

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET ON MONDAY, OCTOBER 1, 2018.

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

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

Absent: None

Other officers present: Deputy Clerk/Treasurer Michelle Frechette, DPW Superintendent Mike Killackey, Wastewater Superintendent Dan Robb, and Police Chief Ken Walters.

All stood for the Pledge of Allegiance.

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MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO PAY BILLS IN THE AMOUNT OF \$73,301.57

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

No – None

Absent – None

Motion carried

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An amended water ordinance was presented for first reading (introduction)

RATES AND CHARGES

§ 52.34 BASIS FOR CHARGES.

(A) A properly installed water meter approved by the City shall be used to determine the amount of water consumed for all establishments. Penalty, see §10.99

(B) Any new multi-unit establishment shall at the time of connection to the municipal water system either install a separate water meter or, at the City Manager's discretion on recommendation of the Public Works Supervisor, install a master meter for the establishment.

(Ord. 252, passed 7-20-98) Penalty, see §10.99

§ 52.35 CHARGES FOR WATER SERVICE.

(A) Charges for water service to each premise within the City connected to the system shall be as prescribed by the most recent Resolution passed by the West Branch City Council that addresses water rates. The structure of how charges for water services are calculated shall also be set by Resolution of Council, and said pricing structure may contain a ready-to-serve fee, fees related to debt service payments, tiered pricing based on meter size and/or gallons used, and any other price-setting

mechanism that Council deems fair and viable.

(B) In September of each year, the City Council shall review current water rates and compare anticipated water revenues for the following fiscal year to anticipated water expenditures for the following fiscal year. Capital improvement set aside amounts for water shall also be considered at that time. Within 90 days of said annual review, the City Council shall vote to set the amount for capital improvement set asides for the water budget for the following fiscal year, with the Public Works Supervisor and City Manager providing recommendations regarding the same. The amount for water capital improvement set asides approved by Council shall be utilized by the City Manager when creating the water budget for the following fiscal year. The water capital improvement set aside amounts shall also be used by the Public Works Supervisor, the City Manager, and the Council to analyze whether current water rates are anticipated to generate enough revenue to cover all water expenditures for the following fiscal year, and if such an analysis indicates that revenues are not anticipated to cover expenditures for the following fiscal year, the City Council shall be required to have a vote within 30 days of such a determination to decide whether rates need to be adjusted, and if so, what the new rates should be set at.

(C) Prior to a Council vote to adjust water rates, a public hearing must be held on the matter with such public hearing being noticed at least 60 days prior to Council voting on the subject.

(D) Following the holding of such a duly noticed public hearing, the City Council may vote to set water rates via Resolution of Council. Water rates set in this manner shall remain in effect until modified by a subsequent Resolution approved by Council, except that at the beginning of each fiscal year the water rates in effect at that time shall automatically be adjusted by the City Treasurer either up or down to reflect the increase or decrease of inflation calculated as "Consumer Price Index (CPI) Inflation" by the United States Department of Labor's 'Bureau of Labor Statistics.' An example of how this automatic adjustment will occur is as follows: effective July 1st of each year, without needing an additional vote of Council, water rates will be automatically adjusted by the percentage of CPI inflation for the period of January 1st of the preceding year compared to January 1st of the current year. For instance, if inflation for the most recent year showed an increase of 1.8%, the City Treasurer would automatically increase water rates by 1.8% on July 1st of that year, with no need for Council to vote on the matter. However, the City Treasurer shall calculate whether water rates are going to be adjusted in such a manner during the preparation of each year's annual budget, and shall include a presentation of such anticipated adjustment to Council during the formulation of each year's budget, and the City Treasurer shall likewise ensure that a public hearing on the subject is noticed at least 60 days prior to such automatic adjustment taking effect so that the public is afforded an opportunity to be heard on the matter, and so that Council has an opportunity to request that such matter be placed on the agenda prior to it automatically taking effect in the event that the City Council should desire to set the water rates at some other amount via formal Council Resolution.

(E) Any loss of water due to leakage, damage or other circumstances which causes higher than normal consumption may be appealed to the City Treasurer via procedures set by Administrative policy. The City Treasurer's determination on the matter may be appealed to the West Branch City Council provided that a written request for such an appeal is filed with the City Clerk within 30 days of the date upon which the City Treasurer's determination was mailed to the last known address of the customer who filed the initial appeal.

(F) A tap fee shall be paid by each customer making connection to the water system. Such fee shall be

established by Resolution of the City Council and is intended to cover the cost of physical connection to the system and the privilege of connecting to the system.

(Ord. 70, passed 7-7-52; Am. Ord. 157, passed 12-15-80; Am. Ord. 185, passed 12-1-86; Am. Ord. 217, passed 7-1-92; Am. Ord. 252, passed 7-20-98; Am. Ord. 07-06, passed 12-3-2007; Am. Ord. 09-03, passed 9-8-2009; Am. Ord. 09-05, passed 10-5-2009; Am. Ord. 10-04, passed March 15, 2010; Ord. 11-02, passed 2-21-2011)

§ 52.36 BILLING; PENALTY FOR LATE PAYMENT.

Effective January 1, 2019, or as soon thereafter as may be practicable, water bills shall be rendered monthly during each operating year and shall represent charges for the period immediately preceding the date of rendering the bill. The bills shall be due and payable within 30 days from the date thereof and all bills not paid when due shall be deemed delinquent and a penalty shall be added thereto and become due and owing as a part thereof. The amount of the penalty for late payments shall be set at the rate of 10% of the amount of such late billing for the year 2019, and may be modified thereafter by Resolution of Council.

(Ord. 185, passed 12-1-86; Am. Ord. 217, passed 7-1-92; Am. Ord. 10-02, passed 2-1-2010)

§ 52.37 FIRE HYDRANT RATES.

For water used through fire hydrants, the City shall pay a charge for each fire hydrant each year, which charge shall be paid annually in advance from the current funds of the City, or from proceeds of taxes which the City within constitutional limits, is hereby authorized and required to levy in an amount sufficient for that purpose. The amount per fire hydrant that shall be paid each year shall be \$135 for the year 2019, and may be modified thereafter by Resolution of Council.

(Ord. 185, passed 12-1-86; Am. Ord. 217, passed 7-1-92; Am. Ord. 252, passed 7-20-98)

§ 52.38 SPECIAL RATES.

For miscellaneous services for which a special rate should be established, such rates shall be fixed by Resolution of the City Council.

(Ord. 185, passed 12-1-86; Am. Ord. 217, passed 7-1-92; Am. Ord. 252, passed 7-20-98)

§ 52.39 ENFORCEMENT; LIENS.

The charges for water services, which are under the provisions of Act No. 178 of the Public Acts of 1939, as amended, being M.C.L.A. §123.161 - 123.167 are made a lien on all premises served thereby, unless notice is given that a tenant is responsible, whenever any such charge against any piece of property shall be delinquent for six months. The City official, or officials in charge of the collection thereof, shall certify annually, on April 1 of each year, to the tax assessing officer of the City, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises, and the lien thereon enforced in the same manner as general City taxes against such premises are collected, and the lien thereon enforced. However, where notice is given that a tenant is responsible for such charges, as provided by Section 21, Act 94, Public Acts of Michigan, 1933, no further service shall be rendered such premises until a cash deposit of not less than \$12 shall have been made as security for payment of such charges. The cash deposit required of tenants shall equal the amount typically charged to a similar customer for six months of service.

(Ord. 185, passed 12-1-86)

§ 52.40 SHUTTING OFF OR DISCONTINUING SERVICE; TURN-ON CHARGE.

