

May 12, 2005

**CALL TO ORDER:** Mayor Tjeerdsma called the meeting to order at 7:00 p.m., with the Pledge of Allegiance. Council Members present: Bensen, Doyle, Loving, Aslett, Valentine, and Straathof. Staff present: Planning Director Fleek, Administrative Assistant Sheahan, and City Attorney Thomas.

A motion was made by Councilors Aslett/Doyle to excuse Councilor Montgomery. All approved. Motion carried.

**APPROVAL OF MINUTES:**

A motion was made by Councilors Valentine/Loving to approve the minutes of the April 28, 2005 Council meeting. All were in favor. Motion carried.

**AUDIT OF BILLS:**

Councilor Valentine presented the bills. A motion was made by Councilors Doyle/Valentine to approve vouchers 43420 – 43567 in the amount of \$124,962.32. All were in favor. Motion carried.

Current Expense	\$ 48,137.63
Current Expense Cumulative Reserve	14,638.03
Fire Equipment Cumulative Reserve	7,384.71
City Street	12,408.88
Library	7,360.12
Library Permanent Book	1,024.95
Parks & Recreation	12,474.24
Cemetery Fund	1,846.69
Stadium Fund	3,896.24
Local Capital Improvement Fund	3,681.50
Sewer Fund	8,431.93
Storm Drainage Utility	3,677.40
<b>Total</b>	<b>\$ 124,962.32</b>

**PUBLIC COMMENTS:**

There were no public comments.

**OFFICER REPORTS:**

There were no Officer Reports.

**PROCLAMATION:**

Councilor Aslett read the proclamation proclaiming Walk-N-Roll 2005 in the City of Burlington.

**UNFINISHED BUSINESS:**

**REQUEST TO AUTHORIZE A CONTRACT REZONE TO CONSTRUCT A 58 UNIT CONDOMINIUM LOCATED AT 1125 BURLINGTON HEIGHTS DRIVE. APPLICANT IS BURLINGTON HILL PROPERTY INVESTORS, INC.**

Planning Director Fleek stated that at the time Burlington Hill was annexed, plans were to construct a condominium in the rock quarry site. A three-year contract rezone was granted, but expired as no permits were issued. Councilor Loving asked why the neighbors (at the Planning Commission Hearing) thought the condominium would be only 20-30 units as the original contract rezone was for 50 units. Planning Director Fleek could not explain the confusion and confirmed that the original contract rezone was for 50 units. She distributed a revised ordinance that clarifies the height requirement as no more than sixty feet above grade and not higher than the lowest part of the rock cliff. Councilor Bensen asked about signs of a recent slide in the area of the rock cliff. Planning Director Fleek stated she was not aware

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of a slide. She noted that each building project must have Geo-tech studies prior to construction. The Planning Commission voted to recommend approval of the proposed Contract Rezone to implement the planned construction of a 58-unit Condominium in two buildings, up to sixty feet in height with four stories over underground parking, located at 1125 Burlington Heights Drive.

Mr. Al Brown, View Ridge Drive, Burlington, spoke to the Mayor and Council regarding the cracking of the road to the north and south approaches of Burlington Hill. The partners in the Burlington Hill Property Investors, Inc. L.L.C. have done some research regarding the road situation. They've been working with an engineering firm for the past several years to monitor the situation. He understands that the City is willing to take the lead regarding the road study and repairs and stated that his group sent a letter to the Mayor and Council offering some financial support to continue research and any repairs to the road. The road situation has a direct effect on the sale and construction of the condo to a builder. He would like the Council to consider allowing the contract rezone for this condominium project and accept their offer of assistance with repair of the road.

Mr. Dan Madlung stated that the debris area on the hill mentioned by **Councilor Bensen** was not caused by a slide but actually material that was excavated higher up on the hill and pushed over the cliff to be removed by excavator and trucks from below.

