

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET, MONDAY, NOVEMBER 20, 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, and County Commissioner Bruce Reetz.

All stood for the Pledge of Allegiance.

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As an addition to the agenda, County Commissioner Bruce Reetz gave a County update

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Cindy Scott of Stephenson and Company presented the 2017 audit findings and noted they did give the City and unmodified opinion which is the highest level of assurance in accuracy.

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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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MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO APPROVE BILLS IN THE AMOUNT OF \$45,675.01.

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

No – None

Absent –Lucas

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY SHOWALTER, TO ENACT RESOLUTION 17-03 AND 17-04

ORDINANCE 17-03

AN ORDINANCE TO REPEAL SECTIONS 32.015, 32.016, 32.017, 32.018, 32.019, 32.020, 32.021, 32.022, 32.023, 32.024, 32.025, 32.026, 32.027, 32.028, 32.029, & 32.030 OF THE CITY OF WEST BRANCH CODE OF ORDINANCES.

THE CITY OF WEST BRANCH ORDAINS:

Sections §§ 32.015, 32.016, 32.017, 32.018, 32.019, 32.020, 32.021, 32.022, 32.023, 32.024, 32.025, 32.026, 32.027, 32.028, 32.029, and 32.030 of Chapter 32 entitled "DEPARTMENTS, COMMISSIONS AND BOARDS" are hereby repealed.

ORDINANCE 17-04

AN ORDINANCE TO AMEND CHAPTER 32 OF THE CITY OF WEST BRANCH CODE OF ORDINANCES ENTITLED: "DEPARTMENTS, COMMISSIONS AND BOARDS."

THE CITY OF WEST BRANCH ORDAINS:

§32.031 - Creation/Establishment; powers and duties.

There shall be a City of West Branch Planning Commission as contemplated in Section 4.20 of the City Charter, and also pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*, hereinafter referred to as the Commission with the powers and duties as therein set forth and as hereinafter provided. This ordinance shall be officially known and described as the "City of West Branch Planning Commission Ordinance." Thus, the City of West Branch Planning Commission is hereby established in and for the City of West Branch such that it shall have all the powers and duties authorized and directed by the City Charter and by the Michigan Planning Enabling Act 33 of 2008, as amended (MCL 125.3801 *et seq.*), as well all the powers and duties authorized and directed by the Michigan Zoning Enabling Act 110 of 2006, as amended (MCL 125.3101, *et. seq.*).

§ 32.032 - Composition;Membership.

(A) Membership of the planning commission shall be as set forth in the City Charter, and as required pursuant to the Michigan Planning Enabling Act 33 of 2008- with the caveat that the provision in § 4.20 of the City Charter indicating that the City Manager shall serve as a member of the City Planning Commission is hereby found to be invalid by operation of law, due to the interpretation that the City Manager ' s simultaneous service as the both a City Planning Commissioner and the City's Zoning Administrator is prohibited by the Incompatible Public Offices Act, 1978 PA 566, MCL 15.181, *et seq.*

(B) The Commission shall consist of a total of nine members, each of whom must be individually

appointed by the Mayor and subject to approval by a majority vote of the members of the City Council.

(C) The membership of the Commission shall consist of qualified electors of the City of West Branch, except that no greater than two Commission members may be individuals who are not qualified electors of the City of West Branch but are qualified electors of another local unit of government

(D) Commission members shall not hold any elected office or employment with the City of West Branch, unless such member is an *ex-officio member* as contemplated in section (E) below.

(E) The Commission may have up to three *ex-officio members*, consisting of the following individuals: at least one, but up to two, representative members of the West Branch City Council; the Mayor of the City of West Branch, if the Mayor so desires (note that the Mayor may choose to serve on the Commission either in addition to, or in place of, one of the two representative members of the West Branch City Council-provided that the total number of *ex officio* members never exceeds 1/3 of the total membership of the Commission).

(F) *Ex-Officio* members shall have the same rights, duties, powers, and responsibilities as non-*ex-officio* members- with the only difference being that the term of service for *ex-officio* members shall be the length of their corresponding term of office, as opposed to the three-year terms of office that shall generally apply to all other *non-ex-officio* Commission members.

