

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET, MONDAY, AUGUST 21, 2017.

Mayor Denise Lawrence called the meeting to order at 6:01 p.m.

Present: Mayor Denise Lawrence and Council Members Joanne Bennett, Dave Lucas, Tim Schaiberger, Rusty Showalter, Aaron Tuttle, and Dan Weiler.

Absent: None

Other officers present: City Manager Heather Grace, Treasurer/Clerk John Dantzer, and Chief Ken Walters.

All stood for the Pledge of Allegiance.

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As an addition to the agenda, City Manager Grace discussed a notice received notifying the City of a child falling at the pavilion at the Little League Fields and getting injured.

As an addition to the agenda, City Manager Grace discussed an email she received from West Branch Township Supervisor Ryan Veeder dealing with an issue with a sewer backup in West Branch Township.

As an addition to the agenda, Clerk/Treasurer Dantzer shared pictures of the completed Friendship Rock and plaque that was installed in the Surline School playground.

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**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO PAY THE BILLS IN THE AMOUNT OF \$37,783.07.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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Manager Grace noted the Housing Third Party Administrator was up for rebid but was asking to have a sole source vendor request approved to retain the current administrator because they currently have projects in progress. Manager Grace further noted there was no increase in the fees from the previous contract approved and she has been very impressed with the service provided.

**MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO APPROVE THE SOLE SOURCE VENDOR REQUEST FOR THE HOUSING THIRD PARTY ADMINISTRATOR CONTRACT AND TO ACCEPT THE AGREEMENT FOR SERVICES AS PRESENTED TO HOUSING CONSULTING SERVICES LLC.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

No – None

Absent –None

Motion carried

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Housing Third Party Administrator, Lee Ann Fischer, submitted an amendment to the rehabilitation housing project bid approved at the previous meeting in August to add some additional work in the amount of \$3,900.00. She noted it was, in her opinion, still a good project for the City because it was not that much additional money and it was being paid back by the homeowner.

**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO APPROVE THE REHABILITATION BID AMENDMENT AS SUBMITTED FOR CLIENT C.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

No – None

Absent –None

Motion carried

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Housing Third Party Administrator, Lee Ann Fischer, also updated Council on other projects she was working on.

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**MOTION BY SCHAIBERGER, SECOND BY WEILER, TO APPROVE THE INTRODUCTION OF ORDINANCE 17-01**

**ORDINANCE 17-01**

AN ORDINANCE TO AMEND SECTION 95.2 ENTITLED "NOISE" OF THE CITY OF WEST BRANCH CODE OF ORDINANCES.

THE CITY OF WEST BRANCH ORDAINS:

SECTION 1: Section 95.2 of the City of West Branch, Michigan Code of Ordinances is hereby amended to read as follows:

**§ 95.2 PROHIBITED NOISES.**

(a) Generally. It is unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. Any violation of the enumerated acts below constitutes a civil infraction subject to the fines and penalties enumerated in § 10.99 of this Code, or as otherwise established by Council resolution.

(b) Enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but this enumeration is not exclusive:

- (1) Homs, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound, the sounding of any such device for an unnecessary and unreasonable period of time, the

use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up;

(2) Radios, stereos, etc. Except as otherwise permitted by the City Council or the City Manager, as hereinafter prescribed, the use, operation or permitting the use or operation of any radio or receiving set, musical instrument, stereo, or other machine or device designed for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of others in the vicinity, or with a volume louder than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the device is operated and who are voluntary listeners. The operation of any of the above-named devices between the hours of 11:00

p.m. and 7:00 a.m. on Friday and Saturday and between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday or in such a manner that the noise is plainly audible at a distance of 50 feet from the source of the noise will be prima facie evidence of a violation of this subsection;

(3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or to attract attention of the public to any building or structure;

(4) Yelling, shouting. Except as otherwise permitted by the City Council or the City Manager, as hereinafter provided, yelling, shouting, hooting, whistling, or singing on the public streets or any other public place, between the hours of 11:00 p.m. and 7:00 a.m. on Friday and Saturday and between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity;

(5) Engine exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises;

(6) Defect in vehicle or load. The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or annoyance;

(7) Loading or unloading; opening boxes. Creation of a loud and excessive noise in connection with loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers;

