

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET, TUESDAY, SEPTEMBER 5, 2017.

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

Present: Mayor Denise Lawrence and Council Members Joanne Bennett, Dave Lucas, Tim Schaiberger (arrived at 6:01), 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 submitted a letter drafted by Mandi Chasey of the Ogemaw County EDC to send to the Honorable Governor Rich Snyder asking him to consider West Branch as one of the Rising Tide communities for 2017.

MOTION BY SHOWALTER, SECOND BY WEILER, TO SUPPORT THE CONSIDERATION OF WEST BRANCH IN THE RISING TIDE COMMUNITY PROGRAM AND APPROVE THE SIGNING OF THE LETTER OF SUPPORT TO BE SENT TO THE HONORABLE GOVERNOR RICK SNYDER.

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

No – None

Absent –None

Motion carried

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Kelly Sinnaeve of the Ogemaw and Oscoda County Conservation District introduced herself and discussed the Forestry Assistance Program, HAP Program, and the Outdoor Extravaganza.

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MOTION BY SCHAIBERGER, SECOND BY LUCAS, TO APPROVE ORDINANCE 17-01 AS FOLLOWS

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. An exception to prosecution under this ordinance may be granted for cause via resolution of Council.

(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) Horns, 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 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 8:00 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 9-5-17) 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 9-5-17)

SECTION 3: 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 9-5-17)

§ 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 ORDINANCE 17-02 AS FOLLOWS

THE CITY OF WEST BRANCH ORDAINS:

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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Clerk Dantzer noted that both Ordinances would go into effect 15 days from today's date.

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MOTION BY SHOWALTER, SECOND BY LUCAS, TO PAY THE BILLS IN THE AMOUNT OF \$70,232.85.

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

No – None Absent –None Motion carried

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Manager Grace noted there was an opening in the Downtown Development Authority but had some issues to bring up in the Managers reports that could affect this decision.

MOTION BY SHOWALTER, SECOND BY LAWRENCE, TO TABLE THE DECISION ON THE APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD.

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

No – None Absent –None Motion carried

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Manager Grace noted there were openings on the Zoning Board of Appeals but there were some questions on the applications received.

MOTION BY SHOWALTER, SECOND BY LAWRENCE, TO POSTPONE THE DECISION ON THE APPOINTMENTS TO THE ZONING BOARD OF APPEALS TO REACH OUT TO THE APPLICANTS TO HAVE THEM ANSWER FURTHER QUESTIONS.

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

No – None Absent –None Motion carried

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A request to declare October 7-8, 2017 as “I Buy Nearby Weekend” to support local shopping was submitted.

Member Bennett asked if the City had any events scheduled for that weekend. It was noted the Chamber typically promotes the event and it would be the same weekend as homecoming and the City is working on some events.

MOTION BY BENNETT, SECOND BY SCHAIBERGER TO APPROVE THE RESOLUTION 17-14

RESOLUTION 17-14

WHEREAS, **Buy Nearby** is an ongoing, year-round campaign launched by the Michigan Retailers Association to benefit Michigan communities and their retail businesses, and

WHEREAS, the campaign, now in its fifth year, encourages Michiganders to buy from retail businesses nearby to where they live, work, vacation, or visit in Michigan so more shopping dollars stay in our local communities and state economy, and

WHEREAS, **Buy Nearby** strives to bring a "Pure Michigan" feeling to shopping in Michigan and get shoppers committed to buying nearby in Michigan, and

WHEREAS, Michigan shoppers would create an additional \$9 billion in economic activity and nearly 75,000 new jobs annually if everyone practiced **Buy Nearby**, and

WHEREAS, **Buy Nearby** seeks to build upon and strengthen communities' efforts to promote local shopping, by supporting these efforts and drawing greater attention to them with this statewide campaign, and

WHEREAS, the **Buy Nearby** campaign has designated October 7-8, 2017, as "**I Buy Nearby Weekend**," a two-day observance for all to celebrate local communities and their retail businesses, and

WHEREAS, communities and retailers are encouraged to offer special events and other promotions to encourage local shopping on **I Buy Nearby Weekend**, and

WHEREAS, residents are encouraged to go shopping with family and friends and support their communities and local retailers by posting photos and comments on social media,

THEREFORE, BE IT RESOLVED, that the City of West Branch declares October 7-8, 2017, to be **I Buy Nearby Weekend** and encourages all residents to buy nearby on this day and every day.

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

No – None

Absent –None

Motion carried

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A request to play music in the park was submitted by Michele Amor.

MOTION BY SHOWALTER, SECOND BY TUTTLE, TO APPROVE THE REQUEST TO PLAY MUSIC IN THE PARK ON SEPTEMBER 17 AND SEPTEMBER 24 FROM 3:00-4:30 PM

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

No – None

Absent –None

Motion carried

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A request from the Michigan Ovarian Cancer Alliance was received to support the "Tie Michigan Teal" campaign to raise awareness on ovarian cancer.

Member Showalter noted the need to verify it does not interfere with any other events that may have already been given permission to use the light poles during that time.

MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO APPROVE THE REQUEST TO ALLOW TEAL RIBBONS DOWNTOWN ON THE LIGHT POLES TO CELEBRATE SEPTEMBER AS NATIONAL OVARIAN CANCER AWARENESS MONTH.

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

No – None Absent –None Motion carried

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A water bill insert request was submitted by the Chamber of Commerce.

MOTION BY SHOWALTER, SECOND BY BENNETT, TO APPROVE THE WATER BILL INSERT REQUEST FROM THE CHAMBER OF COMMERCE AS LONG AS IT DOES NOT INCREASE THE POSTAGE COST.

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

No – None Absent –None Motion carried

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A special event permit was submitted by the Chamber of Commerce to hold a circus behind Surline School on June 26, 27, or 28, 2018.

MOTION BY LAWRENCE, SECOND BY SHOWALTER, TO APPROVE THE SPECIAL EVENT PERMIT AS SUBMITTED ON BEHALF OF THE CHAMBER OF COMMERCE TO HOLD A CIRCUS BEHIND SURLINE SCHOOL ON JUNE 26, 27, or 28, 2018.

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

No – None Absent –None Motion carried

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A special event permit was submitted on behalf of Ogemaw Athletics and the City of West Branch to hold a homecoming parade on October 6, 2017 from 4:00-6:00 PM, starting at S. Valley and following the typical parade path.

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO APPROVE THE SPECIAL EVENT PERMIT AND ALLOW THE HOMECOMING PARADE AND ROAD CLOSURE AS SUBMITTED.

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

No – None

Absent –None

Motion carried

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A special event permit was submitted on behalf of Ogemaw Athletics and the City of West Branch to hold an all class reunion on the October 7, 2017 weekend.

Manager Grace also noted they would like to continue both of these events in the future and would alternate years between West Branch and Rose City if Rose City was interested.

MOTION BY LAWRENCE, SECOND BY SCHAIBERGER, TO APPROVE THE SPECIAL EVENT PERMIT AS PRESENTED AND ALLOW THE ALL CLASS REUNION.

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

No – None

Absent –None

Motion carried

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MOTION BY LAWRENCE, SECOND BY LUCAS, TO APPROVE THE MINUTES AND SUMMARY FROM THE MEETING HELD AUGUST 21, 2017.

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

No – None

Absent –None

Motion carried

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MOTION BY SHOWALTER, SECOND BY LAWRENCE, TO RECEIVE AND FILE THE TREASURER’S REPORT AND INVESTMENT SUMMARY; THE MINTUES FROM THE DOWNTOWN DEVELOPMENT AUTHORITY MEETINGS HELD JULY 25, 2017; THE MINUTES FROM THE WASTEWATER TREATMENT PLANT AUTHORITY MEETING HELD JULY 18, 2017; AND THE MINUTES FROM THE AIRPORT BOARD MEETING HELD JULY 19, 2017.

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

No – None

Absent –None

Motion carried

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A communication from MDOT noting the change of Progress St from a local to a major street has been approved.

A communication from the Vantage Trust Fund was shared.

A Chamber meeting summary was shared.

Park enhancement pictures from the Patronicity Grant were shared.

An MDEQ notice of public hearing was shared.

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Member Showalter reminded everyone of the MML Conference coming up.

Member Lucas asked if any of the redesign work for the downtown has begun. Manager Grace noted she has not had any formal meetings on the redesign yet but has had some informal discussion and was notified the City is now on plan for the major redesign for the year 2022. She also noted discussion has come up in some of the Downtowns Retail Merchants meetings. She further noted that it would be a collaboration of the entire community to get their input on the redesign.