(G) After an individual's appointment and before reappointment, each Commission member shall attend training for Commission members, pursuant to Section 32.034 of this Ordinance.

(H) Members shall be appointed for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of 1/3 of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of 1/3 of all commission members continue to expire each year.

(I) The membership of this Commission shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of West Branch, in accordance with the major interests as they exist in the City of West Branch, as follows:

- I one member representing the "Recreation" segment of the community;
2. one member representing the "Education" segment of the community;
3. one members representing the "Public Health" segment of the community;
4. two members representing the "Government" segment of the community;
5. one member representing the "Transportation" segment of the community;
6. one member representing the "Industry" segment of the community;
7. one member representing the "Commerce" segment of the community; and

8. one member representing the "Residential" segment of the community; for a total of nine members in all.

(J) When appointing members to this Commission, the Mayor and City Council shall attempt, whenever possible, to make the membership of this Commission proportionally representative of the important geographic and interest segments of the City of West Branch, which may consist of, for example, the various different types of zoned districts in the community.

(K) The membership of this Commission shall also be, to the extent practicable, representative of the entire geography of the City of West Branch, as a secondary consideration to the representation considerations set forth in sections 32.032(1) and (K) of this Ordinance.

(L) Commission members are required to meet the conditions provided for each individual member throughout Section 32.032 of this Ordinance, except that the geographical location considerations described in § 32.032(K) of this Ordinance may be considered optional. As such, the representation requirements and considerations set forth in this Ordinance shall be considered by Council in the following order of priority: first, § 32.032(1); second, § 32.032(J), and third, § 32.032(K).

(M) Neither the Mayor nor a representative member from the City Council shall serve as the chair of the Commission.

§ 32.033 - Liaisons.

(A) The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain City of West Branch and Downtown Development Authority officials the ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include:

1. City of West Branch staff involved in the planning and zoning process, including the City Zoning Administrator, as well as all Deputy Zoning Administrators.
2. The City Manager.
3. The City Attorney.

Liaisons may also include:

4. A representative from the City of West Branch Downtown Development Authority.
5. A representative from the City of West Branch Zoning Board of Appeals.

§ 32.034 - Training.

(A) Appointed members of the Commission shall be required to attend educational programs designed for training members of Michigan planning commissions if the adopted City of West Branch budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall prohibit a member who has not had training from finishing his term of office unless the member

resigns or is removed by action of the City Council. However, the member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training. The Commission shall include in its Bylaws what training programs qualify to meet this requirement.

§ 32.035- Members, Appointment and Terms.

(A) In September of each year, the Clerk for the City of West Branch shall determine which members' terms of office expire during that fiscal year, and shall determine what organizations qualify to nominate members and shall contact, by first class mail, those organizations to solicit nominations.

(B) In October of each year, if the City Clerk has not received at least two nominations for each office, then the Clerk shall discard those applications shall place an advertisement in the newspaper or similar publication with circulation within the City of West Branch, as well as place an advertisement on the City website, informing the public of opening on the Commission and seeking additional applications.

(C) In November of each year, the City Council shall consider the applications and nominations received, and the Mayor shall make appointments to the Commission which must be confirmed by a majority vote of the City Council, for three year terms of office which shall end on November 30, at 9:00 a.m. of the respective year.

§ 32.036 - Removal from Office.

(A) The City Council may remove a member of the Commission for misfeasance, malfeasance, of nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to attend Commission meetings as required by the City Charter shall be considered nonfeasance in office, i.e., missing three meetings in a row or missing 25% or more of all meetings within a given fiscal year shall be considered nonfeasance in office.

(B) It shall be the duty of the Secretary of the Commission to track attendance of Commission members and also to file a written report with the City Clerk and the City Council anytime a Commission member misses three regular meetings in a row or misses 25% or more of meetings within a given fiscal year.

§ 32.037 - Membership; Vacancies.

(A) The Mayor and City Council shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

§ 32.038 - Membership; Transition.

(A) The transition from the previous City of West Branch Planning Commission and the Commission established in this Ordinance shall take place as soon as practicable following the effective date of this Ordinance. The Mayor and the City Council shall appoint all members of the Commission as specified in Section 32.032(B) of this Ordinance in the first instance at the first City Council meeting held following the effective date of this Ordinance. The terms of office of the previous Planning Commission members shall terminate upon appointment of new members as specified here.

