



# CITY OF BURTON

## BURTON PLANNING COMMISSION MEETING

MARCH 12, 2020

### MINUTES

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD  
BURTON, MI 48519

This meeting was opened by Chairperson Deb Walton at 5:00 PM.

#### A. PLEDGE OF ALLEGIANCE WAS LED BY KEVIN BURGE

#### B. ROLL CALL

| Attendee Name  | Title        | Status  | Arrived |
|----------------|--------------|---------|---------|
| Duane Haskins  | Mayor        | Excused |         |
| Vaughn Smith   | Councilman   | Excused |         |
| Kevin Burge    | Vice Chair   | Present |         |
| Mary Ann White | Commissioner | Present |         |
| Tom Gorang     | Commissioner | Excused |         |
| Deb Walton     | Chairperson  | Present |         |
| John Benthall  | Commissioner | Present |         |
| Don Jones      | Commissioner | Present |         |
| Lisa Williams  | Commissioner | Present |         |

#### C. STAFF PRESENT

Amber Abbey, Interim Deputy DPW Director  
Lindsey Bice, Records Tech  
Leandra Swayne, Records Tech

#### D. APPROVAL OF MINUTES

1. Planning Commission - Regular Meeting - Dec 10, 2019 5:00 PM

|                  |                                                 |
|------------------|-------------------------------------------------|
| <b>RESULT:</b>   | <b>ACCEPTED [UNANIMOUS]</b>                     |
| <b>MOVER:</b>    | Kevin Burge, Vice Chair                         |
| <b>SECONDER:</b> | Don Jones, Commissioner                         |
| <b>AYES:</b>     | Burge, White, Walton, Benthall, Jones, Williams |
| <b>EXCUSED:</b>  | Haskins, Smith, Gorang                          |

#### E. NOMINATIONS

1. Approve and Authorize Deb Walton for Planning Commission Chairperson from March 2020- December 2020.

|                  |                                                 |
|------------------|-------------------------------------------------|
| <b>RESULT:</b>   | <b>CARRIED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Mary Ann White, Commissioner                    |
| <b>SECONDER:</b> | Don Jones, Commissioner                         |
| <b>AYES:</b>     | Burge, White, Walton, Benthall, Jones, Williams |
| <b>EXCUSED:</b>  | Haskins, Smith, Gorang                          |

2. Approve and Authorize Kevin Burge for Planning Commission Vice Chairperson from March 2020- December 2020.

|                  |                                                 |
|------------------|-------------------------------------------------|
| <b>RESULT:</b>   | <b>CARRIED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Mary Ann White, Commissioner                    |
| <b>SECONDER:</b> | John Benthall, Commissioner                     |
| <b>AYES:</b>     | Burge, White, Walton, Benthall, Jones, Williams |
| <b>EXCUSED:</b>  | Haskins, Smith, Gorang                          |

## F. PUBLIC HEARING

1. SPR #20-06 / ZC#327

By: City of Burton  
4303 S. Center Rd.  
Burton, MI 48519

Re: Chapter 157 Text Amendment

For: TO REGULATE Temporary uses including roadside stands, seasonal sales, sidewalk sales, special events, and mobile food vending.

Mrs. Abbey stated a month ago, the City Council Legislative Committee met and wanted to amend our ordinance for roadside stands. When doing my reviews of other local ordinances and where everyone had these temporary ordinances it became evident that this should be a zoning ordinance instead of a stand alone, police powered ordinance. I went to the meeting to speak with the legislative committee and they all agreed. We prepared an ordinance draft and that's what brings us here today. In previous years, we have regulated these types of uses under the road side stand permitting, which was an ordinance under the Clerk's Office. Putting it in the zoning ordinance will allow the zoning officer to have more regulation over it and we have also made the uses more specific. Before it was really only used for fireworks and the occasional food tent. Last year, we had a business that put up a tent under the road side stand permit and decided to run it almost like a resale shop. That brought this need for regulation. The first part is the definition of what these uses are and what they make up. They will not be allowed to impede the right of way and must have parking, they have to be clean and sanitary at all times, they must have written permission from the property owner if they are not the property owner, they must be able to accommodate the amount of parking spaces that the principal business needs to use. The applications are due 15 days prior to the meeting. The permit fee is set by Council, we already have a \$100.00 permit fee in place and a \$500.00 clean-up deposit. Should that not be enough, we have stated in the contracts that we can collect the amount it costs us to clean up that exceeds