In addition to other remedies provided, the City shall have the right to shut off and discontinue the

supply of water to any premises for the nonpayment of water charges when due. If such charges are not paid within 30 days after the first day of the month next succeeding the month in which such charges are billed, then water service to such premises shall be discontinued. A warning notice shall be attached to the door of the premises affected prior to actual discontinuation of service. A shut-off fee shall be added to the sum then due for notice of shut off. Water services so discontinued shall not be restored until all sums then due and owing shall be paid, plus a turn-on charge. Amounts to be charged for shut-off fees and turn-on charges shall be set by Resolution of Council.
(Ord. 185, passed 12-1-80; Am. Ord. 217, passed 7-1-92)

§ 52.41 FREE SERVICE PROHIBITED.

No free service shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality.
(Ord. 70, passed 7-7-52)

§ 52.42 ESTIMATION OF RATES; REVISION.

The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance and improvement of the system as are necessary to preserve the same in good repair and working order, to provide for the payment of the interest upon and the principal of all the bonds as and when the same become due and payable, and the creation of the reserve therefore required by this subchapter, and to provide for such other expenditure of funds for the system as this subchapter may require. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed at all times to fix and maintain such rates for services furnished by the system as shall be sufficient to provide for the foregoing.
(Ord. 70, passed 7-7-52)

§ 52.43 OPERATING BASIS.

The system shall be operated on the basis of an operating year commencing July 1 and ending on June 30.
(Ord. 70, passed 7-7-52)

§ 52.44 REVENUES OF SYSTEM.

(A) The revenues of the system are hereby ordered to be set aside, as collected, and deposited in a bank duly qualified to do business in the state, in an account to be designated Water Supply System Receiving Fund (hereinafter referred to as the Receiving Fund), and the revenues so deposited are pledged for the purpose of the following funds and shall be transferred from the Receiving Fund periodically in the manner and at the times hereinafter specified.

(1) Operation and Maintenance Fund.

(a) Out of the revenues in the Receiving Fund there shall be first set aside, quarterly, into separate depository account designated Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

(b) The City Council, prior to the commencement of each operating year, shall adopt a budget covering the foregoing expenses for each year, and such total expenses shall not exceed the total amount

specified in the budget, except by a vote of five-sevenths of the members of the City Council.

(2) Replacement Fund. There shall next be established and maintained a separate depository account designated as the Replacement Fund, which shall be used solely for the purpose of making major repairs, replacements, and improvements to the system for which funds in the Operation and Maintenance Fund are not available or sufficient. There shall be deposited into that Fund, in quarterly installments, after providing for all requirements of the Operation and Maintenance Fund and the Bond and Interest Redemption Fund (including the Bond Reserve Account) all of the revenues of the system. If at any time it shall be necessary to use moneys in the Fund for such purpose, the moneys so used shall be replaced from the net revenues in the Receiving fund which are not required by this subchapter to be used for the Operation and Maintenance Fund or the Bond and Interest Redemption Fund (including the Bond Reserve Account).

(B) In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund any moneys and/or securities in other funds of the system shall be transferred, to the Operation and Maintenance Fund to the extent of any deficit therein.

(Ord. 70, passed 7-7-52)

§ 52.45 INVESTMENTS.

Moneys in the Bond and Interest Redemption Fund over and above those being accumulated for the payment of principal and interest next maturing and moneys in any other fund except the Receiving Fund and the Operation and Maintenance Fund may be invested in obligations of the United States of America. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds which the purchase was made. Income received from such investments shall be credited to the fund from which the investments were made.

(Ord. 70, passed 7-7-52)

§ 52.46 OWNER TERMINATION OF SERVICE.

Property owners, according to City tax records, may remove their name from an account, and cause shut off of the water at their premises. If the premises are not occupied by the owner, the occupant shall be given 14 days' notice that the owner has requested that water services be terminated.

(Ord. 217, passed 7-1-92)

§ 52.47 OCCUPANT DEPOSIT.

Water customers not property owners, according to the City tax records, shall pay a deposit as guarantee of payment to equal a six month estimated rate as determined by the City Treasurer. Deposits shall be placed in escrow by the City Treasurer to guarantee payment of future water bills. When an individual who has made such a deposit wishes to terminate water service, two methods of refund are available. The depositor may pay all outstanding utility charges and receive a complete refund, or the depositor may allow outstanding charges to be deducted from the deposit and receive the balance as a refund. Depositors shall not earn interest on deposits.