(B) All other aspects of this Ordinance shall have immediate effect.

§ 32.039 - Membership; Compensation.

(A) All members of the Commission shall serve as such with compensation equal to the amount of twenty-five dollars per meeting. Mileage and travel expenses shall only be paid in the event of attendance at a training event, in which case the twenty-five dollar per diem payment is not paid.

§ 32.040 - Meetings.

(A) The Commission shall meet at least once every month and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission (note that attendance of *ex officio* members does count towards the existence or non-existence of a quorum).

(B) The affirmative vote of 2/3 of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

§ 32.041 - Powers and Duties.

(A) The Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

(B) Should the Board of Commissioners of Ogemaw County of Ogemaw so choose, the Commission shall be designated as a metropolitan county planning commission, pursuant to section 37(1) of P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3837(1); in which case the Planning Commission shall serve as a coordinating agency for all planning committees or commissions that are now or may be within the County of Ogemaw.

(C) The Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts; provided that permission to submit grant applications has first been received by either the City Manager or the West Branch City Council.

§ 32.042 - Staff.

(A) The City of West Branch may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the West Branch City Council. This authority shall be delegated to the City Manager. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the local unit of government.

(B) The appointment of a planning director and/or other such employees shall be subject to the same hiring policies, provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of the City of West Branch.

(C) Should the City Manager so desire, the City Manager may appoint a current City employee to serve part-time in the role of planning director, on top of their other duties, provided that said employee is duly compensated for their services as planning director.

(D) Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employment roster, employee or union contracts, if any.

§ 32.043 - Meetings; Records.

(A) The Commission shall adopt Bylaws for the transaction of business and the Secretary of the Commission shall keep a records of its resolutions, transactions, findings, and determinations, which records shall be a public record. The Commission shall hold not less than four regular meetings each year, and by resolution shall determine the time and place of meetings. The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act, MCL 15.261 to 15.275.

§ 32.044 - Approval, Ratification, and Reconfirmation.

(A) All official actions taken by all City of West Branch Planning Commissions preceding the Commission created by the ordinance are hereby approved, ratified, and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this Ordinance, and shall be deemed a continuation of any previous City of West Branch Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

§ 32.045 - Officers.

(A) The Planning Commission shall elect its Chairperson and Secretary from among the appointed members and shall establish and fill such other of its offices as it may determine.

(B) The term of each officer shall be one year with eligibility for re-election as set forth in the Planning Commission bylaws.

(D) It shall be the duty of the Chairperson to lead all Commission meetings. It shall be the duty of the Secretary to record minutes for the Commission and provide them to the City Clerk in a timely matter compliant with the Michigan Open Meetings Act, as amended. It shall also be the duty of the Secretary to ensure compliance with Michigan's Freedom of Information Act in relation to any requests for minutes of the Commission.

(E) Neither the Chairperson nor the Secretary of the Commission shall be entitled to additional pay, other than the standard twenty-five dollar per meeting payment, absent a resolution of City Council authorizing such additional payment and establishing the amount of any such additional payment.

§ 32.046 - Rules; records

The Commission shall adopt bylaws for the transaction of business in conformity with Act 33 of the Public Acts of 2008, as amended (M.C.L.A. 125.3801 et seq.) and the Commission Secretary shall keep a public record of its resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, MCL 15.231 to 15.246.

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

No – None

Absent –Lucas

Motion carried

Manager Grace noted that the ordinance would be published in the next paper and would take effect in 15 days.

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Manager Grace submitted an updated banner policy that would charge \$100 to help recuperate some of the cost associated with the putting up and taking down of the banners. It was the consensus of Council to allow the City manager proceed with the new banner policy.

Member Showalter noted his concern for the safety of the DPW workers hanging the banners and asked about having the time that they are put up and taken down looked at.

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Manager Grace submitted a sole source vendor request to approve a bid submitted by C2AE for additional engineering work required for N. Valley St. It was noted that C2AE was awarded a bid for the

Fairview Rd engineering work as the lowest bidder. After the bid was awarded, the City received additional Federal road monies for the repair of N. Valley St.

