

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET, MONDAY, DECEMBER 18, 2017.

Mayor Denise Lawrence called the meeting to order at 6:00 p.m.

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

Absent: Council Member Dave Lucas

Other officers present: City Manager Heather Grace, Treasurer/Clerk John Dantzer, Police Chief Ken Walters, City Attorney Gabrielle Dantzer, DDA Chairman Jason Stroebel, and WWTPA Superintendent Dan Robb.

All stood for the Pledge of Allegiance.

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**MOTION BY LAWRENCE, SECOND BY SCHAIBERGER, TO EXCUSE DAVE LUCAS FROM THE MEETING.**

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

**No – None**

**Absent –Lucas**

**Motion carried**

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At 6:02, Mayor Lawrence opened the public hearing to take comments on the application of a USDA grant for a new police patrol car.

Jason Stroebel asked if it would be purchased locally. Manger Grace noted that it would be put out to bid but typically the price from the State of Michigan is much lower than they can get from a local dealer.

Denny Shumway asked how much of the price the grant would cover. Chief Walter noted it would cover approximately 50%.

With their being no one else that wished to be heard, Mayor Lawrence asked to have the public hearing closed.

**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO CLOSE THE PUBLIC HEARING AT 6:05 PM**

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

**No – None**

**Absent –Lucas**

**Motion carried**

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As an addition to the agenda, Manager Grace submitted a request on behalf of Heather Neuhaus of the West Branch Chamber of Commerce to approve the annual Winter Family Fun Day which would be held at Irons Park on January 27 from 1-4 pm

**MOTION BY BENNETT, SECOND BY SHOWALTER, TO APPROVE THE WINTER FAMILY FUN DAY AS PRESENTED.**

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

**No – None**

**Absent –Lucas**

**Motion carried**

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As another addition to the agenda, Manager Grace submitted the 2017-2018 budget for the Ogemaw Fire Department.

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As another addition to the agenda, Manager Grace submitted resolution 17-21 which was a budget amendment resolution needed due to the Senior Center settlement but noted she would recommend not approving it until after Attorney Gabrielle Dantzer updates Council on the agreement.

City Attorney Gabrielle Dantzer updated Council on the Senior Center Settlement and noted that she would need authorization to sign the release and settlement agreement which would require the City to pay the Township \$105,050 which was agreed upon at mediation.

**MOTION BY SHOWALTER, SECOND BY BENNETT TO AUTHORIZE CITY ATTORNEY DANTZER TO SIGN THE RELEASE AND SETTLEMENT AGREEMENT IN THE AMOUNT OF \$105,050 AND TO APPROVE RESOLUTION 17-21 AS FOLLOWS**

**RESOLUTION #17-21**

**WHEREAS**, on December 6, 2018, the City of West Branch, West Branch Township, and Edwards Township participated in a mediation to settle a dispute between the parties dealing with the conversion of the former Senior Center building to the police department, and

**WHEREAS**, the City agrees to pay the Townships \$105,050.00 by January 5, 2018 as agreed to by the Parties' Memorandum of Understanding reached in mediation between the Parties on December 6, 2017, to Fahey, Schultz, Burzych, Rhodes, PLC, who will in turn allocate the distribution after legal fees to West Branch Township and Edwards Township, and

**WHEREAS**, the budget needs to be amended to cover the increase in expenditures,

**NOW, THEREFORE, BE IT RESOLVED**, that the West Branch City Council hereby amends the budget in Fund 101 General Fund as follows:

REVENUE	Budget	Amended
TOTAL REVENUE	1,628,664	1,628,664
EXPENDITURES		
266.000 – Legal assistance		
801.700- Contractual services	11,475	11,475
956.700 – Expenses	0	105,050
TOTAL EXPENDITURES	11,475	116,525
Excess Receipts (Expenditures)	0	(105,050)
Carry Over	845,031	739,981

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

**No – None    Absent –Lucas    Motion carried**

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Leah Pauley, on behalf of the Surline PTO, presented a special event permit for the Surline Elementary PTO family color run. She noted she did go over the plans with Chief Walters.

Manager Grace asked Chief Walters if the road closure or route would create any safety issues. Chief Walters noted they would be able to work with the plans submitted.

