

COUNCIL PROCEEDINGS FOR MAY 14, 2001

Meeting called to order at 7:03 P.M. by Mayor Kelly Pavel.

Pledge of Allegiance led by CM Mike Stain.

PRESENT: Mayor Kelly Pavel, Councilmembers - Laura Carpenter, Frank Lukacs, Julie Miller, Michael Stain, Judy Murray, Patricia Jacobson; City Clerk Denise Hoff, City Manager Clint Holmes, City Attorney Gerard Garno.

ABSENT: None.

CORRECTION AND APPROVAL OF MINUTES: Correction on page 2 of the April 23, 2001 minutes, change to read "City's Charter states an Ordinance," instead of "City's Charter requires an Ordinance." Motion by CM Miller, support by CM Carpenter, to approve the Minutes of April 23, 2001, as corrected. Motion Carried.

PAY BILLS: Motion by CM Murray, support by CM Jacobson, to pay the bills as presented in the following funds: General-\$24,123.03, Payroll-\$11,101.99, Sanitary Sewer-\$4,405.28, Major Street-\$531.31, Local Street-\$531.31, Water Recreation-\$33.29, Investment-\$59,698.86. Motion Carried.

OLD BUSINESS:

1. City Ordinance Chapter 5 Work Session Scheduling: Pending.
2. Rezoning Request-Keith Muxlow: None

PUBLIC QUESTIONS AND COMMENTS: None.

PETITIONS & COMMUNICATIONS:

1. Pre-application Building Permits-
 - a. Planning Commission Reviewed/Approved Requests:
 1. Suburban Homes Sales, Inc./Maple Valley Estates-5156 Magnolia Drive, Lot # 65-Foundation and Home.
 2. Shirley VanCura-7090 Merrill Street-Foundation and Home.
 3. Tri-County Bank-4244 Main Street- Replace Roof Trusses and Roof Covering.

Motion by CM Carpenter, support by CM Miller, to approve the above pre-application building permits as presented. Motion Carried.

- b. Additional Requested Pre-Application Permits:
1. Leon Blatt-4017 Main Street-Replace Shingles.
 2. Audrey Stanton-6774 St. Marys Street-12' x12' Shed.
 3. George Cebelak-7208 Lincoln Street-Enclosed Porch 12' x16'.
 4. Kevin Kelly-4030 Main Street-Replace Siding, Windows, Roof.
 5. Gary Cooper-7180 Lincoln Street-Siding/Interior Construction-RENEWAL.

Motion by CM Carpenter, support by CM Stain, to approve the above listed additional requested pre-application building permits as presented. Motion Carried.

- c. Additional Requested Pre-Application Permits (late submission):
1. Lawrence Kennedy, 7141 Lincoln Street-Replace Shingles.
 2. Glennie Mosoek, 6862 James Street- Tear Down Existing Garage/Replace with a 26'x28' Garage.
 3. Jim Groat-4060 Main Street-Replace Shingles.

Motion by CM Carpenter, support by CM Miller, to approve the above listed additional requested pre-application permits as presented. Motion Carried.

PERSONAL APPEARANCES: Pastor Art Stone and Myrtle Kohn of the Nurture Committee of the United Methodist Church of Brown City. Donation of 50 teddy bears to the Brown City Police Department and EMS Service for children in accidents, trauma, or crisis situations.

PUBLIC HEARING: NEXTEL CELL TOWER/ Joe Kirkland and Fred Lindholm represented SBA and Nextel. Mayor Kelly Pavel opened the Public Hearing at 7:20 P.M. for public questions and comments regarding the Nextel Cell Tower:

1. Nextel Representative Fred Lindholm addressed the public and Councilmembers regarding the tower: Nextel is a mobile radio carrier operating throughout the State of Michigan. Nextel would like to place a Tower in the southeast section of the City. It is a 185' monopole tower with an antenna for Nextel customers on top. There will be a 12'x20' shelter at the bottom. The tower is to increase the capacity of the area in and around Brown City as well as for people traveling through Brown City. The space to be occupied would be 100'x100' with landscaping around it to be provided and maintained by Nextel.
2. City Attorney Gerard Garno asked for pictures to be distributed to all in attendance. Question from City Attorney regarding any other cell phone

- companies being co-located on the tower. Fred Lindholm stated there were no plans for additional subscribers at this time, but there will be capacity of up to four more carriers.
3. Mayor Kelly Pavel questioned that if they sub-lease to other companies, what would be the changes to the Tower? Fred Lindholm stated that a new carrier would add another bracket at the top, with an antenna at the appropriate level for their system.
 4. City Manager Clint Holmes, questioned the wattage emitted? Nextel Rep states 100 watts or so for each antenna, with no interference with area radio or television transmissions. This is all governed by the F.C.C.
 5. CM Lukacs-Freestanding Antenna? Nextel, yes it is.
 6. City Manager Clint Holmes-When would we have a legal description with foundations, depths and, dimensions? Nextel would work with the City to set up a plan. Nextel would want the lease signed before design and construction due to the large expense by Nextel associated with the Tower. The lease also will have a clause that states when the tower is no longer required, disassembly would be the responsibility of Nextel.
 7. Mayor Kelly Pavel-What brings you to Brown City? Nextel is set up to do about 80 sites this summer, and one of the better locations was in Brown City.
 8. City Attorney-Any noise to come from the tower? Only noise would be from the heating/cooling system that would make about as much noise as your household A/C systems. What about the safety issues to children climbing in and around the area? There would be a 6'-8' fence around the tower, and climbing pegs on the tower that begins at 20'.

