

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN PERSON AND VIRTUALLY IN THE COUNCIL CHAMBERS OF THE WEST BRANCH CITY HALL, 121 N. FOURTH STREET ON MONDAY, NOVEMBER 1, 2021.

Mayor Pro-tem Jackson called the meeting to order at 6:00 p.m.

Present: Council Members Carol Adair, Joanne Bennett, Mike Jackson, Ellen Pugh, Rusty Showalter, and Cathy Zimmerman.

Absent: Mayor Paul Frechette

Other officers present: City Manager John Dantzer, City Clerk Amanda Stang, DPW Superintendent Mike Killackey, County Commissioner Mark Surbrook and City Attorney Greg Meihn.

All stood for the Pledge of Allegiance.

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County Commissioner Mark Surbrook gave an update on the Kirtland Community College millage.

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Keri Withers with the non-profit organization Rayola, spoke with Council about a Charitable Gaming license resolution.

MOTION BY PUGH, SECOND BY ZIMMERMAN, TO APPROVE THE CHARITABLE GAMING LICENSE RESOLUTION FOR RAYOLA.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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West Branch resident Brent Wilson addressed Council regarding the Ordinance 21-05, Drone Ordinance. He noted his concern if the Ordinance does pass what that means for residents, like him, who responsibly use drones for business and recreational purposes.

City Manager Dantzer noted the reason for the Ordinance was due to multiple complaints of drones hovering over people’s private property but due to no specific ordinance intact, there was no way to enforce any legal action.

MOTION BY ZIMMERMAN, SECOND BY BENNETT, TO APPROVE ORDINANCE 21-05, DRONE ORDINANCE.

ORDINANCE 21-05

The City of West Branch Ordains:

**TITLE 9: GENERAL REGULATIONS
CHAPTER 7: OPERATON OF UNMANNED AIRCRAFT**

ARTICLE 1. IN GENERAL

Sec 8.527-8.538. Reserved

(1) Operation of any unmanned aircraft.

Sec 8.539. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Unmanned Aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft. The term unamend aircraft includes drones. The term “unmanned aircraft” does not include: (i) a glider or hand-tossed small unmanned aircraft that is not designed for and is incapable of sustained flight; and, (ii) a small unmanned aircraft that is capable of sustained flight and is controlled by means of a physical attachment, such as a string or wire.

“Public Gathering Space” means any structure, enclosed area or other demarcated space used for the assembly of persons in the open air, including, but not limited to, amusement parks, stadiums, athletic fields, automotive speed ways, aviation fields, band stands, beach enclosures, grandstands, observation platforms, outdoor public swimming pools, outdoor theaters, race tracks, reviewing stands, street festivals or parade routes, among others.

Sec 8.540. Regulations

No person, firm, corporation or other entity shall operate any Unmanned Aircraft so as to interfere with the privacy, safety, peace or repose of persons or endanger the health, safety, or welfare of another, or in a manner that is reckless, careless or in violation of the laws of the State of Michigan or Federal law, including but not limited to the following:

- (a) Operation of the unmanned aircraft shall be completely prohibited within 500 feet of a school, police investigation, fire, traffic accident, medical emergency, fire investigation, Public Gathering Space, or such place that may endanger person or property or interfere with persons discharging their public duties;
- (b) The Unmanned Aircraft shall not be used to photograph, or video record any other person or private property without their consent or valid lawful purpose;

- (c) No Unmanned Aircraft shall be operated directly over any person who is not involved in the operation of the Unmanned Aircraft, without such person's consent; or directly over property that the operator does not own, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;
- (d) The Unmanned Aircraft shall not be operated outside the visual line of sight of the operator of the same;
- (e) An Unmanned Aircraft shall not be operated within 500 feet of any electric generating facility, substation or control center, or within 100 feet of any electric transmission facility, or within 25 feet of any electric distribution facility or of any overhead wire, cable, conveyor or similar equipment for transmission of sounds or signal, or of heat, light or power, or data, upon or long any public way within West Branch, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation;
- (f) The operation of Unmanned Aircraft shall be for recreational purposes only.

Sec 8.541 Exceptions.

Notwithstanding the prohibitions set forth in this section, nothing in this section shall be construed to:

- (a) Prohibit any person who is authorized by the Federal Aviation Administration to operate an Unmanned Aircraft in West Branch air space from conducting such operations in accordance with the terms of such authorization and, if applicable, in accordance with this ordinance; or
- (b) From West Branch operating an Unmanned Aircraft; or
- (c) Prohibit any person who is authorized to operate an Unmanned Aircraft and who obtains prior authorization for operations by motion of the West Branch City Council.

Sec 8.542-8.642 Reserved

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY SHOWALTER, SECOND BY BENNETT, TO APPROVE ORDINANCE 21-03, ZONING AMENDMENT.

City of West Branch

Ordinance No. 21-03 of 2021

An ordinance to amend the City of West Branch Zoning Ordinance Section 3.19 (Fences, Walls and Hedges), Section 3.30 (Signs), and the Zoning Map.

The City of West Branch, Ogemaw County, Michigan ordains:

Section 1: Additions and deletions to the City of West Branch Zoning Ordinance Section 3.19 (Fences, Walls and Hedges), Section 3.30 (Signs), and the Zoning Map

That the City of West Branch Zoning Ordinance, Section 3.19 (Fences, Walls and Hedges), is hereby amended to read as follows:

B. Fence & Wall Standards

	Residential Lots	Non-Residential Lots <i>(including non-residential lots in the Mixed Use District)</i>
Front Yard	Fences may be up to four (4') feet high. Fences higher than four (4') feet shall not extend beyond the front of the principal building.	Fences may be up to eight (8') feet high but shall have at least 50% open space (such as chain link or slats). Solid fencing shall be no higher than four (4') feet.
Side Yard	Fences may be up to six (6') feet high.	Fences may be up to eight (8') feet high.
Rear Yard	Fences may be up to six (6') feet high.	Fences may be up to eight (8') feet high.
Through Lots	Front yard fence standards shall be observed along both street frontages. Front yard fences shall be no higher than four (4') feet. Fences higher than four (4') may not extend beyond the front of the principal building or, if no principal building exists, the front yard setback. A fence over four (4') feet (but no greater than six (6') feet on a residential lot and no greater than eight (8') feet on a non-residential lot) may be erected along either street frontage if the fence is set back equal to or greater than the front yard setback of the district.	

That the City of West Branch Zoning Ordinance, Section 3.30 (Signs), is hereby amended to read as follows:

F. Signs Permitted.

District	Type	# per Parcel	Maximum size	Height
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R-1 R-M MU	Freestanding, Primary Signs (permanent) (single- & two-family residential uses)	1	6 ft ²	3'
	Freestanding, Primary Signs (permanent) (multi-family & non-residential uses)	1 per road frontage	32 ft ²	6'
	Message Boards (non-residential uses)	1 per road frontage	32 ft ²	6'
	Wall Signs (permanent) (single- & two-family residential uses)	1	4 ft ²	Not to exceed height of wall
	Wall Signs (permanent) (multi-family & non-residential uses)	---	25% of each building wall	---
	Temporary/Portable Signs (single- & two-family residential uses)	16 ft ² (total of all temporary signs)		5'
	Temporary/Portable Signs (single- & two-family residential uses)	32 ft ² (total of all temporary signs)		5'
	Sail-Type Temporary Signs (also known as flag banners and feather flags) (non-residential uses)	1 (32 ft ² each) per 20 linear feet of road frontage		
OS G-B IND	Freestanding, Primary (permanent)	1 per road frontage	32 ft ²	12'
	Message Boards (including digital)	1 per street or alley	24 ft ²	12' (for freestanding)
	Wall Signs (permanent)	---	25% of each building wall	Not to exceed height of wall
	Canopy	1 per road frontage	Length of front face	Roof line
	Projecting	1	20 ft ²	Bottom of sign shall be a minimum of 8' from sidewalk
	Temporary/Portable	32 ft ² (total of all temporary signs)		---
	Sail-Type Temporary Signs (also known as flag banners and feather flags)	1 (32 ft ² each) per 20 linear feet of road frontage		

Number: Each property is allowed the various types of signs listed in combination.

Lighting: Only signs for multi-family and non-residential uses may be illuminated provided the light does not negatively affect adjacent properties or the visibility of traffic or pedestrians.

Additional Signage: Parcels with greater than 400 lineal feet of frontage may be granted additional signage by the Planning Commission.

Signs on Lots Containing Multiple Establishments. See [subsection G](#) below.

That the City of West Branch Zoning Map is hereby amended as follows:

The following parcels are hereby rezoned to Mixed Use District (as shown by dotted line on map below):

052-413-012-00
052-413-011-00
052-413-001-00
052-412-011-00
052-412-002-00
052-412-001-00

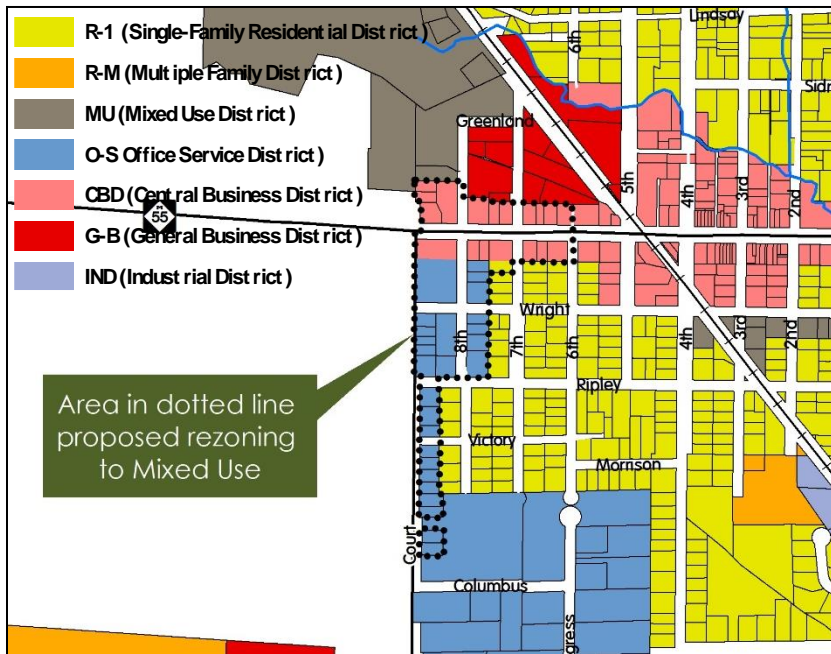
052-413-002-00
052-411-011-00
052-411-002-00
052-411-007-10
052-411-010-00
052-660-007-00

052-660-002-00
052-660-003-00
052-660-001-00
052-660-004-00
052-660-005-00

052-660-006-00
052-660-008-00
052-660-009-00
052-660-010-00
052-660-011-00
052-103-007-00
052-101-001-00
052-118-005-00
052-102-001-00

052-117-004-00
052-102-005-00
052-102-004-01
052-102-003-00
052-102-007-10
052-102-002-00
052-103-002-00
052-103-001-00
052-118-007-00

052-118-001-00
052-117-001-00
052-118-009-00
052-118-002-00
052-117-002-00
052-118-003-00
052-117-003-00
052-118-004-00



Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY BENNETT, SECOND BY ZIMMERMAN, TO APPROVE BILLS IN THE AMOUNT OF \$152,531.50.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY PUGH, SECOND BY SHOWALTER, TO APPROVE RESOLUTION 21-22 AUTHORIZING CITY MANAGER DANTZER TO BE THE SIGNER FOR ALL CONTRACTS THROUGH MEDC GRANT.

RESOLUTION NUMBER 21-22

WHEREAS, the City of West Branch was awarded an MEDC grant in the amount of \$2,000,000 on September 28, 2021, and

WHREERAS, a request for qualifications (RFQ) was issued to establish a certified grant administrator (CGA) as required by the MEDC grant, and

WHEREAS, the City received two proposals in response to the RFQ, and

WHEREAS, the West Branch City Council awarded the bid during their regular meeting held on October 18, 2021 to Housing Consulting Services, LLC in the amount of \$22,400, and

WHEREAS, MEDC requires as part of their grant process a resolution naming who is authorized to sign all contracts associated with the MEDC grant on the City’s behalf, and

NOW, THEREFORE, BE IT RESOLVED that the West Branch City Council hereby authorizes City Manager, John Dantzer, to sign all contracts in regards to the MEDC grant.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY SHOWALTER, SECOND BY ADAIR, TO APPROVE RESOLUTION 21-23, OCTOBER BUDGET AMENDMENT.

RESOLUTION #21-23

WHEREAS, City staff compares the year to date actual with the budgeted amount of all revenue and expenditures monthly; and

WHEREAS, the downtown sidewalk project was planned for in the 20-21 fiscal year due to available funds in the Major Street Fund, and

WHEREAS, the sidewalks could not be installed until the 21-22 fiscal year, and

WHEREAS, the expenses in Fund 202, Major Street Fund, were understated due to the sidewalk construction project being planned for in the 20-21 fiscal year but not being completed until the 21-22 fiscal year, and

NOW, THEREFORE, BE IT RESOLVED, that the West Branch City

Council hereby adopts the following budget amendments:

GL NUMBER	DESCRIPTION	2021-22 CURRENT BUDGET	2021-22 AMENDED BUDGET
Fund 202 - MAJOR STREET FUND			
Revenues			
Dept 000.000			
	Total Dept 000.000	\$540,047.00	\$540,047.00
TOTAL REVENUES		\$540,047.00	\$540,047.00
Expenditures			
Dept 451.000 - CONSTRUCTION			
	Total Dept 451.000 - CONSTRUCTION	\$393,831.00	\$393,831.00
Dept 463.000 - ROUTINE MAINTENANCE			
	Total Dept 463.000 - ROUTINE MAINTENANCE	\$29,123.00	\$29,123.00

Dept 470.000 - NON-MOTORIZED TRANSPORTATION			
202-470.000-703.700	SALARIES AND WAGES	\$2,050.00	\$2,050.00
202-470.000-710.700	OVERTIME	\$0.00	\$0.00
202-470.000-714.700	MANDATORY MEDICARE	\$30.00	\$30.00
202-470.000-715.700	SOCIAL SECURITY (EMPLOYER)	\$127.00	\$127.00
202-470.000-718.700	MERS RETIREMENT (EMPLOYER)	\$20.00	\$20.00
202-470.000-720.700	WORKERS COMPENSATION PREMIUM	\$85.00	\$85.00
202-470.000-724.700	UNEMPLOYMENT INS. BENEFIT	\$5.00	\$5.00
202-470.000-727.700	OPERATING SUPPLIES	\$1,000.00	\$1,000.00
202-470.000-801.700	CONTRACTUAL SERVICES	\$1,500.00	\$81,500.00
202-470.000-941.700	EQUIPMENT RENTAL	\$2,000.00	\$2,000.00
202-470.000-956.700	EXPENSES	\$50.00	\$50.00
Total Dept 470.000 - NON-MOTORIZED TRANSPORTATION		\$6,867.00	\$86,867.00
Dept 474.000 - TRAFFIC SERVICE			
Total Dept 474.000 - TRAFFIC SERVICE		\$200.00	\$200.00
Dept 478.000 - WINTER MAINTENANCE			
Total Dept 478.000 - WINTER MAINTENANCE		\$36,415.00	\$36,415.00
Dept 482.000 - ADMINISTRATION			
Total Dept 482.000 - ADMINISTRATION		\$9,592.00	\$9,592.00
Dept 485.000 - TRAFFIC SIGNAL TRUNKLINE			
Total Dept 485.000 - TRAFFIC SIGNAL TRUNKLINE		\$8,267.00	\$8,267.00
Dept 486.000 - SURFACE MAINTENANCE TRUNKLINE			
Total Dept 486.000 - SURFACE MAINTENANCE TRUNKLINE		\$6,855.00	\$6,855.00
Dept 487.000 - GUARD RAILS & POSTS TRUNKLINE			
Total Dept 487.000 - GUARD RAILS & POSTS TRUNKLINE		\$199.00	\$199.00
Dept 488.000 - SWEEPING & FLUSHING TRUNKLINE			
Total Dept 488.000 - SWEEPING & FLUSHING TRUNKLINE		\$3,140.00	\$3,140.00
Dept 489.000 - TRUNKLINE SNOW REMOVAL			
Total Dept 489.000 - TRUNKLINE SNOW REMOVAL		\$12,253.00	\$12,253.00
Dept 490.000 - TREES & SHRUBS TRUNKLINE			
Total Dept 490.000 - TREES & SHRUBS TRUNKLINE		\$680.00	\$680.00

