

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET, MONDAY NOVEMBER 7, 2016.

Mayor William Ehinger called the meeting to order at 6:00 p.m.

Present: Mayor William Ehinger and Council Members Kim Ervans, Jim Hasty, Denise Lawrence, Tim Schaiberger, and Rusty Showalter.

Absent: Dave Lucas

Other officers present: City Manager Heather Grace, Treasurer/Clerk John Dantzer, Deputy Clerk/Treasurer Michelle Frechette, Police Chief Ken Walters, and DPW Superintendent Dennis Jameson.

All stood for the Pledge of Allegiance.

* * * * *

As an addition to the agenda, Manager Grace noted that she would be attending the next Region 7D Task Force meeting and is on the agenda to discuss the possibility of entering into a shared service agreement with another municipality for the sharing of Federal Aid Funds. She noted that Council had already given her authorization to look into the agreement but she would like to get guidance on what type of terms Council would like her to look into and for authorization to enter into an agreement if those terms are met.

Member Showalter asked what type of return is typical in this situation. Manager Grace noted that she has been told up to 70 cents on the dollar.

Member Schaiberger noted his concern for this type of agreement and wanted to verify that this is a typical agreement and is fully legal. Manager Grace noted that it is something done between other municipalities and is allowed by the State.

MOTION BY EHINGER, SECOND BY ERVNS, TO APPROVE MANAGER GRACE TO ENTER INTO A SHARED SERVICE AGREEMENT FOR THE SHARING OF FEDERAL AID FUNDS WITH A MINIMUM SHARING OF 65 CENTS ON THE DOLLAR FOR A TERM OF UP TO 10 YEARS.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent –Lucas

Motion carried

* * * * *

As another addition to the agenda, Anthony Bodeker, on behalf of the West Branch Church of Christ, addressed Council on concerns for a water bill that was seven times more than their normal bill with no

explanation as to why. He noted that they are only in the building two days a week and that the bill is more than they take in for contributions in an entire week. He asked about a water issue that the City had to repair recently in his area and asked if that could have anything to do with it.

Mayor Ehinger noted that the water repairs would have nothing to do with the increased usage because they have a meter that monitors all water going into the building and the water issue was outside and was not metered yet.

Manager Grace noted that they are currently taking care of this type of issue administratively and that she is working on a new process to deal with this type of issue and would be in contact with them to look at the situation.

* * * * *

Erin Resteiner addressed Council and noted that some time ago Council approved a Local Government Approval form from the Liquor Control Commission to open a microbrewery downtown and that they now need to change it to a brewpub license.

Member Hasty asked why they needed to make this request. Mr. Resteiner noted the need was created when they decided to incorporate a restaurant in with the brewery. With a brewpub license they can run both businesses as one entity but if they stayed with the microbrewery license then they would have had to treat them as two separate entities.

Member Hasty also asked if they had talked to the Health Department yet and that they should contact them in the beginning of the process to avoid any issues with the planning process. Mr. Resteiner noted that they have not yet, but will be contacting them.

MOTION BY SHOWALTER, SECOND SCHAIBERGER, TO APPROVE THE SIGNING OF THE LOCAL GOVERNMENT APPROVAL FORM FROM THE MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS LIQUOR CONTROL COMMISSION FOR ETHAN RESTEINER OF THE HIGHWAY BREWING COMPANY TO OPEN A BREWPUB TO BE LOCATED AT 209 W. HOUGHTON AVE.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

Manager Grace noted that the City received communication from the Michigan Liquor Control noting that Buck’s County Cookin’ has applied for a liquor license transfer and that they had the option to write a letter of support or opposition if they so choose. It was the consensus that they had no issues with the license transfer and to not write a letter to the Liquor Control Commission.

