

COUNCIL PROCEEDINGS FOR AUGUST 12, 2002

Meeting called to order at 7:00 P.M. by Mayor Pavel.

Pledge of Allegiance led by City Clerk Christine Lee.

PRESENT: Councilmembers – Laura Carpenter, Frank Lukacs, Jason Nielsen, Julie Miller, Judy Murray, Pat Jacobson; Mayor Kelly Pavel, City Clerk Christine Lee, City Manager Clint Holmes, City Attorney Gerard Garno.

ABSENT: None

CORRECTION AND APPROVAL OF MINUTES:

Motion by CM Murray, second by CM Miller, to approve the Minutes of July 22, 2002 as corrected. Motion Carried. (Corrections: page 2 of 6 under Water and Sewer item B – should read – “playing fields only, contingent upon the following:

- 1) the well dug by Brown City Schools will be used only for irrigation purposes;
- 2) The piping used for the irrigation system will be physically separate from the City’s water system;
- 3) The well and irrigation system will be inspected by the City and approved in writing prior to Brown City Community Schools’ use of the same;
- 4) Signs will be posted by Brown City Community Schools giving reasonable notice that the water from said well is not safe for human consumption;
- 5) Brown City Community Schools will indemnify Brown City and assume all liability for any injury arising out of said well.”

Page 4 of 6 under Attorney’s Report item #1 – should read – “it also included personal property outside of the City limits.” Page 5 of 6 under City Manager’s Report item # 7 – should read “Mr. Ed Pieters stated”.

PAY BILLS:

Motion by CM Murray, second by CM Carpenter, to pay the bills as presented in the following funds: General -\$29,764.96, Payroll - \$25,684.69, Sanitary Sewer - \$4,870.15, Water Recreation - \$33.98, Investment - \$35,086.97. Motion Carried.

OLD BUSINESS:

1. City Ordinance Chapter 5 Work Session Scheduling: Pending.
2. Rezoning Request – Keith Muxlow: Pending

PUBLIC QUESTIONS AND COMMENTS:

Rodger Wood and Keith Kohler expressed their concern about Owen's Shell Service obtaining a Specially Designated Merchant (SDM) license to permit the sale of beer and wine for consumption off the premises only. Both feel that Brown City has enough places in town that sell beer and wine.

Motion by CM Carpenter, second by Jacobson, to send a letter to the Michigan Liquor Control Commission declaring that an additional SDM in the City of Brown City is neither necessary nor required at this time, and that the current number of SDM distribution points (six in the City and an additional 6 within a radius of 10 miles) is at present adequate for the City of Brown City and environs. ROLL CALL: Jacobson - Yes, Murray - No, Miller - Yes, Nielsen - Yes, Lukacs - No, Carpenter - Yes. 4 – Yes, 2 – No, 0 – Abstain, 0 – Absent. Motion Carried.

PERSONAL APPEARANCES:

Carol Walters – City Treasurer: We are making headway on both of the 2000 back taxes, one will pay in full by August 1st and the other is paying every Thursday by 12:00 noon. Treasurer Walters explained Senate Bill 1165 requiring all local units that weren't already collecting the State Education Tax (SET) in July to do so beginning in 2003. Treasurer Walters doesn't have a problem collecting this tax and if she does, the City will get \$2.50 per parcel from the State. Treasurer Walters will enclose a letter in the winter tax bill explaining the 2003 SET.

Motion by CM Murray, second by CM Carpenter, to direct Carol Walters, City Treasurer to collect the State Education Tax for the 2003 summer for the City of Brown City. Motion Carried.

PUBLIC HEARING: None

ORDINANCES: None

RESOLUTIONS: None

PETITIONS AND COMMUNICATIONS:

Preapplication Building Permits –

1. Faith Baptist Church, 6910 Cade Road – tube in ditch.

Motion by CM Carpenter, second by CM Lukacs, to approve the pre-application permit for Faith Baptist Church as submitted. Motion Carried.

2. Ben's, 4436 West Main Street – removal of house foundation.
Motion by CM Carpenter, second by CM Miller, to approve the pre-application permit for Ben's Supermarket/Ace Hardware to remove the foundation of the house at 4406 Main Street, with the requirement that the water and sewer leads shall be capped off under the direct supervision of the DPW Supervisor. Motion Carried.

COMMITTEE REPORTS:

1. Building and Grounds (Carpenter) - None
2. Streets and Sidewalks (Lukacs) –
 - a. Stop sign on First and George is faded and should be replaced before school starts.
 - b. One tree on downtown Main Street has been trimmed, the DPW should continue with the rest.
 - c. Railroad area has tall weeds all the way down the tracks and should be trimmed.
 - d. Burgess building next to Mr. Pieters needs something done to it. (Painting, etc.)
 - e. Leak at the house on the corner of First and George Streets. City Manager Holmes stated that the water was turned off August 12th.
 - f. Did the City Council issue a permit for Ben's to replace siding on the back of the building? This work was started about 2 months before they started their building project.
3. Water and Sewer (Nielsen)- None
4. Police (Miller)- None
5. Tax and Finance (Murray)- None
6. Personnel (Jacobson)- None

ATTORNEY'S REPORT:

1. **Mapleview vs Brown City:** The Michigan Municipal League is pursuing filing an *amicus curiae* brief with the Michigan Court of Appeals. Mapleview Estates' lawyers are trying to block this support to the City.
2. **School Well:** City Attorney Garno drafted an agreement for the school to sign before they install their irrigation well. The agreement states that the well will only be used for irrigation of playing fields, pipes carrying irrigation water must be physically separate from the City's water system, the pipes to be inspected by the City's DPW; fields being watered by this well must have a sign posted stating water is not safe for human consumption and that the school will assume all liability. To date, the school has not responded.