PUBLIC QUESTIONS:

1. Would this draw lightning? Yes it would, but with \$200,000.00, worth of equipment in place there will be a lightning rod installed to defer as much lightning as possible. This is all inspected before the tower is put into service.
2. Electricity Costs? None to the citizens of Brown City, this would be directly billed to Nextel.
3. Radioactive? No, there isn't any radioactivity, only radiowaves.
4. Health Risks? Resident read information found on the Internet regarding health issues and lawsuits. Copies of this information provided to the Council. Nextel also provided health and safety information to the Council. City Manager provided information from the Medical College of Wisconsin

Department of Oncology stating that there are no known health risks associated with emissions from this type of tower.

5. Has anyone thought about putting the Tower somewhere out of town, away from residential areas, with fewer people, possibly near the Lagoons? City Manager stated there is no room at the Lagoons. No definite decision has been made for placement. We are just discussing the possibilities tonight.
6. Please be sure to check this very carefully from every angle possible, before any decisions are made.
7. If this was to go through, would the money go to the General Fund, or could I suggest to the park and City for other improvements. City Manager states that is a possibility, money could also be applied toward repairs to the water tower.

Mayor Kelly Pavel, thanked the Public for their questions, comments and concerns. All information will be considered, if and when any decisions are made.

Public Hearing closed at 8:26 P.M.

ZONING BOARD OF APPEALS:

1. Marvin Wilcox-6934 & 6936 Cade Road.
 - a. Lot Size Variance.
 - b. Set Back Variance.

Information reviewed regarding lot sizes, and dimensions of home. Lengthy discussion regarding set backs and the potential impact to other property owners and the precedent setting nature of this request. City Attorney recommended the Council deny the request because strict application of the zoning regulation enacted did not result in particular or exceptional practical difficulties to or exceptional undue hardship upon the owner of such property, and such variance would result in the intent and purpose of the zoning ordinance being substantially impaired, in violation of Ordinance 8406A.

Motion by CM Lukacs to approve the lot size variance, and the set back variance, as approved by the Planning Commission, to preclude substantial hardships to the property owner.

Roll Call Vote: Carpenter-Y, Lukacs-Y, Stain-Y, Miller-N, Murray-N, Jacobson-N, Mayor Pavel-N. 3 Yeas, 4 Nays, 0 Abstain, 0 Absent. Motion Not Carried (denied).

Motion by CM Miller, support by CM Carpenter, to continue past 9:00 P.M.
Motion Carried.

COMMITTEE REPORTS:

1. Building and Grounds (Carpenter)- None. Additional comments concerning Building and Grounds:
 - a. CM Miller would like letter sent to owners of property behind her home on Cade Rd. for mowing.
 - b. CM Lukacs would like letter sent to J & J Farm service regarding Chloride of parking and driveway to eliminate dust blowing downtown, from large equipment, in and out all day.
 - c. Also would like landscape timbers replaced by the Pharmacy.
 - d. Would like weeds along fence at the north east corner of Cade Road and M-90, cut down.
 - e. Would like the landscaping removed in front of the Shell Station with weed-killer sprayed, and landscaping replaced.
 - f. Weed and bush trimming done around City Hall. Would like these things done before Brown City Homecoming.
2. Streets and Sidewalks (Lukacs)-
 - a. Sidewalk Project for Lung property - pending until decision made by homeowner if City to repair sidewalk or private contractor to do the work.
 - b. James and John street repairs/resurfacing to be decided in January, may need to be done following construction of new School and associated heavy equipment.
 - c. City Manager to check on Maple Valley road construction.
 - d. Railroad to call on Tuesday regarding replacement of railroad ties.
3. Police (Miller)- New (old) police car being up-graded and should be on the road soon.
4. Water and Sewer (Stain)- None.
5. Tax and Finance (Murray)- None.
6. Personnel (Jacobson)-
 - a. Personnel Committee met and they would like to congratulate Clint on a job well done, scoring very high in each category of the employee evaluation. We recommend a 3% raise in pay equaling (\$1266.90), plus two additional personal days, retroactive to April 1, 2001.

Motion by CM Jacobson, support by CM Murray, to agree to the above recommendations. Motion Carried.

- b. Budget Committee, question regarding increase of Blue Cross co-pay from \$10.00, to \$20.00. Would we save that much with increase? Information pending, per City Manager.

c. Fireworks Committee for B.C. Homecoming Days: \$1,300.00 in account at this time with more fundraisers planned. The cost of the Fireworks is \$4,000.00. Would the Council consider a donation? Motion by CM Carpenter, support CM Murray, to donate \$2,000.00 to the Fireworks Company out of the Community Promotions Fund. Motion Carried.