Dept 491.000 - DRAINAGE & BACKSLOPES TRUNK.		
Total Dept 491.000 - DRAINAGE & BACKSLOPES TRUNK.	\$476.00	\$476.00
Dept 497.000 - WINTER MAINTENANCE TRUNKLINE		
Total Dept 497.000 - WINTER MAINTENANCE TRUNKLINE	\$24,853.00	\$24,853.00
Dept 498.000 - TRUNKLINE TAXES/ADMINISTRATION		
Total Dept 498.000 - TRUNKLINE TAXES/ADMINISTRATION	\$2,000.00	\$2,000.00
Dept 965.000 - TRANSFERS		
Total Dept 965.000 - TRANSFERS	\$58,250.00	\$58,250.00
TOTAL EXPENDITURES	\$593,001.00	\$673,001.00
Fund 202 - MAJOR STREET FUND:		
TOTAL REVENUES	\$540,047.00	\$540,047.00
TOTAL EXPENDITURES	\$593,001.00	\$673,001.00
NET OF REVENUES & EXPENDITURES	-\$52,954.00	-\$132,954.00
BEGINNING FUND BALANCE	\$690,178.00	\$690,178.00
ENGIND FUND BALANCE	\$637,224.00	\$557,224.00

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY SHOWALTER, SECOND BY PUGH, TO APPROVE THE SPECIAL EVENT PERMIT FOR THE VICTORIAN ART FAIR.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY BENNETT, SECOND BY PUGH, TO APPROVE RESOLUTION 21-24 VIRTUAL PUBLIC MEETINGS.

RESOLUTION NO. 21-24

A RESOLUTION DECLARING A LOCAL STATE OF EMERGENCY AND IMPLEMENTING SUPPLEMENTAL RULES OF PROCEDURE FOR PUBLIC BODIES REGARDING VIRTUAL PUBLIC MEETINGS RECITALS

WHEREAS, the Michigan Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended (“Open Meetings Act”) has been amended to permit public bodies, under certain circumstances, to conduct public meetings virtually. To do so after April 1, 2021, and except in certain cases of medical or military circumstances, there must be in effect a declared state of emergency, and

WHEREAS, The Open Meetings Act requires that if virtual meetings of any form are to be held, that certain rules of procedure regarding those meetings be adopted, and

WHEREAS, the Michigan Emergency Act, Public Act 390 of 1976 (MCL 30.401, et. seq.) authorizes the Declaration of a State of Emergency by the City of West Branch, Michigan (the “City”); and

WHEREAS, City Charter, Chapter 6.9 – Providing for Public Health and Safety, the Council shall see that provision is made for the public peace and health, and for the safety of persons and property, and

WHEREAS, COVID numbers in the State of Michigan and Ogemaw County have seen a recent surge in positive cases, including variant viruses, which are more infectious and have been detected in Michigan, and

WHEREAS, without otherwise limiting the scope of this Resolution, the City Council notes that it traditionally holds its meetings in its Council chambers, which is the largest single room in City Hall. The Council chambers are, however, small in area, seating is constrained, and the building’s ventilation system is limited. The City Council finds that operating in such an environment could risk the personal health or safety of members of the public or the public body if the meeting were held in person exclusively, and

WHEREAS, the City Council believes that it can achieve greater transparency for the public (until COVID-19 restrictions are removed), and that it is in the City’s best interest to permit public bodies in the City to host virtual meetings or hybrid meetings (i.e., meetings with in-person and virtual components) under the Open Meetings Act as permitted by law and in accordance with the provision of this Resolution.

