because the neighbor's fence was all ready installed, she would not object to leaving it in place.

Mr. Hamilton said this issue pertained to the zoning ordinance. He said the Planning Commission is currently making revisions to the text of the zoning ordinance. This should be passed on to them because these types of things are generated out of that Board.

Ellis Cronkright, 1513 Kra-Nur Dr., spoke in opposition to sidewalks being added to Davison Rd. He said the residents weren't notified about the sidewalks and they wouldn't be used. He planned to discuss this issue with a lawyer.

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Don Sanderlin, 4460 Killarney Park, spoke regarding the ongoing operations at the Clean Harbors facility. He wanted to know what type of work was being done and what substances were being stored at the site. He said the zoning board rejected their last proposal. He wanted to know why they were still doing business. In addition, he voiced his concern with the spread of the West Nile Virus. He suggested the City begin spraying mosquitoes to avoid an outbreak of the disease.

Mr. Brawner said several communities addressed this issue in the last election.

Ralph Tucker, 5353 Bristol Rd., complained that he could not sell his property because the City is requiring him to build a retention pond before it is sold. He planned to go to court to fight this matter. He wanted to know when water lines would be added to this area.

Stacy Betts, 1462 Scottwood, wanted to know if the Council had passed Don Embury's proclamation that endorsed the consolidation of the school districts.

Pauline Dargel, 6119 Hugh St., commented on the City Hall parking lots and the elevator. She spoke on the lack of enforcement of Ordinance 19 regarding the unimproved property at 1076 Belsay Rd. and the old service station at 4017 Bristol Rd. She wanted a status report on these two properties. She wanted to know if there was a previous engineering design for the Nelson Court paving project. In addition, she commented on the Burton Estates special assessment projects and the Davison Road corridor study.

COUNCIL DISCUSSION:

Mr. Cross asked the administration to conduct an inspection to determine what type of work is being done at the Clean Harbors facility.

Mr. Major will have the assistant fire chief inspect the site.

Mr. Major spoke in support of the Davison Rd sidewalk project. He said this work supports the County's walkable community program.

Discussion continued in reference to the Davison Rd paving project.

Mr. Cross asked for further clarification on Mr. Tucker adding a retention pond to his property.

Mr. Major said Mr. Tucker plans to sell a large parcel of land for development. To develop a single-family subdivision he needs to obtain permission from the Genesee County Drain Commission and he is required to put in a detention or retention pond. The drainage discharge from that property has to be in the residential classification and he must have an engineering study to determine what size of pond is needed.

A brief discuss was held in reference to adding water lines to the Bristol Rd. area.

Mr. Major said no one has approached him regarding this matter. If a developer was interested in adding utilities to this property, they should contact the City.

Mr. Cross wanted to know if there was a previous engineering design done on Nelson Ct.

Mr. Major planned to research this issue and report back to Council. If an engineering design were done in the past, he wouldn't award the project to Rowe. They could just do an update on the original plan.

In response to Mrs. Dargel's comments, Mr. Cross indicated that there was a problem with one of the elevator shaft walls. There was no guarantee that the elevator would be ready in two weeks.

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In regards to Mr. Sanderlin's comments, Mrs. Tinnin said the West Nile Virus is a concern for everybody. She planned to research mosquito spraying programs that are being used in other communities. She will report back with her findings.

In reply to Mr. Cronkright's comments, Mrs. Tinnin felt the Davison Rd project was an issue between the Congressman and some city administrators. The City contributed 10% on the project. She thought the notices indicated that this was a federally funded project. She didn't know if the sidewalks were mentioned in the notice. She said residents were aware of the Davison Road widening.

Discussion continued on the topic of adding sidewalks along Davison Road.

Mr. Wells said Mr. Cronkright could contact him if he needed more information regarding the Davison Road sidewalk project.

Cross moved and Tinnin seconded the motion to hold an Executive Session for discussion of pending litigation on Mills vs. Burton after Item 11. Motion carried 6-0. (Mr. Brawner was not present for the vote.)