Mayor Pavel would like City Manager to check on possibility of paving approximately 150' of the west end of Maple Street due to all the traffic at the Park during the summer. City Manager to review.

ATTORNEY'S REPORT:

1. Nextel- Site plan must go to the Planning Commission. Survey to be done at Nextel's expense. Planning Commission needs to take into consideration:
 - a. Best interest of the City and it's residents;
 - b. Master Plan;
 - c. Any other provisions of the City Charter and Ordinances.
2. Mapleview v. B.C.- Update: Judge decided there would be no trial at this time. Clint volunteered to give more information to the Judge. May be weeks to months before the Judge makes the decision, appears may be in favor of Mapleview Estates. After that decision, the City has 21 days to appeal. May have a chance for it to be overturned.
3. Contract with City Attorney is up for renewal. (Annual Contract). Motion by CM Murray, support by CM Miller, to continue the contract with Morrice, Lengemann and Miller at the current billing rates. Motion Carried.

CITY MANAGER'S REPORT:

1. **POLICE HERO:** Brown City's Chief of Police, Ron Smith, was honored at a formal dinner ceremony on May 4th, as Sanilac County's co-Police Officer of the Year for 2000. He was presented with a plaque and citation signed by the Governor, Senator DeGrow and Representative Ehardt. His successful efforts to protect life and property, while providing decisive leadership in a complex and highly dangerous situation, during the armed standoff in Peck, was the reason for this honor.
2. **SNOBLIN LEGAL FEES:** The City filed suit in small claims court to recoup the \$2,556 in legal expenses owed to the City. Individual was billed, but the City has not received payment. Court date has not yet been scheduled.

3. **WELL HEAD PROTECTION GRANT:** The City received notice that the State of Michigan has approved a grant of \$12,000 to locate abandoned wells within the City and the surrounding area to better protect the City's drinking water supply. Grant requires a 25% (\$4,000) match from the City. Original plan was to have DPW personnel conduct the search/survey. We may wish to consider hiring additional people for this specific job. Once wells are identified, a separate program exists to help defray the costs of properly sealing the well.
4. **TREE GRANT:** The City Park has received a grant providing 300 trees and containers. Trees and containers have arrived. Trees are being transplanted by the Boy Scouts and members of the Park Board beginning at 7:00 PM on May 14th at the waterslide in the Park. Once completed, trees will be stored in the pool area until they are more mature and can survive transplantation to another area within the Park.
5. **NEW(er) POLICE CAR:** The police car purchased from Carsonville was delivered. Title and license plate has been transferred by the Secretary of State. The officers have invested considerable time transferring equipment from the old police car to this one. Transfer is complete except for the wiring for the in-car camera system which is being contracted out. Engine work (belt, water pump, oil seal, etc.) is being completed by the DPW. Car should be available for duty soon. Advertising for bids for the old police car will begin the week of May 14th.
6. **FIRE DEPARTMENT MIOSHA INSPECTION:** The Fire Chief and City Manager met with the Chief of the Marlette Fire Department. We were provided with material needed to better prepare the Brown City Area Fire Authority for their upcoming formal inspection by MIOSHA. This inspection has not yet been scheduled but should be late-June early-July. The City is assisting in gathering some of the information not locally available. The Fire Authority will be responsible for the bulk of the needed paperwork.
7. **MEMORIAL DAY:** The second Council Meeting in May is scheduled to fall on Memorial Day. Does the Council wish to reschedule? **REQUIRES MOTION.**

Motion by CM Carpenter to reschedule the next City Council Meeting scheduled for May 28, 2001, (Memorial Day) to Tuesday, May 29, 2001 at 7:00 P.M. support CM Jacobson, Motion Carried.

8. **DAVE KINNEY OUTSIDE EMPLOYMENT:** DPW Supervisor Dave Kinney was granted permission to continue his after hours employment. Council approval was required because of requirements set forth in the Brown City Employee's Handbook and the possible perception of a conflict

of interest. This was granted for a six-month trial period that ended May 6, 2001. Does the Council wish to extend this time period?

Motion by CM Stain, support by CM Carpenter, to continue Dave Kinney's trial period for an additional six months. Motion Carried.

9. RAIL ROAD WORK: City Manager contacted Tom Maurek at the railroad to find out when repair work at the intersection of James and Main Streets is scheduled. Railroad to provide this information this week.

10. VFW LANDSCAPING: A representative from the VFW and from the landscaping firm working with Maple Valley Estates met and discussed needed repairs to the VFW's yard. Work to be completed soon.

11. NEW DPW EMPLOYEE: The City has received several applications that will be reviewed by the City Manager and DPW Supervisor. Interviews will take place soon.

MAYOR'S REPORT:

1. D.D.A. Re-appointments (11-30-2004)- Pending.

Motion by CM Lukacs, support by CM Stain, to adjourn the meeting at 10:02 P.M. Motion Carried.

Respectfully Submitted,

Denise Hoff, City Clerk