\$500.00 by other means. Then we get a little more specific about the uses, the first one is a temporary roadside stand. This involves tents, trucks, stands or anything else that they are using as an accessory. We will allow them for 10 days as the actual use of the operation and then 15 days for their stuff. This will allow the extra days for set-up and take down. They do always have the option of going in front of the Planning Commission and getting a special use permit to do something more. Their enclosures must meet all of our set backs, and all items must be new and pre packaged at a separate location so what they can't do is set up a flea market and call it a road side stand. For seasonal sales, this is only intended for agricultural products, such as Christmas trees, mums or pumpkins, we will allow those to be 30 days. For businesses that exist having sidewalk sales, they cannot have tents, trailers or structures. It has to be directly in front of the business, not in the parking lot and the items must be what you sell in your store. The biggest concern was special events like Back to the Bricks, or when vendors come out to the Trick or Treat Trail. In this circumstance when the special event was approved or a public event then they would be exempt from an additional permit. This doesn't mean they don't need permission or health department approval, it just means they do not need a special permit from us if they are part of the event. Under mobile food vending, this will include the stands as well as the trucks that are there. This would include vendors on private property and does not include vendors parked on the side of the roads. Ice cream trucks would not be included in this. We added restrictions on them, we want to see their health department approval and what they are selling. We want them to have garbage cans outside for clean-up purposes. They have to comply with the noise ordinance so we need to know their hours of operation. We want to make sure our events are not overcrowded with vendors so we have a 500 foot rule. The mobile food trucks would have to park 500 feet away from events as to not take away from the event. When we do this we will be repealing the existing road side stand ordinance that is in place and this will clarify it.

|                  |                                                 |
|------------------|-------------------------------------------------|
| <b>RESULT:</b>   | <b>CARRIED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Kevin Burge, Vice Chair                         |
| <b>SECONDER:</b> | Lisa Williams, Commissioner                     |
| <b>AYES:</b>     | Burge, White, Walton, Benthall, Jones, Williams |
| <b>EXCUSED:</b>  | Haskins, Smith, Gorang                          |

## G. ADMINISTRATIVE SITE PLAN REVIEW

### 1. SPR #20-01

By: Lapeer Steel Inc.  
3465 Diehl Rd.  
Metamora MI 48455

Re: 3162 E Hemphill Rd  
Burton MI 48529

For: Steel Fabrication

## 2. SPR #20-02

By: Jeremy McDowell  
51 Green Valley Rd  
Flint MI 48506

Re: 4232 S Dort Hwy  
Burton MI 48529

For: Car Lot

## 3. SPR #20-03

By: Andrew Johnson  
5053 E Court St N.  
Burton MI 48509

Re: 5053 E Court St. N. Suite A  
Burton MI 48509

For: Automotive Wholesaler

Mr. Burge asked, is this the same thing that goes on, on Center Road at the Maple Leaf place where one salesman leaves and another one comes in?

Mrs. Abbey stated yes exactly. So that's where you will see the Suite A, Suite G, Suite H type thing. They are basically just desks within their building.

Mr. Jones asked, is this wholesale, not retail?

Mrs. Abbey stated correct.

## 4. SPR #20-04

By: Andrew Johnson  
5053 E. Court St N.  
Burton MI 48509

Re: 5053 E Court St N. Suite G  
Burton MI 48509

For: Dealers License- Automotive Wholesaler

## 5. SPR #20-05

By: Andrew Johnson  
5053 E Court St N.

Burton MI 48509

Re: 5053 E Court St N. Suite H  
Burton MI 48509

For: Dealer License – Automotive Wholesaler

## **H. AUDIENCE PARTICIPATION**

None.

## **I. BOARD DISCUSSION**

Mrs. White asked about South Saginaw Street and Hemphill, there is a gentleman out there with a 55gal drum that makes ribs and hot dogs.

Mrs. Abbey stated he shouldn't be there anymore, he has been gone for a while. How long ago was that?

Mrs. White stated I have seen him out on the nice days but he was out almost every day last summer.

Mrs. Abbey stated that is the problem with our old permit, it didn't have time frame requirements. He was legal and did have a permit. Our old ordinance wasn't good for enforcement, it didn't have time limits so they would tell me how long they wanted to be out there and I couldn't say no. He has received his money back, his bond and everything a few months ago so he shouldn't have been there in the last couple of months. If you have seen him there since then that would be a problem. So chances are he isn't there anymore.

Mrs. White stated probably not.

Mrs. Abbey stated if you do happen to see somebody, let me know.

Mrs. Williams asked about the grill that is located off Bristol Road across from Dotty's Pet Supply. The smoke is always so bad at times it's distracting to the traffic in that area making it hard to see.

Mrs. Abbey stated that is not covered under this ordinance because they are not selling from that grill therefore they are not a food vendor, they are smoking for what they do inside the business that is already there. That doesn't mean there isn't something we can't do. I won't say they aren't exempt from enforcement and I do have the code enforcement officer looking into this.

Mrs. Williams stated yea because they have it pulled over by the road.

Mrs. Abbey stated yes, they have it by the catwalk in that parking lot area, I know exactly where it's at. Unfortunately that's not covered in this ordinance because that is not where they are selling from. However, I won't say they are exempt from enforcement.

Mrs. Williams stated I was at Dotty's the other day and I was like holy cow.

Mrs. Abbey stated I can't do anything about the smell, but we can't have the smoke getting out into the road and impeding traffic.

Mrs. Walton stated he is burning wood now.

Mrs. Williams asked is that why, because I was at Dotty's the other day and it is a lot more smoke.

Mrs. Abbey stated I was told there is a picture that I am going to be able to see.

Mr. Burge asked, is this for commercial and residential?

Mrs. Abbey stated no, this is for commercial businesses.

Mr. Burge stated so residents can still have their garage and yard sales.

Mrs. Abbey stated yes, we already have an ordinance in place for garage sales that allows you to have them for six days a year.

Mr. Burge asked, does every business that is participating in the Back to the Bricks have to pay the \$100.00 fee?

Mrs. Abbey stated no, that is the exemption. When there is a special event they are exempt from permitting for that time frame as long as they are part of the event.

Mr. Burge asked what if someone has a bar and they have a food truck come in for a Friday and Saturday night, then maybe back a couple weeks later. Is the time frame 30 running calendar days or can it be broke up into a few days here and there?

Mrs. Abbey stated the 30 days is for agricultural sales only. I can add the word consecutive to the end of that if you would like because I would enforce it as 30 consecutive days.

Mr. Burge asked back to my question on the food truck at a bar, would he have to get a permit every time just to be there for a couple of days?

Mrs. Abbey stated technically yes. If we knew about it we would give notice to the property owner at that point because they would be the one allowing them to come there in violation of the ordinance. What we are discussing more is people who are set up in the same location for periods of time and not taking their stuff down.

Mr. Jones stated I think the intent here is to make it formal if the vendors are there as part of an event. They have registered, they have a booth, they are now formally part of the event and it isn't someone who can just pull up and set up shop during an event.

Mrs. Abbey stated no and that is why it say's they have to be approved by the designated event sponsor.

Mr. Jones stated that is important, we want to have those people. Sometimes there might be business owners out there scooping ice cream at the Back to the Bricks event and we do not want to restrict that.

Mrs. Abbey stated that would be one of those special events. The City Council approves to be a part of Back to the Bricks. When they do that it is a public event approved by the governmental agency. When Holy Redeemer comes to the Zoning Board of Appeals and they get their carnival permit, they have all sorts of vendors in there. Those Vendors are not going to come get their own permits from us. The event got a permit, it's approved.

Mr. Burge asked if a guy in a food truck pulls up, does he have to get a permit or is he part of the event.

Mrs. Abbey stated as long as he has permission from the event coordinator.

Mrs. Walton asked if you get into Holy Redeemer and something happens similar to what Mr. Burge just said, now we have a food handlers permit. Would they fall under Holy Redeemer's for the event.

Mrs. Abbey stated that would be up to the Health Department.

Mrs. Walton stated if they show up on a Friday night, then they have Saturday and Sunday, somebody gets sick, it's going to be Holy Redeemers responsibility on that truck.

Mrs. Abbey stated that would be more of a Health Department issue. I want to see your Health Department approval but I am not going to enforce the Health Department's regulations. I only make sure you have it, know that you had to have it and aren't serving something the Health Department isn't aware of.

