

## **COUNCIL PROCEEDINGS FOR JULY 12, 2004**

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

**Pledge of Allegiance** led by CM JoAnn Potts.

**PRESENT:** Mayor Laura Carpenter; Councilmembers –Pat Jacobson, Julie Miller, Eugene Navock, JoAnn Potts; City Clerk Christine Lee, Acting City Manager Frank Lukacs, and City Attorney Gerard Garno.

**ABSENT: None. (Corrected 7-26-04 change “None” to Councilmember Jason Nielsen”.)**

Acting City Manager Frank Lukacs asked to alter the agenda and to go into two Closed Sessions. **(Corrected 7-26-04 by adding: “Upon the advise of the City Attorney, this was not done.”)**

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

Move by CM Miller, second by CM Potts, to approve the Minutes of the Regular Meeting of June 28, 2004 as corrected. Motion Carried.

### **CORRECTIONS:**

1. Page 2 of 7 – second paragraph from the top – add an ed to “renew” and change to read - “Non renew” is not possible because according
2. Page 2 of 7 – Resolution – add an ed to “list” – and item#11 - insert “an” between purchased and alcoholic, and take the s off of “beverages”.
3. Page 3 of 7 – top of page – change “form” to “from”.
4. Page 3 of 7 – fifth paragraph from the top – add a comma after “Employee” and add “pursuant City Charter section 3.03”.
5. Page 3 of 7 – line above Public Questions and Comments – change “gave” to “give”.
6. Page 4 of 7 – top of page – change 5:00 to 6:30.
7. Page 4 of 7 – second paragraph from the top – change “that” to “than” and insert the word “had” between he and raised.
8. Page 4 of 7 – fourth paragraph from the top – change the number sign to a dollar sign
9. Page 4 of 7 – second paragraph from bottom – add a comma after “vote” and change “pay” to “paid”.

10. Page 4 of 7 – Bottom of page last paragraph – remove the word “appointment”.
11. Page 5 of 7 – Under Committee Report, item #2 – add an ed to “cancel”.
12. Page 6 of 7 – top of page after item #6 – change “fanatic” to “fantastic”)
13. Page 6 of 7 – Under Attorney’s Report, item #2 – should read – File a motion, Maplevue can pay the principal amount without interest if we don’t have to go to the Motion and they asked for more prosiest accounting.
14. Page 6 of 7 – Under City Manager’s Report - add that the City Manager’s Report was read by Mayor Carpenter.

**PAY BILLS:**

Move by CM Jacobson, second by CM Navock, to pay the bills as presented in the following funds: General -\$22,574.99, Payroll - \$16,195.07, Sanitary Sewer - \$8,261.00, Major St. - \$313.76, Local St. - \$313.76, Investment - \$57,647.15. Motion Carried.

Move by CM Jacobson, second by CM Navock, to pay the bill from Ben’s for supplies at \$366.14. Motion Carried

Move by CM Jacobson, second by CM Potts, to pay the bill from Ben’s for supplies at \$17.80. Motion Carried.

**OLD BUSINESS:**

1. Paul Czap – Storm Water Drainage.
2. Lehn King, CPA – Agreement.
3. Library Lease Agreement.

Acting City Manager Lukacs asked to move the Old Business over to the City Manager’s Report.

**PUBLIC QUESTIONS AND COMMENTS:**

Larry Steigerwald questioned the City Council and how can CM Lukacs be Acting City Manager. And he questioned the motives behind the dismissal. He also stated that he didn’t think the City Council gave Darcy Long a fair chance.

City Attorney Garno stated CM Lukacs is not a full time City Manager and that there is a State Law (**MCL 15.182**) that states that a City under 25 thousand

people, a person can hold 2 or more positions. **(Corrected 7-26-04 to read “(MCL15.183) that states that in a City”).**

Charles Zuhlke asked the City Council to do the right thing and take a step back and look at what is best for Brown City. Also questioned about the illegal driveway at Ben’s

Ken Brown stated that he saw M-Dot at Ben’s.

Laura Carpenter stated that Ben’s driveway problem has been turned over to M-Dot.

Art Potts stated that he believes in the City Council and what they are **doing is right.** **(Corrected 7-26-04 to read “doing regarding the City Manager is right”)**

Larry Steigerwald also pointed out about the subdivision not being mowed, and other property along Maple Valley Road, coming into town that wasn’t mowed. And about the junk semi-trailers at Explorers.

#### **CONSIDERATIONS:**

1. Consideration of Issues related to Darcy Long, Closed Session – To consider the dismissal, suspension, or disciplining of or to hear complaints or charges brought against the City Manager, Darcy Long. **(Corrected 7-26-04 by adding “This closed session was requested by City Manager Darcy Long.”)**

#### **EXECUTIVE SESSION:**

Move by CM Miller, second by CM Lukacs, to move into Executive Session to consider the dismissal, suspension, or disciplining of or to hear complaints or charges brought against the City Manager, Darcy Long.