**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO APPROVE THE SURLINE ELEIMENTARY PTO FAMILY COLOR RUN SPECIAL EVENT PERMIT CONTINGENT UPON APPROVAL OF THE FINAL ROUTE BY CHIEF WALTERS.**

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

**No – None    Absent –Lucas    Motion carried**

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A sole source vendor request and bid for new security cameras were submitted. Manager Grace noted the reason for the sole source request was because Great Lakes Technology Consulting was familiar with the current system and that by going out to bid would lengthen the time to get them replaced and therefore create a safety concern for City Hall.

**MOTION BY BENNETT, SECOND BY LAWRENCE, TO APPROVE THE SOLE SOURCE VENDOR REQUEST AND THE BID TO GREAT LAKES TECHNOLOGY CONSULTING NOT TO EXCEED \$2,613.00**

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

**No – None                                Absent –Lucas                                Motion carried**

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**MOTION BY SHOWALTER, SECOND BY WEILER, TO APPROVE BILLS IN THE AMOUNT OF \$189,454.76.**

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

**No – None                                Absent –Lucas                                Motion carried**

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**MOTION BY LAWRENCE, SECOND BY BENNETT, TO APPOINT WILLIAM EHINGER TO THE PLANNING COMMISSION AS THE REPRESENTATIVE FOR THE TRANSPORTATION SEGMENT WITH A TERM TO EXPIRE 11/30/19; TO APPOINT SUSAN JENNINGS TO THE LIBRARY BOARD; AND TO APPOINT JOE CLARK AND TRACY WILLIAMS TO THE DDA WITH A TERM TO EXPIRE 1/1/22.**

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

**No – None                                Absent –Lucas                                Motion carried**

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A bid was submitted on behalf of the Third Party Housing Consultant, Lee Ann Fischer, for repairs to a home that meets the City’s home rehabilitation program requirements. Manager Grace noted that the project labeled #103-CE was for a new furnace and water heater with a total project cost of \$9,000. It was further noted that DHS would be paying \$5,500 with the City portion being \$3,500.00 and that they homeowner would repay the City amount borrowed.

**MOTION BY SHOWALTER, SECOND BY BENNETT, TO APPROVE THE LOAN IN THE AMOUNT OF \$3,500 FOR PROJECT #103-CE.**

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

**No – None                                Absent –Lucas                                Motion carried**

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**MOTION BY LAWRENCE, SECOND BY TUTTLE, TO APPROVE THE MDOT PERFORMANCE RESOLUTION FOR GOVERNMENT AGENCIES**

RESOLVED WHEREAS, THE City of West Branch,

Herein after referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan

Department of Transportation hereinafter referred to as the "DEPARTMENT ." for permits referred to as "PERMIT" to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. If any of the work performed for the GOVERNMENTAL AGENCY is performed by a contractor, the GOVERNMENTAL AGENCY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the GOVERNMENTAL AGENCY. Failure of the GOVERNMENTAL AGENCY to require its contractor to indemnify the DEPARTMENT as set forth above, shall be considered a breach of its duties to the DEPARTMENT.
3. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.
4. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
5. The GOVERNMENTAL AGENCY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCY'S facilities according to a PERMIT issued by the DEPARTMENT.
6. With respect to any activities authorized by a PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents,

and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

- 7. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
- 8. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

Heather Grace, City Manager  
 John Dantzer, City Clerk/Treasurer  
 Michelle Frechette, Deputy Clerk/Treasurer  
 Bridget Charles, Office Assistant

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

**No – None**

**Absent –Lucas**

**Motion carried**

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Manager Grace shared a request from Travis Dantzer who is a student at the University of Michigan and is working on a storm water project to hold a work session to introduce a program they are working on at the University and see if Council would be interested in participating in it. It was the consensus to hold the work session on December 27 at 6:00 pm at City Hall.

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A City employee ugly Christmas sweater competition was held and voted on by the members of the audience. Ken Walters was declared the winner.

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**MOTION BY SHOWALTER, SECOND BY BENNETT, TO APPROVE THE MINUTES AND SUMMARY FROM THE MEETING HELD DECEMBER 4, 2017.**

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

**No – None**

**Absent –Lucas**

**Motion carried**

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**MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE TREASURER'S REPORT AND INVESTMENT SUMMARY, ADMINISTRATIVE BUDGET AMENDMENTS, THE NOVEMBER POLICE REPORT, AND THE DECEMBER BOARD OF REVIEW MINUTES.**

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

**No – None**

**Absent –Lucas**

**Motion carried**

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A Charger Cable Company communication was shared.