(8) Construction or repair of buildings. The erection (including excavation, demolition, alteration or repair) of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Council or the City manager, which may be granted for a period not to exceed three days or less while the emergency continues and which may be renewed for periods of three days or less while the emergency continues. If the City manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets or highways between the hours of 8:00 p.m. and 7:00 a.m., and if he further determines that loss or inconvenience will result to any party in interest, he may grant permission for the work to be done during the hours of 8:00 p.m. and 7:00 a.m. upon application. If the City Council or the City Manager shall determine that such work does actually impair the public health and safety, then such permit may be revoked by the City Council or the City manager;

(9) Schools, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, hospital, or court while the same is in session, which interferes with the work of the institutions or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a street upon which a school, hospital or church or court is located;

(10) Hawkers and peddlers. Shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;

(11) Drums for commercial purposes. The use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by creation of noise;

(12) Transportation of materials. The transportation of any material over the streets and other public places so as to cause loud noises or so as to disturb the peace and quiet of such streets;

(13) Pile drivers, hammers, etc. The operation between the hours of 7:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoists or other appliances, the use of which is attended by loud or unusual noise;

(14) Blowers, fans, engines. The operation of any noise created by any blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.

(15) Compression release engine braking; "Jake braking." Noise created by semis or other vehicles due to compression release engine braking, or "Jake braking."

(c) Approval from City Council or City Manager.

(1) Any person, firm, or entity proposing to conduct any activity or operate any sound producing device which is reasonably expected to produce a sound or occur at a time in violation of this section shall apply to the City Manager for a permit to allow such conduct or the use of such device. In determining whether to issue such permit, the City Council or the City Manager shall consider:

- a. The date and time of the proposed conduct;
- b. The location of the proposed conduct;
- c. The nature and proximity of other dwellings and/or uses;
- d. The type of proposed conduct and/or the type of device proposed to be used; and
- e. The purpose for such conduct or the use of such device.

(2) The foregoing permit process shall apply only to those noises prohibited under subsections (b) (2) and (b) (4) above. Any permit issued by the City Manager shall specify the date, time, location, and duration of the permitted activity. The City Council or the City Manager may impose such other restrictions or conditions upon the issuance of such permit as it may deem appropriate and/or necessary in the interests of the public health and welfare.

(16) Animal Noises. The keeping of any animal, which by causing frequent or long, continued noise, shall disturb the comfort or repose of ordinary sensibility.

*(Ord 15-04, passed 09-01-2015; Am. Ord 17-01, passed XXXX) Penalty, see § 10.99*

## SECTION 2: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

(AM. Ord 17-01, passed XXXX)

**SECTION3: REPEALER**

All former Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

(AM. Ord 17-01, passed XXXX)

**§ 95.99 EFFECTIVE DATE; PUBLICATION**

This ordinance shall become effective upon publication of a notice in a newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the City Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection both on the City website and at City Hall.

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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**MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO APPROVE THE INTRODUCTION OF ORDINANCE 17-02**

**ORDINANCE 17-02**

The City of West Branch hereby ordains that Chapter 153.04 entitled “NOISE CONTROL” is hereby repealed.

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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Manager Grace submitted an updated Cross Connection Control Plan and discussed the issues of cross connections and future expected regulations coming from MDEQ.

**MOTION BY SHOWALTER, SECOND BY LUCAS, TO APPROVE THE CROSS CONNECTION PLAN AS SUBMITTED.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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**MOTION BY LUCAS, SECOND BY LAWRENCE, TO APPROVE THE MINUTES WITH CORRECTIONS AND SUMMARY FROM THE MEETING HELD AUGUST 7, 2017 AND THE MINUTES FROM THE CLOSED SESSION ON AUGUST 7, 2017.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE TREASURER’S REPORT AND INVESTMENT SUMMARY, THE JULY POLICE REPORT, AND THE MINUTES FROM THE EMS MEETING HELD JULY 20, 2017.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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Member Showalter noted the Planning Commission minutes note discussion of Victorian fonts during the approval of sign permits in the Central Business District. He noted those fonts were voted on and approved for removal in the sign ordinance by both the Planning Commission and City Council during a joint meeting and they should not play a factor in determining the approval of signs.