NOW, THEREFORE, IT IS RESOLVED THAT, the recitals set forth above are affirmed as accurate and are incorporated herein as a basis for the actions of the City Council and in accordance with the recommendation of the City’s chief executive officer and after consultation with other local officials, a local state of emergency is hereby declared to exist throughout the City of West Branch, and

FURTHER IT BE RESOLVED, this declaration shall remain in effect until the earliest of any of the following:

- December 31, 2021.
- Be rescinded by resolution of the City Council.

- If any court of competent jurisdiction determines that this resolution is invalid.
- In the event the State of Michigan or Ogemaw County adopts acts or laws having the effect of permitting public bodies to again meet virtually for any reason whatsoever, and

FURTHER IT BE RESOLVED, this declaration shall apply to any public body within the City of West Branch to the extent permitted by the Open Meetings Act and, without limitation, includes the City of West Branch City Council, Planning Commission, Zoning Board of Appeals, Downtown Development Authority, and Board of Review. These City public bodies may continue to meet in-person, virtually, or partially in-person and partially-virtually as determined by the presiding officer of those bodies or by action of those bodies, and

FURTHER IT BE RESOLVED, this proclamation is effective immediately and is to be distributed as deemed necessary or appropriate by the Manager and City Clerk, and

FURTHER IT BE RESOLVED, except as otherwise provided herein, the standing rules of procedure for the public body will remain in effect, and

FURTHER IT BE RESOLVED, virtual or hybrid public meetings must utilize an electronic platform that allows for two-way communication between the members of the governing body and the public. In addition, meetings must abide by the following rules of procedures:

- Be properly noticed by publishing the notice on the public body’s website homepage at least 18 hours in advance of the meeting;
- An explanation of why the public body is meeting virtually;
- How the members of the public (including persons with disabilities) may participate;
- How members of the public can directly contact members of the public body;
- Posting the meeting agenda online at least two hours before the meeting begins; and
- Members of the governing body participating virtually are required to announce at the beginning of the meeting that they are participating remotely. If a member is attending the meeting remotely for a purpose other than military duty, the member's announcement must further identify his/her physical location by City and the reason for attending remotely, and

FURTHER IT BE RESOLVED, to the extent possible and regardless of whether members are participating virtually, members of the public will be permitted to participate virtually in accordance with adopted rules of procedure. The preferred method of public participation will be via Zoom. Public comment may be made over zoom (audio or using the chat function) or by emailing comments to the City Clerk, and

FURTHER IT BE RESOLVED, all resolutions, motions, and policies in conflict with this Resolution are hereby repealed to the extent of any such conflict

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY BENNETT, SECOND BY PUGH, TO APPROVE THE SUMMARY AND MINUTES FROM THE MEETING HELD OCTOBER 18, 2021.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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MOTION BY SHOWALTER, SECOND BY ADAIR, TO RECEIVE AND FILE THE TREASURER’S REPORT AND INVESTMENT SUMMARY; APPROVE THE DDA MINUTES WITH CORRECTIONS FROM THE MEETING HELD SEPTEMBER 28, 2021; AND AIRPORT BOARD MINUTES FROM THE MEETING HELD SEPTEMBER 15, 2021.

Yes – Adair, Bennett, Jackson, Pugh, Showalter, Zimmerman

No – None

Absent – Frechette

Motion carried

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Communications from Michigan Public Policy Survey and the MDOT Road Diet brochure were shared.

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Council Member Showalter gave a kudos to Kiwanis for the repainting of all the benches downtown, noting they looked nice.

DPW Superintendent Killackey noted that S Fourth St should be paved by Wednesday.

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Mayor Pro Tem Jackson adjourned the meeting at 6:54 PM.

Mike Jackson, Mayor Pro Tem

Amanda Stang, City Clerk