CITY OF BURTON
SPECIAL COUNCIL MEETING MINUTES
JANUARY 5, 2004, 6:00 P.M., COUNCIL CHAMBERS

Danny Wells, Council President, called the Special Meeting to order at 6:00 P.M.

MEMBERS PRESENT: Bement, Centilli, Cross, Curtis, Isham, Martinbianco, and Wells.

MEMBERS ABSENT: None.

OTHERS PRESENT: C. Abbey, City Administrator; J. Major, DPW and C. Ladd, Deputy City Clerk.

CHAIR STATES THE PURPOSE OF THE MEETING:

The President announces that: THIS IS THE TIME FIXED FOR HEARING AND CONSIDERING ANY OBJECTIONS AND/OR FAVORABLE COMMENTS TO THE PUBLIC MUNICIPAL SANITARY SEWER IMPROVEMENTS IN THE FOLLOWING SUBDIVISION, TO-WIT:

P-04-1 BURTON ESTATES #1

DPW PRESENTATION:

Mr. Major explained that this is the first public hearing for the Burton Estates #1 Subdivision. He noted that the City Charters allows the City to adopt a local ordinance, which is the Special Assessment Ordinance #12. This ordinance allows us to create special assessment districts by one of two methods. They are as follows: Petition with at least 50% of the property owners in favor of the special assessment or by a 7-0 vote of the City Council. Having a 100% petition, since Mr. Arabbo or his company owns the properties involved, created this district. Tonight Council will act on Standard Resolution #3 for the creation of Burton Estates Subdivision Phase 1. This public hearing relates to the paving of the streets, the curb and gutter work, storm sewer work and the retention pond and the mass rating as it relates to the balancing of the subdivision for the construction of those utilities. We are working with very preliminary estimates at this time. Bids are scheduled to be taken as noted in your packets on page 2, which is a tentative schedule. The plans are approximately 99% completed except for various approvals from the county and state agencies. Mr. Arabbo and Kevin Cook from CHMP are here to answer any questions.

Mr. Major said the subdivision would have about 128 lots at a cost of about $18,574.00, which is a combined number for water, sewer and street paving. The paving cost for this district is approximately $12,200.00. The other parts of Resolution #3 gives the DPW and/or CHMP the authorization to prepare the final plans and specifications and we are also setting the date of the first installment, which would be July 1, 2004. There would be 15 equal annual payments, and the amount of the annual installments would be based on what the final bids would be. The second public hearing would take place in the spring of this year. We need to get through the first public hearing before proceeding to the final plans and specs and go to a bidding process.

Kevin Cook, CHMP, Inc., 5198 Territorial Road, Grand Blanc, MI, said Burton Estates Subdivision is located in Section 24 and fronts on Belsay Road north of Atherton Road. The proposal went before the Planning Commission and obtained site plan approval. We have circulated the plat to the various county and state agencies and have completed construction plans, which will be delivered to the City tomorrow, pending tonight's resolution.

AUDIENCE PARTICIPATION:

Don West, 6194 Crabtree Lane, Burton, MI, said he is against any new subdivisions being constructed in Burton. There are many other subdivisions that are still not full.

Laurie Tinnin, 2340 Harmony Drive, Burton, MI, inquired as to why some developers being given financial help with the infrastructure, while other developers are financing their own developments. She also asked how the city intends to be reimbursed from developers who have not yet paid back the money that is owed to the City for the lots that have not been sold.

Mr. Abbey replied that possibly it depends on the area that is being developed and it may also depend upon the individual developer. Some have financing available and others may not. This is the Council's prerogative whether this is the method they choose. He said it is hard to speculate as to why some developers choose to finance their projects one way or another. Another reason some developers choose not to use that method is because there are limitations when using government funds.

Mr. Major commented that other developers have been made aware of our special assessment process and chose not to take advantage of this method. Through limited conversations some developers didn't want the government involved in their financing.

Mr. Abbey addressed the issue of the reimbursement from the developers. He explained that the developers don't owe the City money. We are selling bonds for the special assessments and they are paying the annual payments.

Mrs. Tinnin said if a developer gets in financial trouble, then the city is the one who is out the money and thinks this is a dangerous method for special assessments.

Mr. Abbey said the City would have first lien on these properties, before banks or lien holders. The worse case scenario and the developer would go belly-up, the cost of those improvements are all we are concerned about, which is nothing compared to the cost of those lots. Our investments are protected.

Mr. Major said if we had to sell the lots at $18,574.00 those lots would be gone in a very short time. He explained that the Bond Counsel looks at the assessed value and whether these bonds should be sole. We have never had a problem with the land being sold or with the developer repaying. This special assessment method has also worked well for Port Huron and Mt. Pleasant, as well as other areas.

Mrs. Tinnin asked if the City would put out the bids or would it be the developer. She was advised that the City would be bidding the project as a public works project, supervised and constructed by the City.