Mrs. Walton stated on another note, you know that they do their fish in another trailer outside of the hall. That trailer stays there after Easter. Is that going to fall under getting that trailer put away somewhere?

Mrs. Abbey stated this is not designed to be for people who cook their food outside. This is designed for people who intend to sell their food from somewhere outside. I know you have talked about that one before, the fire department has looked into it. Do we have any rights? That is a question to be asked but that is not under the zoning authority I don't think. If you went outside and fried a turkey in your backyard, you are not doing anything against our ordinance.

Mrs. Walton stated it sort of falls in the crack so to speak.

Mrs. Abbey stated yes, they are not doing it so they can sell it to people from the parking lot. People are going to Holy Redeemer and they are eating the food inside. The only thing they are doing outside is the cooking activity and there is not really an ordinance that says you cannot cook outside and carry it in. As long as they have their Health Department approval.

Mrs. Walton stated that is basically the same thing with Chip's there on Bristol Road, they cook it outside and carry it inside.

Mrs. Abbey stated yes, he has a business, he is not trying to get around the rules by cooking it outside.

Mrs. Walton stated but clearly they don't understand when they crank up that smoke, it gets so bad you can't see the car in front of you.

Mrs. Abbey stated that is something we will have a conversation about enforcement. Last week was the first I have heard that the smoke was causing traffic issues.

Mrs. Walton stated maybe they can just move it.

Mrs. Abbey stated there are some options but we first need to see what is happening then we can direct them to move it or eliminate it.

Mrs. White stated Collette's Vintage has a flea market outside every weekend in the summer, it is all individual vendors outside. Would that be classified as a sidewalk sale?

Mrs. Abbey stated no, Collette's actually went in front of the Zoning Board of Appeals and received approval to have a flea market outside. This is for people that don't want to go that route. They could go that route and do it more permanently.

Mr. Burge stated he would like to make a motion with the amendment of adding that this will be consecutive days.

Mrs. Abbey stated I am going to add anywhere I have typed the amount of days that it will be consecutive days. So I am going to be very specific to add that to all days as consecutive.

Mr. Burge stated I think we need to look at the grass situation for the mowing and blowing into the streets. If we look into that now we can have that set right after the tent ordinance we just discussed. This is bad for the bikes as well as the drainage. It looks really bad when you pull into a nice neighborhood and someone has blown their grass into the roadways. Maybe we can't enforce it but if it is known then we could possibly get some people to stop.

Mrs. Abbey stated I agree with you that we need to get an ordinance in place but it is not at the Planning Commission level. The Planning Commission does not set ordinances for right of ways. You deal with the zoning ordinances only, which is what you do on your private property not what you do in the right of way.

Mr. Burge asked, where would it have to go, the legislative?

Mrs. Abbey stated it would have to be a police powered ordinance set by the council so yes, it would be enforced through police powers.

Mr. Burge asked so the police would have to introduce the ordinance?

Mrs. Abbey stated no, the Legislative Committee would create it and the City Council would approve it. They would decide who enforces it because you have to catch them doing the activity.

Discussion ensued regarding getting an ordinance regarding grass clippings being blown into the right of way.

Mrs. Abbey introduced Leandra Swayne. She took Jackie's spot upon her retirement. One of the things Leandra is interested in is Planning and Zoning. This gives me someone to count on to hopefully be able to present to you guys in the event I am not here. You may see her frequently during the Planning and Zoning meetings but I am not going anywhere yet. The Retail Coach has all their data collected, they have all their packets presented and they started recruitment last week. They sent our specialized packets to 43 businesses that included information about the City of Burton and our surrounding area. I do not have any feedback from the businesses yet, it all went out last week so they are actually ahead of schedule. I will provide you with feedback as it comes in but probably not who is saying it. That isn't something we want to discuss unless someone has signed a letter of intent to come in.

Mr. Jones asked if we are able to see the packet that has been put together by the Retail Coach?

Mrs. Abbey stated I will have to check to make sure that there isn't any information on there that isn't specific to the businesses. Other than that I don't see why not. It consists of our demographics, where our retail gaps are and what we are missing.

Discussion ensued regarding the Retail Coach packets.

The next regular scheduled Planning Meeting will be held on April 14, 2020 @ 5:00 PM.

Agendas and minutes may be found at [www.burtonmi.gov](http://www.burtonmi.gov)

Meeting was adjourned at 5:50 PM.

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