ROLL CALL VOTE: Miller – Yes, Jacobson -Yes, Navock– Yes, Lukacs – Yes, Potts – Yes. 5 - Yes, 0 - No, 0 - Abstain, **0 - Absent.** Motion Carried. **(Corrected 7-26-04 to read “1 – Absent”)**

Council went into Executive Session at 7:30 P.M.

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

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Navock– Yes, Lukacs – Yes, Potts – Yes. 5 - Yes, 0 - No, 0 - Abstain, **0 - Absent**. Motion Carried. (**Corrected 7-26-04 to read “1 –Absent”**)

Council came out of Executive Session at 10:15 P.M.

No decisions were made.

Move by CM Miller, second by CM Jacobson, to go **pass** the 9:00 hour. Motion Carried. (**Corrected 7-26-04 change “pass” to “past”**).

Move by CM **Lukasc**, second by CM Potts, to accept Darcy Long’s resignation letter. (**Corrected 7-26-04 change “Lukasc” to “Lukacs”**.)

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Navock– Yes, Lukacs – Yes, Potts – Yes. 5 - Yes, 0 - No, 0 - Abstain, **0 - Absent**. Motion Carried. (**Corrected 7-26-04 to read “1-Absent”**)

Move by CM Lukacs, second by CM Potts, to accept Darcy Long’s resignation agreement.

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Navock– Yes, Lukacs – Yes, Potts – Yes. 5 - Yes, 0 - No, 0 - Abstain, **0 - Absent**. Motion Carried. (**Corrected 7-26-04 to read “1-Absent”**)

Jennifer Decker questioned the legality of the Closed Session.

Darcy Long thanked the Community for allowing him to serve as City Manager and also the City Council.

**PERSONAL APPEARANCES:** None.

**PUBLIC HEARING:** None.

**ORDINANCES:** None.

**RESOLUTIONS:** None.

**PETITIONS AND COMMUNICATIONS:**

1. Request for Variance – Edward & Lora Apley, 7062 Lincoln Street – To Construct Pool Deck. Scheduled Public Hearing for July 26, 2004 at 7:15 P.M.

2. Tree Removal/Replacement Request – Larry Martin, 4085 Main Street. M-Dot have to be contacted.
3. Request for Installation of a “No Parking Sign” – Sean & Jenny Hagey, 4432 Autumn Gold. Chief Smith stated that he checked into, and that he has no idea where the City Road ends and where the private drive begins. Need to check who owns the road.

Move by CM Jacobson, second by CM Potts, to revoke the bill to Boyne USA Resort in the amount of \$277.98 for a summer workshop, because Darcy Long is no longer employed with the City. Motion Carried.

### **COMMITTEE REPORTS:**

1. Police (Miller)- None.
2. Tax and Finance (Jacobson)- Catch basins on Main Street - Gary Gorsline checked the one in front of Timeless Creations and they did fixed that catch basin. Also the catch basin across the street in front of Marion’s, it is in M-Dot right of way and that M-Dot needs to be contacted.
3. Water and Sewer ( )- None,
4. Streets and Sidewalks (Navock)- None.
5. Building and Grounds (Potts)- None.
6. Brown City Day’s Committee – The Brown City Day’s Committee presented Dave VanCura with a plaque to thank him for all the work he does for Brown City Days.
7. Personnel (Lukacs) – Interim City Manager– Discussion. Two people are interested in the Interim City Manager job. One is Ken Brown and the other is CM Frank Lukacs.

CM Jacobson question if there is a conflict with appointing Frank Lukacs as Interim City Manager, and can he still vote as a Councilmember.

City Attorney Garno stated that **under MCL 15.181 and MCL 15.1834C that this is legal. (Corrected 7-26-04 to read “under MCL 15.183(4)c that”)**

Move by CM Lukacs, second by CM Navock, to appoint Frank Lukacs as Interim City Manager.

ROLL CALL VOTE: Miller – No, Jacobson– No, Navock– Yes, Lukacs – Yes, Potts – Yes. 3 - Yes, 2 - No, 0 - Abstain, **0 - Absent.** Motion failed because four votes are needed to pass. **(Corrected 7-26-04 to read “1-Absent” and by adding “Pursuant to Section 2.13 of the City Charter”.)**

Move by CM Lukacs, second by CM Navock, to appoint Ken Brown as Interim City Manager.

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Navock– No, Lukacs – No, Potts – Yes. 3 - Yes, 2 - No, 0 - Abstain, **0 - Absent**. Motion failed because four votes are needed to pass. (**Corrected 7-26-04 to read “1-Absent” and by adding “Pursuant to Section 2.13 of the City Charter”.**)

Move by CM Miller, second by CM Jacobson, to appoint Frank Lukacs as temporary City Manager until the July 26, 2004 Council Meeting.