Discussion was held concerning the developers bidding their own projects.

President declared the hearing closed.

COUNCIL DISCUSSION:

Mr. Cross confirmed that $18,574.00 is the cost of the utilities.

Mr. Major replied that the $18,574.00 is the cost per lot for the utilities. The total bond issue for the entire project would be in the range of about $2,377,472.00. We have an agenda item on the regular council agenda that this amount would not exceed $3 Million.

Mr. Centilli asked if the developer would forfeit on the bond payments the City would get all the land, correct?

Mr. Major replied that is a correct statement.

Mr. Major said he doesn't know the value of this land, but he understands the land is paid for and there are no encumbrances on it.

Further discussion was held concerning this issue.

Mr. Arabbo commented that the lot value across the street from his project is approximately $36,000.00 and our lots will be improved to a much better level. He projects the lot value to be approximately $37,500.00.

Mr. Centilli said the City would be protected under the lien process.

Mr. Major said the Bond Counsel and Financial Advisor wouldn't sign on to the project if it were a bad deal for the City.

Mr. Martinbianco confirmed that the first bond payment would be due on July 1, 2004. He asked if the Attorney had requested a Letter of Credit from Mr. Arabbo because the first couple of years the development will be in its infancy and not completed until sometime after the first payment is due.

Mr. Major said we haven't reached the stage for a Letter of Credit and it won't take place until the second public hearing when we actually put the lien on the property. That is something we could talk to Mr. Hamilton about when we finally get to that stage. We haven't required that of any past developer for any of our special assessment districts.

Mr. Martinbianco noted that we have had a good track record in the Grand Blanc School District and he is hoping it will also be true in the Bentley School District. He said he has some concerns about this. Mr. Martinbianco referred to Page 4, 13-A, which indicates there would be 129 lots in Phase I.

Mr. Major said the number of lots would probably be less than 128 but he had to start with a figure for the preliminary stages. He said the numbers might be adjusted up and down until the DEQ confirms the amount of wetlands on the property and determines the buildable area.

Mr. Martinbianco asked for an explanation of Page 4, which indicates 90 lots.

Mr. Major explained that Mr. Arabbo was talking about having condos at one time and has changed the development to a single-family subdivision. Please keep in mind that we are working off estimates and these numbers were established in 2002 and then I adjusted them based on today's prices so an amount of not to exceed could be established. Using these numbers versus the new style of development of all single-family homes and the streets, it had to be determined whether we would exceed that $3 Million number. Obviously, we are not going to exceed that number. These numbers won't be relative to anything further after this meeting other than we won't be going above the $3 Million Notice of Intent. Mr. Major said the number we are working against is the $18,574.00. He said he sees this figure as the maximum special assessments, water, sewer and streets involved on a per lot basis. He said these figures are preliminary and when the actual figures come in he hopes the numbers are in the $2,300,000.00 range and way below the figure of $18,574.00.

Mr. Martinbianco said that prior to the second public hearing if the numbers come back and they exceed the per lot cost, then who's call is it to pull the plug on the development?

Mr. Major said it would be Mr. Arabbo's call to stop the development, but he thinks the $18,574.00 is far above what the special assessment per lot would actually be. He thinks the figures should be in the $15,000.00 range. If the numbers are not good, then Mr. Arabbo may ask the Council not to go any further with the project.

Mr. Martinbianco asked if the Bond Counsel considers a project of this nature, do they take into account things such as the economy and the school district. In this particular case Mr. Arabbo has chosen to go curb and gutter and if the numbers don't work, he could change to open ditch.

Mr. Major said the Bond Counsel would have all the demographics and they would be considered before the bonds are sold. We have two more meetings before the bonds would be sold and the exact numbers are not yet available.

Mr. Martinbianco commented about other developers coming in and making a similar request for special assessment.
He asked if this would be the end or would there be a continuum. He said if all the developers came in and made a request for the public utilities that we could be exposed more than we should. Possibly the Finance Committee should meet with Mr. Becker and Bond Counsel to find out what our limitations are. He said our Council should make the proper financial request so that we are assured that the payments are made, at least in the early stages.

COUNCIL ACTION:

Cross moved and Isham seconded the following motion:

Approve and authorize Standard Resolution #3 for the Special Assessment Public Storm Sewer and Streets by Asphalt Paving with Curb and Gutter District known as P-04-01.

A. Approve maps, drawings, preliminary plans, and cost estimates as presented.

B. Determine to construct the proposed improvement as presented.

C. Order the Department of Public Works/Engineering Division and/or the firm of CHMP Engineering, Inc. to prepare final plans, specifications, and take bids.

D. Order the Assessor to prepare final special assessment roll, with provision that the first payment will become due July 1, 2004.

Motion carried 7-0 to adopt Resolution A (Standard Resolution #3) as read by the Council President.

Meeting Adjourned at 6:33 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML