

## **COUNCIL PROCEEDINGS FOR AUGUST 11, 2003**

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

**Pledge of Allegiance** led by Councilmember Zuhlke.

**PRESENT:** Mayor Laura Carpenter; Councilmembers – Julie Miller, Charles Zuhlke, Pat Jacobson, Frank Lukacs, JoAnn Potts, and Jason Nielsen; Deputy City Clerk David R. Van Cura, City Manager Darcy Long, City Attorney Gerard Garno.

**ABSENT:** City Clerk Christine Lee.

### **CORRECTION AND APPROVAL OF MINUTES:**

Move by CM Nielsen, second by CM Lukacs, to approve the Minutes of the Regular Meeting of July 28, 2003 as corrected. Motion Carried.

Corrections:

1. Page 1 of 7: Under Correction and Approval of Minutes first motion – change “presented” to “corrected”.
2. Page 1 of 7: Under Item #1 – add quotation marks to read – “permits” to “persons” and “and” to “that”.
3. Page 1 of 7: Under Item #2 – add quotation marks to read – “as” to “in”.
4. Page 1 of 7: Under Corrections and Approval of Minutes second motion – change “presented” to “corrected”.
5. Page 2 of 7: Under Old Business / Item #4 – change “Banish” to “Benish”.
6. Page 2 of 7: Under Public Hearing/Line 4– change “an” to “two”, to read “install two antenna”.
7. Page 3 of 7: Under Public Questions and Comments/Line 6 – change to read: the City “needs to have an option agreement not a purchase agreement”.
8. Page 3 of 7: Under Public Questions and Comments/Line 16 – change to read: he was “representing the City”.
9. Page 4 of 7: Under Committee Reports/Item #3 – change to read: “if no one”.
10. Page 5 of 7: Under Treasurer’s Report/Line 13 – change to read: “in case something”.
11. Page 5 of 7: Under Attorney’s Report/Item #1/Line 7 – change “by” to “buy” and “receive” to receives”.

12. Page 6 of 7: Under City Manager's Report/Item#2 – change “finely” to “finally”.
13. Page 7 of 7: In first Motion – change “pass” to “past”.
14. Page 7 of 7: Under Item #10 – change “cover” to “covers”.

Move by CM Miller, second by CM Jacobson, to approve the Minutes of the Special Meeting of August 7, 2003 as corrected. Motion Carried.

**Corrections:**

1. Page 1 of 2: Under Present: delete the name “Charles Zuhlke”.
2. Page 1 of 2: Under Absent: add “Councilmember Charles Zuhlke”.
3. Page 1 of 2: Under New Business/Item #1: change to read “\$2,000.00 for”.
4. Page 2 of 2: Under Public Questions and Comments – change “fund” to “funds”.

**PAY BILLS:**

Move by CM Jacobson, second by CM Lukacs, to pay the bills as presented in the following funds: General -\$ 41,563.20, Payroll - \$12,692.51, Sanitary Sewer - \$178.20, Major St. - \$30,393.61, Local St. - \$263.19, Investment - \$27,635.52. Motion Carried.

**AWARDING OF BIDS:**

1. Pickup Truck.

Discussion on the availability of funds to purchase a pickup truck.

Move by CM Miller, second by CM Zuhlke, to table the awarding of the bid for the pickup truck. Motion Carried. (Corrected 8/25/03 – Add – because there was a question on availability of funds. – should read – to table the awarding of the bid for the pick-up truck, because there was a question on the availability of funds.)

2. Sidewalk.

Move by CM Lukacs, second by CM Jacobson, to award the bid for the 2003 Sidewalk Project to Tom's Ultimate Concrete Finish in the amount of \$17,546.00. Motion Carried.

**OLD BUSINESS:**

1. City Ordinance Chapter 5 – Being Reviewed by Committee.
2. Rezoning Request – Keith Muxlow: Pending.
3. Drug Testing Policy.
4. LDFA.
5. Tree Replacement Policy – The City Manager gave the Streets & Sidewalk Committee sample policies to review and they will meet at a later date.

**PUBLIC QUESTIONS AND COMMENTS:**

1. Adveda Otulakowski, of 6944 George Street, and her son Eugene Otulakowski, appeared before the Council regarding a possible zoning violation. They say that her neighbor, Susan Parent of 6954 George Street, built a garage less than 1 foot from the property line in 2001. They want a formal complaint on record. The original permit was approved for an 8' setback from the property line. They want the City to enforce the Ordinance. They have a survey.

City Attorney Garno advised the Council to hear from Ms. Parent. The people involved need to resolve the property line dispute first. CM Lukacs recommended the Buildings & Grounds Committee meet to discuss this matter. CM Zuhlke said a letter should be sent to Ms. Parent advising her of the situation. City Attorney Garno said the Council would take this matter under advisement.

**PERSONAL APPEARANCES:**

1. Dale Benish, Sanilac County EDC, introduced Mr. Jeff Goulett, CEO of Llink Technologies. Mr. Goulett thanked the City of Brown City and the Sanilac County EDC for all of their help in making the decision to locate in Brown City.  
Mr. Benish is continuing to work with Company #2. He should receive the official approval of the grant for Company #1 tomorrow.

**PUBLIC HEARING:** None.

**ORDINANCES:** None.

**RESOLUTIONS:** None.

**PETITIONS AND COMMUNICATIONS:**

**A. Preapplication Building Permits – Requires City & County Permit -**

1. Myrtle Kohn, 4231 Second St. – 17'x27' Deck.  
Move by CM Potts, second by CM Lukacs, to approve the preapplication building permit for Myrtle Kohn to construct a 17'x27' Deck at 4231 Second Street.  
Motion Carried.

2. David Blovsky, 4081 Main St. – 34'x38' Garage.

Move by CM Potts, second by CM Miller, to approve the preapplication building permit for David Blovsky to construct a 34'x38' Garage at 4081 Main Street.  
Motion Carried.

CM Potts thought that something should be done about construction projects that are started before they are approved. She suggested possibly issuing a fine. CM Lukacs suggested that the City purchase "construction tags" to be issued to applicants and have them post it when they are issued a permit. A letter should be sent to all property owners. We could enforce our Civil Infraction Ordinance, which is a \$50.00 fine. CM Zuhlke recommended that this issue be researched first by contacting our Communities to see what they do. (Corrected 8/25/03 - change the word our to other.)

#### **COMMITTEE REPORTS:**

1. Police (Miller)- None.

2. Tax and Finance (Jacobson)- Reported on the August 5<sup>th</sup> Meeting. The Committee recommends the following:

a. Amend Police Car Reserve Fund.

Move by CM Jacobson, second by CM Lukacs, to amend the 2003-2004 Budget to transfer the \$7,500.00 lease payment from Thumb Cellular to the Police Car Reserve Fund for the Fiscal Year 2003-2004.

Motion Carried.

b. Amend Water Fund – EPA Arsenic Project.

Move by CM Jacobson, second by CM Lukacs, to amend the 2003-2004 Budget to designate the \$30,000.00, for the water tower control system, in the Water Fund to be used for our portion of the EPA Arsenic Project. Motion Carried.

c. Amend General Fund – Renaissance Zone Purchase.

Move by CM Jacobson, second by CM Potts, to amend the 2003-2004 Budget to reflect the expense of \$75,000.00 in the General Operating Fund to purchase the 8 acres of land in the Renaissance Zone.

Motion Carried.

3. Personnel (Zuhlke)-

CM Zuhlke reported on the request of the City Manager to take 5 days vacation in February 2004.

Move by CM Zuhlke, second by CM Miller, to allow Darcy to take sick/personal days or leave without pay in February 2004. Motion Carried.

4. Water and Sewer (Nielsen)- Reported on the August 4<sup>th</sup> Meeting.

The EPA will pay to install piping and cement in the building for the arsenic treatment plant. The City is responsible for construction of the building. Funds can be taken from money set aside for water tower controls. Costs are estimated at around \$20,000.

City lagoons are about at peak capacity. Any growth in the City will require future expansion of the lagoons. There are options including reducing clear water infiltration, expanding existing lagoons, and/or start looking into getting a sewage treatment plant.

5. Building and Grounds (Potts) – Reported on the July 30<sup>th</sup> Meeting. The Committee recommends some repairs be made to City Hall.

Move by CM Potts, second by CM Miller, to put out for bids to replace the east window in City Hall. Motion Carried.

Move by CM Potts, second by CM Miller, to put out for bids to replace the front door, city hall office door and library door. Motion Carried.

Move by CM Potts, second by CM Miller, to paint the lettering outside on the front of City Hall. Motion Carried.

6. Streets and Sidewalks (Lukacs) – Discussion on sidewalks on Main Street. The Committee will meet in September.

**TREASURER’S REPORT:** None.

**DPW SUPERVISORS’S REPORT:**

The trees are cut and the stumps should be removed starting tomorrow.

**ATTORNEY’S REPORT:**

1. Introduce Ordinance to Sell Land.

CM Miller introduced an ordinance to amend the Brown City Code by adding a new section which new section shall be know as Ordinance #17.700 of Chapter 17, Article 3 of said code, the sale of real property.

Move by CM Miller, second by CM Jacobson, to hold a public hearing on August 25, 2003 at 7:15 PM on Ordinance #17.700 to sell real property. Motion Carried.

Move by CM Miller, second by CM Lukacs, to authorize the City Attorney to draft a purchase agreement for the sale of the land in the Renaissance Zone to Llink Technologies. Motion Carried.

2. Introduce Amended Ordinance for Sewer & Water Tap-In Fee.  
City Attorney Garno advised the Council to hold on approving Chapter 5 for a couple of months.

CM Nielsen introduced an ordinance to amend the Brown City Code Section 5304.2A by deleting Section 5304.2A and adding a new section which section shall be known as Section 5304.2AA.

Move by CM Miller, second by CM Nielsen, to hold a public hearing on August 25, 2003 at 7:30 PM on Ordinance Section #5304.2AA. Motion Carried.

3. Update on Mapleview Estates Lawsuit.  
There is currently a motion for reconsideration.

Attorney Garno recommends the Council go into Executive Session at the end of the meeting to consider purchase or lease of real property and pending litigation.

#### **CITY MANAGER'S REPORT:**

Discussion on changing the number of members on the Planning Commission from 9 to 6. The Charter would have to be amended. The Council will review this matter in September. (Corrected 8/25/03 – change the word Charter to Ordinance.)

Move by CM Miller, second by CM Zuhlke, to go past the 9:00 hour. Motion Carried.

**MAYOR'S REPORT:** None.

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**EXECUTIVE SESSION:** To discuss pending lawsuit with the City because to discuss the matter in open session could have detrimental financial impact on the City and To consider purchase or lease of real property up to the time an option to purchase or lease of that property is obtained.

City Attorney Garno asked to have Dale Benish stay so the public body may meet in a closed session to direct its agents to set limits in negotiating of real property. He is acting as an agent of the City in negotiating the purchase of real property.

There were no objections.

Move 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 litigation or settlement position of the public body and to consider purchase or lease of real property up to the time an option to purchase or lease of that property is obtained.

ROLL CALL VOTE: Miller – Yes, Jacobson -Yes, Zuhlke– Yes, Nielsen – Yes, Lukacs – Yes, Potts – Yes. 6 - Yes, 0 - No, 0 - Abstain, 0 - Absent. Motion Carried.

Council went into Executive Session at 9:05 PM.

Move by CM Miller, second by CM Jacobson to move out of Executive Session.

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Zuhlke– Yes, Nielsen – Yes, Lukacs – Yes, Potts – Yes. 6 - Yes, 0 - No, 0 - Abstain, 0 - Absent. Motion Carried.

Council came out of Executive Session at 10:19 PM.

Move by CM Miller, second by CM Jacobson, to direct the City Attorney to issue a letter regarding personal property taxes owed. Motion Carried.

Move by CM Miller, second by CM Jacobson, to direct the City Attorney to communicate a response for a case evaluation settlement. Motion Carried.  
(Corrected 8/25/03 – change response to response)

Move by CM Miller, second by CM Potts, to adjourn the meeting at 10:20 P.M.  
Motion Carried.

Respectfully Submitted,

David R. Van Cura  
Deputy City Clerk