* * * * *

Manager Grace noted that the City received a request from Peter Barbier to sign an MDOT Road Right-Of-Way Alternative Institutional Control for the land where his former business, Little Red's, was located. Manager Grace noted that the City has already spent time looking into this issue and did sign an environmental license agreement with the Barbiers. Mr. Barbier noted in his request that they thought the original form signed was they needed to get their MDEQ closure. Manager Grace noted that she has been in contact with the MDEQ agent assigned to this project and he noted that the MDEQ will need the Road Right of Way form signed but the City and the owners could enter into a separate third party agreement to protect the City from future environmental issues. Manager Grace submitted an addendum to incorporate indemnification agreement with environmental license agreement drawn up by the City Attorney that Council could require the Barbiers to sign if they want Council to sign the MDEQ Road Right-of Way form. Manager Grace noted that this indemnification form would protect the City from future issues that may arise from this contaminated soil.

Member Hasty asked if there had been any new testing since their last meeting with the Barbiers. Manager Grace noted she was not aware of any but the MDEQ agent did indicate that they have continued to do reviews of the information and they still would recommend closure of the case.

Member Lawrence noted her concern since the report does say that there are some areas of contamination and her concern that it could migrate to the river. Manger Grace noted that part of the closure process is the notification that there is contamination but that it is contained and, according to the MDEQ, not migrating anywhere. They also would require a deed restriction so any future owner could not drill a well at the location.

Member Schaiberger noted that since the States MDEQ is noting that they believe it is safe to sign off then he would recommend signing the form.

Member Lawrence noted that they should add an heirs and assigns clause to the indemnification agreement.

Member Schaiberger questioned the possibility of putting a term of years into the agreement.

Member Ervans recommended not signing it unless the owners sign their agreement first.

Mayor Ehinger noted that they could make their approval contingent upon the indemnification agreement between the City and the Barbiers signed first.

MOTION BY EHINGER, SECOND SCHAIBERGER, TO APPROVE THE SIGNING OF THE MDEQ ROAD RIGHT OF WAY ALTERNATE INSTITUIONAL CONTROL FORM WITH THE ADDITION OF AN HEIRS AND ASSIGNS CLAUSE CONTINGENT UPON THE SIGNING OF THE ENVIORNMENT INDEMNIFICATION AGREEMENT BETWEEN THE CITY AND THE BARBIERS FIRST.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

MOTION BY SHOWALTER, SECOND BY EHINGER, TO PAY THE BILLS IN THE AMOUNT OF \$94,555.18

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

A water bill insert was submitted from First Fitness for the next water bills.

MOTION BY SCHAIBERGER, SECOND BY SHOWALTER, TO APPROVE THE FIRST FITNESS WATER BILL INSERT AS LONG AS IT DOES NOT INCREASE THE CITY POSTAGE.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

MOTION BY ~~LUCAS~~, LAWRENCE, SECOND BY ERVANS, TO APPROVE THE MINUTES AND SUMMARY OF THE REGULAR MEETING HELD OCTOBER 17, 2016.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE MINUTES FROM THE AIRPORT BOARD MEETING HELD SEPTEMBER 21, 2016

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

Manager Grace shared a letter that was received asking Council to look into the possibility of adding music to the City’s cable channel. It was the consensus of Council to have Manager Grace look into the possibility.

* * * * *

Mayor Ehinger noted his concern and his thought that Council needed to change their policy and not allow Council Members to serve as Chairman of other City Boards or Commissions. He noted that he believed this would eliminate any thoughts that Council may be running the boards and it would encourage more citizen participation since they would have a better chance to assume a leadership role.

MOTION BY HASTY, SECOND BY ERVANS, TO ACCEPT THE FOLLOWING RESOLUTION.

RESOLUTION 16-19

A resolution to prohibit City Council members from being nominated or appointed to serve as chairpersons or presidents of City boards and commissions, with such prohibition to take effect prospectively rather than retroactively.