MOTION BY SCHAIBERGER, SECOND BY SHOWALTER, TO APPROVE THE SOLE SOURCE VENDOR REQUEST AND TO APPROVE THE BID FROM C2AE FOR ADDITIONAL ENGINEERING WORK NOT TO EXCEED \$20,500 FOR A TOTAL COMBINED BID FOR ENGINEERING OF FAIRVIEW RD AND N. VALLEY ST AT \$69,850

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

No – None Absent –Lucas Motion carried

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MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO APPROVE HAVING THE STATE CONDUCT THE 2018 CENSUS ON BEHALF OF THE CITY.

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

No – None Absent –Lucas Motion carried

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A waiver of conflict of interest was submitted on behalf of Council Member Joanne Bennett to use the City Attorney.

Mayor Lawrence had some questions for the City attorney.

MOTION BY SCHAIBERGER, SECOND BY LAWRENCE, TO ALLOW MEMBER BENNET TO ABSTAIN FROM VOTING DUE TO A CONFLICT OF INTEREST.

Yes — Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None Absent –Lucas Abstain - Bennett Motion carried

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO POSTPONE DECISION ON THE WAIVER OF CONFLICT OF INTEREST TO HAVE QUESTIONS ANSWERED BY THE CITY ATTORNEY

Yes — Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None Absent –Lucas Abstain - Bennett Motion carried

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MOTION BY SHOWALTER, SECOND BY WEILER, TO APPROVE THE HIRING OF KELLI COLLINS AS THE PLANNING DIRECTOR BASED ON THE RECOMMENDATION FROM THE PLANNING COMMISSION.

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

No – None

Absent –Lucas

Motion carried

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MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO APPROVE THE MINUTES AND SUMMARY FROM THE MEETING HELD NOVEMBER 6, 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, A BUDGET AMENDMENT, THE OCTOBER POLICE DEPARTMENT REPORT, THE ZONING BOARD OF APPEALS MEETING HELD MAY 23, 2016, THE PLANNING COMMISSION MEETING HELD OCTOBER 10, 2017, AND THE AIRPORT BOARD MEETING HELD OCTOBER 18, 2017.

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

No – None

Absent –Lucas

Motion carried

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A Christmas events update was shared.

The Center for Local, State, and Urban Policy elections study was shared.

A Chamber update was shared

A thank you letter from Jude and Alyssa Fonguh was shared.

A thank you letter from the First United Methodist Church was shared.

A Department of Treasury MI Community Financial Dashboard update was shared.

Fire Board and Airport Board communications were shared.

A Consumers Energy notice of hearing was shared.

A 2017 State of Michigan water and sewer rate study was shared.

Board openings for the Planning Commission and IDC were shared.

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Member Bennett thanked the City staff for their great work based on the audit report.

Member Schaiberger gave an update on Kiwanis and the Ogemaw Kids Club.

Member Weiler updated Council on the last Planning Commission meeting.

Member Showalter gave an Ogemaw Park and Recreation update and reminded everyone of the CASA wreath auction coming up.

Mayor Lawrence updated Council on the last Airport meeting, EMS meeting, Chamber Business after Hours event, gave an update on a homeless shelter that was being looked at in Ogemaw Township, and updated everyone on the Thanksgiving basket giveaway that took place at the City Police Department.

Manager Grace gave an update on OPEP and Pension reform and thanked the City staff for their hard work on the audit.

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Bruce Reetz gave a further update on the potential homeless shelter in Ogemaw Township.

Dave Golden asked about pending litigation that was mentioned in the audit report. Manager Grace noted that it was referring to the ongoing lawsuit between the City and West Branch and Edward Township over the closing of the previous senior center where the police department is currently located.

Dave Golden brought up his concerns for water/sewer rates, time limits on speaking, City snow removal policy, signage for the police department, and the need for an amplification system for Council Chambers.

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Chief Walters updated Council on the Thanksgiving basket giveaway and thanked them for allowing the City Police to be involved in the program.

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Mayor Lawrence adjourned the meeting at 7:37 pm.

Denise Lawrence, Mayor

John Dantzer, Clerk