(Ord. 217, passed 7-1-92; Am. Ord. 252, passed 7-20-98)

§ 52.48 ENFORCEMENT.

The charges for water services which are under the provisions of Act No. 178 of the Public Acts of 1939, as amended, being M.C.L.A. §123.161 - 123.167 shall be a lien on all premises served

thereby. Whenever any such charge against any piece of property shall be delinquent for six months, the City official or officials in charge of the collection thereof shall certify annually, by May 15th of each year, to the tax assessing officer of the County, the fact of such delinquency, whereupon such charge shall be entered upon the next tax roll as a charge against such premises, and the lien thereon enforced in the same manner as general City taxes. The City may institute suit before a competent court for the collection of such charges, and shall also have all powers and rights granted to cities by Act 178 of the Public Acts of 1939, as amended. When a customer has made a two quarter estimated deposit into a City escrow account, as provided herein, delinquent amounts due to the City may be collected from that account as payment for water service. The City shall make every reasonable attempt to return excess funds to the party making the original deposit.

(Ord. 217, passed 7-1-92)

Member Showalter noted that section 52.47 that dealt with renters deposits was voted upon and repealed at one time but was not opposed to putting it back into the ordinance. He also noted that he believed a deposit based on two months of service would be adequate for a required deposit amount.

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO ACCEPT THE FIRST READING (INTRODUCTION) OF THE CHANGES TO THE WATER ORDINANCE WITH SECTION 52.47 BEING CHANGED FROM REQUIRING A DEPOSIT BASED ON TWO QUARTERS TO TWO MONTHS.

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

No – None

Absent – None

Motion carried

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MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO SET DOWNTOWN TRICK OR TREAT HOURS FROM 5:00-6:00 PM AND RESIDENTIAL TRICK OR TREATING HOURS FROM 6:00-8:00 PM.

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

No – None

Absent – None

Motion carried

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A letter was shared from the Ogemaw County Clerk and 911 Supervisor requesting assistance from City Manager Grace regarding the 911 Authority formation document and procedures. Mayor Lawrence noted that the City Manager only works for the City and that it would be up to Council if they would like her to help on the issue.

Questions were raised on if the assistance was legal assistance or assistance as the City Manager. Chief Walters noted that it was assistance in the writing of their incorporation.

It was the consensus of City Council to take no action on the request to gather more information from Manager Grace.

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MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO APPROVE THE MINUTES AND SUMMARY FROM THE MEETING HELD SEPTEMBER 17, 2018.

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

No – None Absent – None Motion carried

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MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO APPROVE THE MINUTES AND SUMMARY FROM THE MEETING HELD SEPTEMBER 17, 2018.

Yes — Bennett, Lawrence, Schaiberger, Showalter, Jackson, 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 MINUTES FROM THE WWTPA BOARD MEETINGS HELD JUNE 19, 2018 AND SEPTEMBER 6, 2018; THE MINUTES FROM THE DDA BOARD MEETING HELD AUGUST 28, 2018; THE MINUTES FROM THE EMS BOARD MEETING HELD AUGUST 16, 2018; AND THE MINUTES FROM THE AIRPORT BOARD MEETING HELD AUGUST 15, 2018.

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

No – None Absent – None Motion carried

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A Community Expo and Seminar communication was shared.

An Ogemaw Community Leadership Series communication was shared.

A copy of the 2018/2019 EMS Budget was shared.

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MOTION BY LAWRENCE, SECOND BY SCHAIBERGER, TO APPOINT CHIEF KEN WALTERS TO SERVE ON BEHALF OF THE MAYOR ON THE DDA BOARD.

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

No – None Absent – None Motion carried

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Chief Walters noted that he was happy to service on the DDA Board but would not be able to attend the upcoming Special Meeting due to a previously scheduled MERS meeting he was attending on the City's behalf.

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Mayor Lawrence adjourned the meeting at 6:15 pm.

Denise Lawrence, Mayor

John Dantzer, Clerk