Whereas, the Mayor for the City of West Branch has proposed and a majority of the Council members of the West Branch City Council agree that it is in the best interests of the City of West Branch to prospectively prohibit City Council members from being nominated or appointed to serve as chairpersons or presidents of City boards and commissions; and

Whereas, a majority of the Council members of the West Branch City Council believe that such a prohibition would encourage the citizenry of the City of West Branch to take a more active role in participating in various City boards and commissions if it is viewed as more likely that they would have a better chance of being able to assume a leadership role on City boards and commissions if City Council members were prohibited from being appointed or nominated for such positions; and

Whereas, a majority of the Council member of the West Branch City Council further believe that by prohibiting Council members from having leadership roles on City boards and committees, the Council would be allowing non-Council members a greater voice in the direction and planning of City affairs, thus encouraging greater civic engagement; and

Now, Therefore, be it resolved that the West Branch City Council hereby prohibits City Council members from being nominated or appointed to serve as chairpersons or presidents of City boards and commissions, with such prohibition to take effect prospectively rather than retroactively.

*

Manager Grace noted that this would only apply to boards that are totally City boards and not mixed boards such as the Airport Board and the Fire Board.

Member Showalter noted that because he is a part of the MML elected officials’ academy he felt that he should point out that if the resolution was adopted, it would be more difficult for Council members to earn credits in the academy for being in leadership roles; however, he felt that he and others could still obtain such credits by serving in leadership roles on non-City boards, such as the Fireworks Committee, etc., and he was therefore not opposed to the idea of the resolution.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

Member Lawrence noted that EMS hired a new director and that she did talk to him about coming to introduce himself at a City Council meeting and that he would be scheduling a night to do that.

Member Hasty commended Superintendent Jameson and the DPW for their leaf clean up around the City.

Member Showalter thanked Chief Walters and the Police Department for their Halloween Safety program at the Elementary school. He also thanked Joanne Bennet and Dan Weiler for attending the Council meeting and noted that they are running for Council and thanked them for getting involved in their community. He wished them luck as well as any current Council members who were running in the election.

Member Schaiberger noted that the Kiwanis would be putting boxes together for Operation Christmas. He also noted that he would be a speaker for the EDC for a social media workshop.

* * * * *

Manager Grace noted that the Federal Department of Labor recently issued a new regulation that would require the City to pay any positions deemed as white collar administrative workers under new federal guidelines a minimum of \$47,476 a year in salary or they must be paid overtime for any hours worked over 40 hours a week. She noted that Clerk/Treasurer Dantzer and Deputy Clerk/Treasurer Frechette were the only two on the City payroll that would be affected by this new federal mandate. She noted that the City had until December 1 to come into compliance and that it would require an increase in wages of \$907.68 a year for Mr. Dantzer and an increase of \$11,157.29 a year for Ms. Frechette.

Member Showalter asked if this was a rule just for municipalities or if it was for all businesses. Manager Grace noted that the new regulation was the result of an executive order issued by President Obama and that it was for all private employers that employed a certain number of employees, as well as all public employers regardless of size.

MOTION BY LAWRENCE, SECOND BY SCHAIBERGER, TO RAISE CLERK/TREASURER DANTZERS INCOME BY \$907.68 AND STAY AS AN EXEMPT SALARY EMPLOYEE TO COME INTO COMPLIANCE WITH THE NEW WHITE COLLAR WORKERS RULE.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

MOTION BY SCHAIBERGER, SECOND BY LAWRENCE, TO LEAVE DEPUTY CLERK/FRECHETTE AT HER CURRENT SALARY BUT PAY OVERTIME FOR ANY HOURS OVER 40 HOURS A WEEK TO COME INTO COMPLIANCE WITH THE NEW WHITE COLLAR WORKERS RULE.

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

Manager Grace submitted an updated tree plan for the City. She noted the following Tree Plan, if approved, would revoke and replace any prior Tree Plans for the City of West Branch. She noted that she has talked with experts in the field on what trees would be appropriate for our area. She also noted that the Planning Commission did look at this and had approved the plan as submitted to Council.

MOTION BY SCHAIBERGER, SECOND BY EHINGER, TO ADOPT THE FOLLOWING RESOLUTION.