Member Schaiberger thanked Council for approving the parade and noted the Ogemaw Kids Club did start and was looking forward to helping it grow.

Mayor Lawrence noted the rededication of the Fireman’s Memorial went well and that they talked about having a yearly fireman/police department appreciation picnic.

Mayor Lawrence also reminded everyone of the Recreation Committee meeting on Tuesday the 12th and the Fabulous Friday’s group meeting coming up.

Member Bennett reminded everyone of the next meeting on the Roger Brooks series on City revitalization.

Member Schaiberger asked if the City was going to have any more CPR training classes. Manager Grace noted she would look into it.

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Manager Grace brought up an option she recently found out about that would allow the City to combine the Downtown Development Authority and the Planning Commission into one group because the City has less than 5,000 residents. She noted there are pros and cons to both. She noted there has been an issue for some time trying to get people to fill both boards and that in many cases they can be redundant because they both work on the same issues without any collaboration between the two. She noted she would want to make sure, if Council did chose to go this way, that both boards would have some members on the new combined board so they would all have a say in things.

Member Weiler asked what the size of the new combined board would be and Manager Grace noted there would be nine. Member Weiler noted he would want to make sure both groups are represented if they were to combine.

Member Lucas asked if any of the groups have been asked about it yet. Manager Grace noted she has not brought it up to anyone yet because she wanted to make sure Council was in favor of looking into it

before even bringing it up to them. She did note that she has talked with other Communities that have done this and they noted how well it was working for them.

Member Bennett noted she did agree with the things that Manager Grace said but noted she has seen some new DDA enthusiasm and would like to see a good faith effort first to see if they can make the current format work before they were combined. She further noted her concern that the combining of the two boards would halt the new growth and collaboration that seems to be taking place and go backwards. She further noted that some of the bad feelings that seemed to exist are getting better and this might bring up those bad feelings again. She noted this was not necessarily a bad plan but would want to see it as a contingency plan not the first plan.

Member Showalter noted he does believe it will not be viewed as favorable by the DDA members because of the concern of handing over their interest to a board that does not have their interest first in mind. He also noted he has seen some increased participation from members of the boards recently. He further noted that he believes that we are in a position to move forward, whether as a sole DDA or a joint committee, as long as those appointing the members understand you have to have a diverse board that will work together for a common goal.

Manager Grace noted by combining them, it would streamline processes and eliminate redundancy which would help reduce the fatigue experienced by many of the local business owners and board members who are faced with trying to attend the numerous different meetings, groups, and events.

Member Showalter agreed that would be a huge benefit and is on the fence with the idea. He also noted the does not want to see the progress made by the DDA go backwards and left in the dark.

Manager Grace noted she would be willing to talk with DDA if Council so chose and go over the plans and express to them the importance of wanting them on the new combined board and how they would be able to achieve that.

Member Lucas agreed both groups would have to be represented in the new board if combined.

Member Showalter strongly noted the most important thing would be to have a diverse group with some representation and a direct voice on the combined board that has a direct interest in the downtown area. He also noted he does see the benefit of this and that they should move forward and speak to the DDA members to get their opinion and hold some public hearing to get feedback from the residents.

Member Weiler noted that as a member of the Planning Commission also, he would not want to proceed with the idea unless there are members of the DDA who are willing to be on the new board. He also noted he would like to see Manager Grace reach out and start the process of getting feedback on the issue.

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Chief Walters updated Council on the Homeland Security Grant which will provide new cameras for their cars. He also noted he would begin working on a grant for a new police vehicle and would be providing information on the vehicles at the next meeting. He also noted part of the grant process would be to get approval from the Council authorizing him to proceed in the grant program.

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO GIVE CHIEF WALTER AUTHORIZATION TO PROCEED IN THE USDA GRANT PROGRAM FOR THE PURCHASE OF A NEW VEHICLE.

Chief Walter noted he would like to provide them with all of the information on the different vehicle options before they grant the authorization and have it addressed at the next meeting.

MEMBERS SHOWALTER AND SCHAIBERGER WITHDREW THEIR MOTION AND SUPPORT UNTIL THE NEXT MEETING.

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Manager Grace submitted a list with contact number for Council Members to confirm if they want to keep up with the Rising Tide Program

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Mayor Lawrence adjourned the meeting at 7:35 pm.

Denise Lawrence, Mayor

John Dantzer, Clerk