Communications from the Victorian Art Fair, Relay for Life, Rile River Quilt Guild, Local Experimental Aircraft Association Chapter 1253, Kiwanis Club, and Orioles Forever were shared noting their opposition to the recently passed banner policy that would charge organizations \$100 to hang and take down banners that are placed over Houghton Ave.

Vicki Seltz Barnes of the Relay for Life spoke on behalf of the groups in attendance noting there opposition to the \$100 fee because they are all nonprofit corporations that money goes to help people in the community and that the fee would lower the amount of people they would be able to help.

Marcia Young of the Victorian Art Fair noted they have been hanging banners for years without a cost and that they bring a lot of people to West Branch and that everyone needs to work together for the community and that the City should cover this cost from the budget as their way to be involved in the community.

Member Schaiberger asked if there were any for profit banners and noted that the organizations in attendance had a valid point.

Denny Shumway of Kiwanis noted by charging them, it would mean they would have less to give back to the kids of the community. He further noted the Kiwanis do things for the community like hang the flags out downtown.

Kris Schubert spoke on behalf of the Orioles Forever group and noted that they have raised a lot of money from people's donations in order to supply college scholarships to local youth and that this would take away the money they would be able to help kids with.

Rose Shields and Sharon Goethe of the Rifle River Quilt Guild noted their quilt shows are getting bigger and bigger and are drawing people from all over to the community. She further noted that all of the money they make goes to Hospice of Helping Hands and that \$100 could do a lot of good for people. She asked Council to reconsider the fee charged.

Member Bennett noted she did not think of the nonprofit component when they discussed the policy.

Manager Grace noted her concern that there is too much of a safety concern and that she would like to look into getting rid of the banner policy altogether. She further noted the City does offer several other advertisement opportunities the groups can use for free. She did note that she does feel like it is a great advertisement benefit but that the safety factor outweighs the benefit.

Marcia Young noted her safety concern also but asked about the possibility of having someone else like Consumers put them up and down. Manager Grace noted that would be something she could look into.

Mayor Lawrence noted they have had issues with the banners being on Consumer’s electric poles in the past.

Phil Shaw spoke on behalf of the Aircraft Association and noted they have seen their attendance increase since they started to hang their banner. He also noted any money they make goes right back into the airport.

Nancy Griffin asked about the possibly of having a police car with its lights on in front of the lift truck to make it safer.

Art Goethe asked why charging money would make it any safer for the workers.

Mayor Lawrence noted she would like to see Council postpone any decision until they could look at the matter further.

Ken Neubecker noted that they could possibly look into putting up poles that would be just for the banners so they weren’t on Consumers poles any more.

Marcia Young asked if the hanging of all things across the street would be ended.

**MOTION BY LAWRENCE, SECOND BY SCHAIBERGER, TO POSTPONE ANY DECISIONS ON CHANGES TO THE BANNER POLICY TO REACH OUT TO CONSUMERS TO SEE IF THEY WOULD BE WILLING TO HELP HANG THE BANNERS.**

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

**No – None**

**Absent –Lucas**

**Motion carried**

A communication of Senate Bill 686 was shared

A thank you from Shirley Lake was shared.

A communication on OPEB and Pension reform was shared.

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Member Bennett commended Surline PTO for bringing their color run downtown. She noted the City may want to look into having predetermined courses set up for these runs because they are getting more popular. She also thanked everyone for attending and appreciated them expressing their opinions and wished everyone a Merry Christmas.



Member Showalter thanked all of the volunteers in attendance for their hard work and that they would look into coming up with a solution to the banner issue.

Mayor Lawrence thanked Phil Shaw and everyone at First United Methodist church for delivering food boxes to needy people in the area.

Mayor Lawrence noted they are finishing up the Christmas for Kids for this year and noted the Christmas Parade was wonderful.

Manager Grace noted they did fill a part time seasonal position in the Public Works Department.

Manager Grace noted she was continuing to work on getting an indemnification agreement from the hospital before she would recommend passing a resolution they have requested.

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Nancy Fisher thanked the City for allowing them to use City Hall during the quilt walk.

Leah Pauley thanked Council for passing the special use permit

Ellen Pugh updated Council on the money the Salvation Army raised from the bell ringing this year and thanked the entire community for their generosity.

Mayor Lawrence thanked all of the volunteers for their work.

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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