Mr. Martinbianco wanted to know why sidewalks weren't added with the reconstruction of Dort Hwy.

Mr. Major said he requested sidewalks for the Dort Hwy project, however the State denied it. That is the State's public right-of-way and not Burton's.

In reply to Mr. Sanderlin's concerns, Mr. Martinbianco asked if the assistant fire chief was still conducting periodic inspections at the Clean Harbor's facility.

Mr. Major said the assistant fire chief is still doing periodic inspections of the site. If we receive a complaint, he will go out to the site. Mr. Major didn't know what the operational status was at that facility. He understood they were still operating at the site, however they can't expand their activities.

Mr. Hamilton said the Safety Kleen operations were purchased out of bankruptcy by Clean Harbors. They went before the zoning board to expand their processing functions and were denied.

Discussion continued on the Clean Harbors site located at Maple and Dort Hwy.

Mr. Hamilton will research the status of Clean Harbors and report back to Council at the next meeting.

In reference to Items 6-11, Mr. Martinbianco wanted to know if the Planning Commission had reviewed the plat for Burton Estates.

Mr. Major said Burton Estates has not yet gone before the Planning Commission. The land is properly zoned for single family residential. We have other ongoing special assessment districts and wanted to include Burton Estates in that package. Mr. Arabbo requested the public hearings to present his proposal. This proposal will be going to the Planning Commission about the same time for some type of preliminary plat, site condo or PUD approval. Combining all assessment districts would help with overall bond costs.

Discussion continued in reference to Burton Estates.

Mr. Martinbianco pointed out that the hearings are scheduled for December 9th, while the Planning Commission doesn't meet until December 10th. He didn't feel Council should address this issue until it was reviewed by the Planning Commission. He suggested the hearings be set for December 16th at 6:30, 6:45 and 7:00 p.m.

Mr. Martinbianco's concerns with Burton Estates included: the state of the economy, what's happening with the Genesee County Drain Commission's case prohibiting new development and the City extending credit at this point in time pending the sale of homes in the Bentley district.

Mr. Major had no problem setting the hearings for a later date, pending the outcome of the Planning Commission.

Mr. Martinbianco asked if Standard Resolution #1 and #2 needed a 7-0 vote to proceed with the special assessment process.

Mr. Major said we needed a 7-0 vote to establish the special assessment district. In addition, the City would likely receive a more favorable interest rate with a 7-0 vote of Council.

Mr. Hamilton said Resolution #1 establishes the special assessment district.

Mr. Cross wanted to know if Green Briar was issued a ticket for not following their site plan.

Mr. Major said Green Briar was given an appearance ticket for failure to comply with the Planning Commission's direction of fencing and landscaping. He was not sure if we had jurisdiction regarding a mobile home park issue. In addition, he has sent a letter to the Michigan Mobile Home Commission to determine their position on this matter. Mr. Downer or Mr. Walker will need to appear in court to respond to lack of compliance with the site plan.

Mr. Hamilton said the ticket has been served, but he did not know when the case would be heard. He said we do not have jurisdiction over physical construction plans involving mobile home parks.

Mr. Centilli felt the site plan promises for Green Briar should be enforced.

Mr. Major felt we had jurisdiction over the site improvements in the mobile home park. We will find out in court if we can enforce the Planning Commission's requirements.

Mr. Centilli has contacted the Michigan Mobile Home Commission and they said they couldn't do anything about the situation. He thinks the commission will say anything the park owners want them to say. He felt it was wrong that we couldn't order Green Briar to comply with their site plan promises.

In reply to Mrs. Betts, the Council was in agreement that the school consolidation issue was a personal decision to be made by the voters of the three districts. They would not be endorsing a proclamation supporting the issue.

Mr. Martinbianco wanted to know how long Waste Management would be picking up leaves.

Mr. Major was not sure of the last pick up date. He will find out when leaf pick up will be eliminated and report back to Council.

Once again, Mr. Centilli expressed his dissatisfaction with the lack of compliance with the Green Briar site plan promises.