Manager Grace noted the Planning Commission uses them as a basis to determine if there are some Victorian element to the sign but does not use the fonts as a basis for denial.

Manager Grace noted, in her personal opinion, the Victorian branding is something that should be reconsidered.

Member Bennett agreed and noted it was something downtown business owners have brought up to her and she was thinking of bringing up to City Council but wasn’t sure if it should start with the DDA, the Planning Commission, the Downtown Merchants, or City Council.

Member Weiler noted the Planning Commission has talked about that issue.

Manager Grace noted a rebranding of the City should be something the DDA, downtown business owners, Planning Commission, City Council, and residents should all be involved in.

Member Showalter noted the DDA has addressed this issue in the past as well and the DDA would be a good place to start and see if it is something they think should be considered.

**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE MINUTES FROM THE PLANNING COMMISSION MEETING HELD JULY 11, 2017.**

**Yes — Bennett, Lawrence, Lucas, Schaiberger, Showalter, Tuttle, Weiler**

**No – None**

**Absent –None**

**Motion carried**

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A letter of resignation from the current mowing subcontractor was shared and Manager Grace noted she did have someone in place to assume the remainder of his contract and would do it for the same amount.

A resident communication noting concern with the banners being hung from the electric pole and causing the electric supply line running to the homes serviced from that pole to bounce in the wind and his concern that it could damage that line. Clerk/Treasurer Dantzer noted he did go and examine the situation and agreed it does cause the supply line to bounce but was unsure if it was actually enough to do damage to the line. It was the consensus of Council to further look into ways to help stop the issue.

The report from the Michigan Department of Treasury assessing audit findings was shared. It was noted there was one violation that was minor in that the Chair of the Board of Reviews was signing all Board of Review changes; however, it is supposed to be the Secretary of the Board of Reviews who signs them which is the City assessor. It was further noted they will have the assessor sign them moving forward.

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Member Schaiberger noted he was named the new director of the Ogemaw Kids Club and was looking forward to working with the City as well as others in the community on some new ideas for the club.

Member Weiler noted they did approve a sign permit at the last Planning Commission meeting for Loggers and they are redoing the front of their business. He also noted he is currently attending a planning and zoning training with other members of the Commission put on by Michigan State University.

Member Showalter noted the Resurgence of Downtown webinars step 2 is coming up and encouraged people to attend. He also reminded members of the upcoming MML convention.

Member Bennett noted she is also attending the Resurgence of Downtown webinar and noted the information is insightful and is for anyone with an interest in seeing the City of West Branch come back to life.

Member Bennett also asked about the replacement of the park garbage cans that are falling apart. Manger Grace noted she is waiting for new DPW Superintendent Killackey to begin so he will be involved in the process of selecting the new type of cans. Member Grace also noted the DPW is working on a project with MDOT cleaning out catch basins in other Cities and then will be moving onto the Patronicity Grant park additions.

Mayor Lawrence noted she attended the last EMS meeting, Airport Board meeting, and Fabulous Friday meeting. She further noted the City Recreation Committee will be having a meeting to go over this year's events and start to talk about events for next year. She further reminded everyone about the Chamber Business after Hours.

Manager Grace commended Clerk/Treasurer Dantzer and everyone involved for their work on the Friendship Rock.

Manager Grace noted she is looking forward to working more closely with the Ogemaw Kids Club.

Manager Grace commended Lee Ann Fischer for her work on the City's housing program.

Manager Grace also commended Chief Walters for his grant work.

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Eric Young asked about when the new noise ordinance would go into effect. It was noted it was voted to introduce it at tonight's meeting, it would then be published in the paper this week, it would need to be voted on again for approval at the next meeting, and then it would go into effect 15 days after that second meeting.

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Mayor Lawrence asked about the no parking on S. Third St. Manager Grace noted she currently has the downtown striping out for bid.

Member Weiler noted the no parking on S. Second St. is going well but noticed now that the lanes are wider, he sees more speeding.

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Chief Walters updated Council on a grant he has obtained for a camera system from Homeland Security. He also noted he will be working on a grant for a new police vehicle because one is scheduled for this budget year. He also noted he will begin working on fundraising for the Shop with a Cop Christmas program.

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Mayor Lawrence adjourned the meeting at 7:12 pm.

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Denise Lawrence, Mayor

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John Dantzer, Clerk