**City Attorney Thomas** arrived at the meeting.

Mr. Madlung noted that the road situation has been monitored for the last three years and that the first problems appeared about 18 months after the project was accepted by the City. **Councilor Doyle** asked if the City was informed of the problems three years ago. Mr. Madlung confirmed that the City was made aware of the road problems three years ago. Mr. Madlung distributed drawings of some the roads on the hill that indicate where problems have been identified. Council discussed the history of the road problems as identified on the drawings. He is certain that a cause can be determined and then a fix can be planned to prevent additional problems. **Councilor Aslett** asked when the road problems were first noticed and when the City was notified of the problems. Mr. Madlung stated that problems were noticed in late 2001 or early 2002 and the City was notified in early 2002. **Mayor Tjeerdsma** stated that the catch basins appear to be sitting on the hard shelf and the roads around them are showing some signs of settling. Mr. Madlung believes that it may be that the ground water runoff is finding the path of least resistance and running to the filled areas under the roads and may be causing some of the settling. **Councilor Doyle** stated she was not comfortable with going ahead with a contract rezone until we know exactly what's happening with the roads. **Councilor Loving** noted that one of the stipulations in the ordinance requires "no building permits will be issued until the streets serving the site are repaired to City standards." He believes that the ball is rolling to determine the cause so that repairs can be made and that will happen fairly quickly. A motion was made by **Councilors Loving/Valentine** to approve the revised ordinance contract rezone. Voting in favor: **Councilors Loving, Valentine, and Aslett**. Voting against: **Councilors Straathof, Doyle, and Bensen**. **Mayor Tjeerdsma** suggested the Council rescind the motion and second and discuss the matter further. **Councilor Loving** rescinded his original motion. **Councilor Valentine** rescinded her second to the motion. **Councilor Aslett** asked **Councilor Loving** for clarification of his motion. A motion was made by **Councilors Loving/Valentine** to approve the revised ordinance which includes seven (7) requirements under Section 2. Voting in favor were **Councilors Bensen, Loving, Valentine and Aslett**. Voting against were **Councilors Doyle and Straathof**. Motion carried (Ordinance #1570)

**REQUEST TO AUTHORIZE AN AMENDMENT TO A CONTRACT REZONE  
ORDINANCE TO ALLOW A THREE-STORY TOWNHOUSE DEVELOPMENT  
LOCATED AT THE NORTHEAST CORNER OF GILKEY AND SOUTH SPRUCE  
STREET.**

**Planning Director Fleek** stated that the Planning Commission held a public hearing on April 19, 2005 to consider an amendment to the contract rezone of this property. The original contract rezone was to accommodate the plans for the Creekside Retirement Center expansion. Owners of Creekside Retirement Center did not expand the complex. The

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applicant, Homestead Northwest Development Company, is proposing a project that consists of 48 three-story townhouse units with common open space. The homes will be on individual lots for sale. The Planning Commission voted to approve the proposed contract rezone. A motion was made by Councilors Aslett/Loving to adopt the ordinance amending the contract rezone. All approved. Motion carried. (Ordinance #1571)

**ARCHITECTURAL AGREEMENT WITH LEWIS ARCHITECTS + INTERIOR DESIGN FOR CITY HALL.**

City Attorney Thomas reviewed the various components and costs of the city hall project as outlined in the agreement. A motion was made by Councilors Valentine/Doyle to approve the architectural contract with Lewis Architects + Interior Design to provide the design, construction and bidding documents for the City of Burlington City Hall and authorize the Mayor to sign on behalf of the City. All approved. Motion carried.

**AMENDMENT TO THE BURLINGTON MUNICIPAL CODE 9.72.130 REGARDING THE SEIZURE AND DESTRUCTION OF CONFISCATED FIREWORKS IN THE CITY OF BURLINGTON.**

City Attorney Thomas stated that BMC 9.72.130 prescribes the process to handle seized fireworks within the City of Burlington. This code calls for the Police Department to store all confiscated fireworks in a facility that can be quarantined and secured such as a bunker for a period of 30 days. The facility must provide a safe storage area in the event that the fireworks are accidentally ignited. The City of Burlington does not have such a structure in its inventory. Staff is recommending amending BMC 9.72.130 to repeal and remove this specific section of the code. A motion was made by Councilors Valentine/Doyle to approve the ordinance to amend BMC 9.72.130. All approved. Motion carried. (Ordinance #1572)

**NEW BUSINESS:**

**STREET CLOSURE REQUEST FOR BERRY DAIRY DAYS; TWILIGHT TRACTOR PARADE ON FRIDAY, JUNE 24; BERRY DAIRY DAYS PARADE ON SATURDAY, JUNE 25; AND LAWN MOWER RACES ON SATURDAY, JUNE 25.**

Planning Director Fleek presented a request from the Burlington Chamber of Commerce to close various streets for Berry Dairy Days activities on Friday and Saturday June 24 and 25, 2005. The street closures have been reviewed by the Police, Fire and Street departments. A motion was made by Councilors Loving/Doyle to approve the request for street closures. All approved. Motion carried.

**EXECUTIVE SESSION:**

The Mayor and City Council adjourned to Executive Session at 7:45 p.m. to discuss litigation. The Mayor and City Council returned from Executive Session at 7:52 p.m.

**ADJOURNMENT:**

A motion was made by Councilors Valentine/Doyle to adjourn the meeting at 7:53 p.m. All were in favor. Motion carried.

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Richard A. Patrick  
Finance Director / City Clerk

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Roger "Gus" Tjeerdsma  
Mayor