Mr. Martinbianco suggested changing the public hearings dates in Items 7, 9 and 11 to December 16th at 6:30, 6:45 and 7:00 p.m. This was done with the concurrence of the Council. That will give the Planning Commission time to review the proposed Burton Estates development. If the applicant does not attend the Planning Commission on December 10th we will have to decide what to do at that time. If the developer does not go before the Planning Commission, he would be voting against the Burton Estates special assessment projects.

Mrs. Tinnin said that Item 6 would establish the special assessment district. She wanted to know if Council should vote on this issue tonight.

Mr. Major said Council would still have two more opportunities to kill the district, if they were not happy with it. Tonight's action will simply give the developer an opportunity to present his project. Mr. Arabbo will be responsible for all these costs.

Discussion continued in reference to the Burton Estates special assessments.

In reference to Item #3, Mrs. Tinnin asked for clarification on the \$2,000 expenditure for the Center Road Corridor Study.

Mr. Major said they have to establish lot lines and access roads for that area. The easements and right-of-ways need to be prepared to determine how we will link into the back of Burton Place, Elga Credit Union and Meijer's property. Then we will have to determine how to fund the service drives.

In reference to Item #5, Mr. Major said if he finds prepared engineering maps on any of these projects, he will bring the issue back before Council.

Mr. Major said if the special assessment districts were not established with a 7-0 vote, there was no reason to continue. These districts have to be established by either a 51% petition of the property owners or a 7-0 vote of City Council. He wanted to know if Mr. Arabbo's signature would satisfy the petition option.

Mr. Hamilton said Mr. Arabbo's signature would satisfy the requirement, if it were a petition.

Mr. Major said he requested that these districts be established. He will sign a petition.

Mr. Hamilton said a signed petition would give us the jurisdiction to proceed with the first public hearing.

Discussion continued on establishing the special assessment districts for Burton Estates.

Mr. Hamilton said this was a very unique situation. The reason we try to get a 7-0 vote to start special assessment districts is so there isn't any question as to the adequacies of the signatories to the petition. Normally, you have up to 50 or more owners and you don't want to do a title search to make sure that the proper people have signed the petition to initiate the process. Getting a title search for one piece of property for one owner is better than researching 300 different parcels.

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

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

COUNCIL DISCUSSION ACTION:

Cross moved and Tinnin seconded the motion to hold an Executive Session for discussion of pending litigation on Mills vs. Burton after Item 11. Motion carried 6-0. (Mr. Brawner was not present for the vote.)

COUNCIL ACTION:

Cross moved and Bement seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from October 30, 2002 to November 13, 2002 in the amount of \$3,575.50.

Motion carried 7-0.

Bement moved and Cross seconded the following motion:

2. Approve and authorize the Attorney Billing (Richard Hamilton) from October 17, 2002 to November 13, 2002 in the amount of \$1,163.75.

Motion carried 7-0.

Martinbianco moved and Cross seconded the following motion:

3. Approve and authorize the firm of Rowe, Inc., authorization to perform additional engineering work for the Center Road Corridor Study relative to access roads at a fee of \$2,000.00 (DPW Job #00-008-P).

Motion carried 7-0.

Cross moved and Bement seconded the following motion:

4. Approve and authorize the transfer of \$2,000.00 from General Fund Unappropriated Surplus to DPW Job #00-008-P.

Motion carried 7-0.

Martinbianco moved and Cross seconded the following motion:

5. Approve and authorize the firm of Rowe, Inc., authority to provide the city, survey and design services for the special assessment street paving districts of P-99-9/Nelson Ct. at \$4,451.00, P-00-3/Brabbs Street at \$6,847.00 and P-02-2/Pratt & Wagner Avenues at \$22,937.00; with payment for said services to be charged against said special assessment districts.

Motion carried 7-0.