CITY MANAGER'S REPORT:

- 1. Water Tower Status:** The sandblasting of the tower and exterior painting is almost complete. Anticipate the tower to be completed and returned to service by August 16th (if the weather continues to cooperate). The engineers recommended the removal of a second fill pipe, which was completed.
- 2. Water Tower Bond Sale:** The sale of the bonds to finance the water tower is scheduled for August 27th at 11:00 AM. The funds should be available to pay tower-related bills soon after.
- 3. 2002 Sidewalk Program:** The DPW Supervisor has analyzed the sidewalk on the SW corner of Main and Lincoln Streets and determined a workable solution. Estimated cost is around \$8,000. Estimate for the proposed replacement of sidewalk on St Marys Street between First and Second is \$7,000. First Street between St Marys and railroad tracks. How does the Council wish to proceed?

Motion by CM Miller, second by CM Carpenter to direct City Manager Holmes to seek bids for all 3 sidewalk projects. Motion Carried.

- 4. DDA Meeting:** The DDA met on August 5th to evaluate a loan application. The minutes of the meeting are in your packets. The question concerning signature authority is being reviewed by the City Attorney. Clem Graessle has resigned from the DDA meaning that two positions are now vacant. Correction 8/26/02 – should read - City Attorney Garno informed the Council that City Ordinance 81.9A, Section 2 states the City Manager is Chief Executive Officer of the DDA and that City Manager Holmes could sign contracts as an officer of the DDA. The DDA stands separate from the City.
- 5. Revenue Sharing:** The Governor has vetoed that portion of the state budget that funds revenue sharing. Enclosed in your packets is a one-page summary of the financial loss to Brown City and the other governments on Sanilac County. The \$100,549 decrease for the City equals 12.5% of General Fund revenues. If the state legislature fails to override the veto, the City will face significant budget cuts. The Michigan Municipal League has scheduled a rally at the state capitol for Tuesday, August 13th. Information on the rally, as well as for transportation provided by Sanilac County is in

your packets. City Manager Holmes recommended the Council to call State Senator Dan DeGrow to express their concerns and the impact this loss would have on the City.

- 6. Trees:** The contract with Parker Brothers has been finalized and work should begin soon. The DPW has recommended that the tree in front of Timeless Creations on Main Street be removed since the majority of the tree is dead and is becoming a potential safety hazard. Consensus of the Council was to remove the tree.
- 7. COPS Grant:** The existing grant subsidizing two part-time officers was due to expire. The U.S. Department of Justice has granted an extension until May 2003.
- 8. Land Use Conference:** Sanilac County is hosting a meeting on August 22 at 5:30 PM to discuss land use and other issues associated with development of a County Master Plan. Each of you received a copy of the letter discussing the details of the meeting. I need to know who wishes to attend so I can RSVP for the City.
- 9. DPW Employee Status:** One City DPW worker who had failed to acquire all the required driving, water and sewer operator's licenses within 24 months, was let go.
- 10. Anytown USA:** They would like to post a copy of the City's Water Quality Report, and City Council minutes on the web. Consensus of the Council was to post the minutes on the web rather than publish in the local newspaper, thus saving the City about \$100 a month.
- 11. Annual Winter Convention:** The City Manager plans to attend the 2002 Winter Michigan Municipal League Conference in September.
- 12. Almont Screw:** The Tri-County Bank is working on getting a new tenant for the building and wants to know if the existing tax abatement (8 years left) can be applied to the new tenant. Consensus of the Council was to support continuing the abatement.
- 13. Maplevue Estates:** They are in the process of resurfacing the roads in Phase I of the trailer park. The City has received a complaint but can not act since it is a private property issue.

MAYOR'S REPORT:

Mayor Pavel recommended the appointment of Jo Ann Potts to the DDA.
Motion by Lukacs, second by Carpenter to appoint Jo Ann Potts to the DDA.
Motion Carried

EXECUTIVE SESSION: To discuss pending lawsuit with the City because to discuss the matter in open session could have a detrimental financial impact on the City.

Motion by CM Miller, second by CM Jacobson, to move into Executive Session to consult with the City Attorney regarding trial or settlement strategy in connection with specific pending litigation, since an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

ROLL CALL VOTE: Carpenter - Yes, Lukacs - Yes, Nielsen - Yes, Miller - Yes, Murray - Yes, Jacobson - Yes. 6 - Yes, 0 - No, 0 - Abstain, 0 - Absent. Motion Carried.

Council went into Executive Session at 8:40 PM.

Motion by CM Carpenter, second by CM Lukacs to move out of Executive Session.

ROLL CALL VOTE: Carpenter - Yes, Lukacs - Yes, Nielsen - Yes, Miller - Yes, Murray - Yes, Jacobson - Yes. 6 - Yes, 0 - No, 0 - Abstain, 0 - Absent. Motion Carried.

Council came out of Executive Session at 8:50 PM.

No action was taken in Executive Session.

Motion by CM Carpenter, second by CM Miller, to direct City Manager Holmes to contact Mr. Robert Seibert regarding the mediation settlement. Motion Carried.

Motion by CM Carpenter, second by CM Miller, to adjourn the meeting at 9:00 P.M. Motion Carried.

Respectfully Submitted,

Christine Lee
City Clerk