RESOLUTION 16-18

A resolution to determine the final lists that shall formally become a part of the official “City Tree Plan” pursuant to City Ordinance § 153.09(E), along with the “Written Plan for the Care, Preservation, Pruning, Planting, Replanting, Removal, or Disposition of Trees and Shrubs in the Parks, Along Streets, and in Other Public Areas,” developed by the City Manager and hereby approved by Council pursuant to City Ordinance § 153.09(C).

Whereas, the City of West Branch has enacted an ordinance pertaining to “TREES”, set forth at § 153.09; and

Whereas, pursuant to §153.09 (D)-(E) the Planning Commission shall act as the “City Tree Board” and recommend to the City Council a “list of street tree species either allowed to be or prohibited from being planted[,]” and that “[s]aid list shall contain small trees, large trees and prohibited street trees”; and

Whereas, pursuant to §153.09(C) it “shall be the responsibility of the City Manager or his/her designee from time to time, to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas; and

Whereas, § 15.09(C) further states that “[s]uch plan will be presented to the City Council and upon their acceptance and approval shall constitute the official comprehensive City tree plan for the City of West Branch[;]” and

Whereas, the City Manager has consulted expertly developed written materials on relevant subjects and developed a written plan, as is contemplated in § 153.09(C), and presented said plan to the City Council; and

Whereas, the written plan contemplated in § 153.09(C), dated 11/04/2016, has been reviewed by the City Council and is hereby approved by the City Council, with a true copy of said written plan to be attached to this resolution and made a part of the minutes; and

Whereas, the City Manager’s designee has consulted area tree experts as well as expertly developed written materials on trees and tree placement to develop recommended tree lists,

including a list of “Street Tree Species to be Planted” as well as a “List of Prohibited Street Trees;” and

Whereas, the City of West Branch Planning Commission has reviewed said recommended lists and made their own findings and recommendations; and

Whereas, the West Branch City Council has reviewed and is in agreement with the findings and recommendations of the West Branch Planning Commission, as well as the final recommendations of the City Manager to accept the two lists ultimately recommended by the West Branch Planning Commission; and

Now, Therefore, be it resolved that the West Branch City Council hereby adopts a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas dated 11/04/2016 pursuant to City Ordinance § 153.09(C), with this written tree plan revoking and replacing any previously existing written tree plans; and

Now, Therefore, be it further resolved that the West Branch City Council hereby also adopts the following tree lists, pursuant to City Ordinance § 153.09(E), with these written tree lists revoking and replacing any previously existing tree lists:

“Street Tree Species to be Planted”:

Small:

Flowering Crabapple

Cornelian Dogwood

Flowering Dogwood

Hawthorn

Japanese Tree Lilac

Tartarlan Maple

Hybrids Serviceberry

Large:

American Beech

Eastern Red Cedar

DED Resistant Cultivars Elm spp.

Ginkgo

Littleleaf Linden

Silver Linden

Red Maple

Sugar Maple

Callery Pear

Disease Resistant Elms (Discovery, Prairie Expedition, Cathedral, St Croix, or Princeton)

Brandywine Maples

“List of Prohibited Street Trees”:

Nannyberry

Paw Paws

Mugo Pines

Poplars

Willows

Horse Chestnut (nut bearing)

Tree of Heaven

Catalpa

Elms that are not resistant to Disease (i.e., all species except those specifically allowed)

Maples (except Brandywine Maples)

Box Elders

*

Yes –Ehinger, Ervans, Hasty, Lawrence, Schaiberger, Showalter

No – None

Absent – Lucas

Motion carried

* * * * *

Member Lawrence noted that Maxine Jackson, Dawn Jackson, and Mike Jackson have been planting flowers and keeping the entrance to the park nice for years and asked if they could get a Smiley Helpers T-Shirt.

Manager Grace thought that it would be a good idea and would make sure that they get one.

Manager Grace noted she has had some people talk about possibly offering snow removal to people who needed it as part as the Smiley Helpers program.

* * * * *

Mayor Ehinger adjourned the meeting at 7:10 pm

William Ehinger, Mayor

John Dantzer, Clerk