Martinbianco moved and Bement seconded the following motion:

6. Approve and authorize Standard Resolution #1 for SS-02-1 Burton Estates #1 Special Assessment Subdivision Development/Public Municipal Sanitary Sewer District.
 - A. Determine to develop subdivision with public municipal sanitary sewer.
 - B. Determine that improvement to be assessed against the lands and premises as indicated in Standard Resolution #1, Section 2.
 - C. Instruct the DPW Engineering Division and/or an engineering firm of CHMP, Inc. to prepare Exhibit A & B (cost estimates and district maps).

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Cross seconded the following motion:

7. Approve and authorize Standard Resolution #2 for SS-02-1 Burton Estates #1 Special Assessment Subdivision Development /Public Municipal Sanitary Sewer District.
 - A. Proceed with district for development of subdivision with public municipal sanitary sewer.
 - B. Place preliminary district maps and cost estimates on file with the Clerk's Office for examination.
 - C. Determine improvement to be necessary.
 - D. Accept cost estimate.
 - E. Set First Public Hearing for Monday, December 16, 2002 at 6:30 p.m. at City Hall, or any later date of City Council choice; (a minimum of fourteen (14) days is required between this Council meeting and the proposed public hearing date), and instruct the Clerk's Office, through the DPW, to publish and mail notices as per City Ordinance #12.

Motion carried 7-0.

Cross moved and Bement seconded the following motion:

8. Approve and authorize Standard Resolution #1 for W-02-01 Burton Estates #1 Special Assessment Subdivision Development/Public Municipal Watermain District.
 - A. Determine to improve subdivision with public municipal watermain.
 - B. Determine that improvement to be assessed against the lands and premises as indicated in Standard Resolution #1, Section 2.
 - C. Instruct the DPW Engineering Division and/or an engineering firm of CHMP, Inc. to prepare Exhibits A & B (cost estimates and district maps).

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Bement seconded the following motion:

9. Approve and authorize Standard Resolution #2 for W-02-01 Burton Estates #1 Special Assessment Subdivision Development/Public Municipal Watermain District.
 - A. Proceed with district for development of subdivision with public municipal water main.
 - B. Place preliminary district maps and cost estimates on file with the Clerk's Office for examination.
 - C. Determine improvement to be necessary.
 - D. Accept cost estimate.
 - E. Set First Public Hearing for Monday, December 16, 2002 at 6:45 P.M. at City Hall, or any later date of City Council choice; (a minimum of fourteen (14) days is required between this Council meeting and the proposed public hearing date), and instruct the Clerk's Office, through the DPW, to publish and mail notices as per City Ordinance #12.

Motion carried 7-0.

Cross moved and Martinbianco seconded the following motion:

10. Approve and authorize Standard Resolution #1 for P-02-3 Burton Estates #1 Special Assessment Subdivision Development/Public Storm and Streets District.
 - A. Determine to develop subdivision with public storm and streets by asphalt paving with curb and gutter.
 - B. Determine that improvement to be assessed against the lands and premises as indicated in Standard Resolution #1, Section 2.
 - C. Instruct the DPW Engineering Division and/or an engineering firm to CHMP, Inc. to prepare Exhibits A & B (cost estimates and district maps).

Motion carried 6-1, with Tinnin voting no.

Martinbianco moved and Cross seconded the following motion:

11. Approve and authorize Standard Resolution #2 for P-02-3 Burton Estates #1 Special Assessment Subdivision Development/Public Storm and Streets District.
 - A. Proceed with district for development of subdivision with public storm and streets by asphalt paving with curb and gutter.
 - B. Place preliminary district maps and cost estimates on file with the Clerk's Office for examination.
 - C. Determine improvement to be necessary.
 - D. Accept cost estimate.
 - E. Set First Public Hearing for Monday, December 16, 2002 at 7:00 p.m. at City Hall, or any later date of City Council choice; (a minimum of fourteen (14) days is required between this Council meeting and the proposed public hearing date), and instruct the Clerk's Office, through the DPW, to publish and mail notices as per City Ordinance #12.

Motion carried 7-0.

Meeting adjourned at 9:40 P.M.

Gayle Webster, City Clerk