Move by CM Lukacs, second by CM Navock, to appoint Frank Lukacs as Interim City Manager.

ROLL CALL VOTE: Miller – Yes, Jacobson– Yes, Navock– Yes, Lukacs – Yes, Potts – Yes. 5 - Yes, 0 - No, 0 - Abstain, **0 - Absent**. Motion Carried. (**Corrected to read “1-Absent”**)

- a. Recommended the City run an Ad in the local papers for a full time City Manager.
- b. Appoint Christine Lee as City Councilmember at the next meeting to fill CM Jason Nielsen seat.
- c. Appoint Kelly Pavel as City Clerk at the next Council Meeting.

### **TREASURER’S REPORT**

Treasurer Carol Walters gave her report. She stated that the City is working with the Post Office to get the Post Office Box numbers, because the mail is not being delivered without the PO Box numbers. Collected \$35,051.91 in taxes, and the City received \$1,931 from the state. Link Technologies received a tax bill when they weren’t supposed to Treasurer Walters. Also the City will subtract \$2.50 per parcel for 776 parcels and write a check for the rest of the money to the State.

### **ATTORNEY’S REPORT:**

1. Maplevue Estates: Received a check for \$12,750.00 from Maplevue Estates and now the case is closed.
2. Ordinance regarding water and sewer tap in fees for Non-City Residents. CM Jacobson introduced Section 5700 to amendment Chapter 5 Ordinance regarding water and sewer tap in fees for Non-City Residents for Public Hearing on 7/26/04 at 7:30 P.M.
3. Renaissance Zone: Keith Muxlow called City Attorney Garno on **how the land purchase** is going. City Attorney Garno is working on getting the Title clearance and the USDA Loan. (**Corrected 7-26-04 to read “how the land purchase”**)

**4. Lehn King Contract: (Corrected 7-26-04 by adding “Approved by City Attorney.”**

Move by CM Jacobson, second by CM Navock, to approve the contract with Lehn King CPA for three years. Motion Carried.

**5. City Attorney Garno asked Jennifer Decker what was the problem with the way the City enter the Closed Session. Jennifer Decker was wondering about the legality of the Closed Session because of going from one room to another and **bring** in outsiders in. City Attorney Garno believes that the Closed Session was legal. (Corrected 7-26-04 change “bring” to “bringing”)**

**CITY MANAGER’S REPORT:**

1. Freedom of Information Request: Prepared information on City Manager Long’ personal file as requested by the Port Huron Times Herald. And delivered the file to City Attorney, Garno on Friday, July 2, 2004.
2. Renaissance Property:
  - a. Rescheduled the meeting for Tuesday, July 13<sup>th</sup> at 11:30 A.M.
  - b. IFT Application Meeting: Need to set a Public Hearing on July 26<sup>th</sup> Council Meeting.
3. Residence Concerns:
  - a. Found the letter from Davis Land Surveying dated 9/11/03 concerning Paul Czap’s water problem.

Move by CM Miller, second by CM Jacobson, to proceed with Davis Land Surveying at a cost of \$1,600.00 to do a study of project. Motion Carried.

- b. Mr. Petters with the purchase of the property next door. He will attend the next meeting.
- c. Pond Construction within the City Limits: New Ordinance only addresses grade of pond, needs clarification on specific. Need to amend the Ordinance. Ken Brown Stated that ponds are under the DNR.
- d. Fourth Street Property – House Construction – Lots 6 & 7: Gave information concerning Ordinances to Mr. Willer and Mr. Turner.
- e. Weeds: Softwinds Subdivision is bankrupt will contact the bank about taking care of the cutting of the weeds/mosquito problem Also the school ball fields/ dusty roads overgrown. Weed/un-mowed lawn at 6905 Cade Road, need to find out the present owner.

County Commissioner Walters stated that the water bill is in William Madison’s name.

- f. Mosquito Problem – West Nile Disease: Mr. Halbert found a dead bird. **(Corrected 7-26-04 by adding “It was suggested they be buried.”)**
  - g. Accepted City Councilmember Jason Nielsen’s resignation effective Thursday, July 8<sup>th</sup>, 2004 at 3:46 P.M.
4. Planning Commission: No quorum present. Need to contact members regarding their status on the committee. Total number of members was increased from 6 to 9.
  5. Bullock Property: Court order corrections to be made on drainage problems by August 1, 2004. Met with DPW Supervisor Kinney, he stated that the field has been to wet due to the recent rains. The job should be done within three to four days from the start up time. Also DPW Supervisor Kinney found an error on the proposed map and is checking out the source.
  6. Calls:
    - a. Mannick & Smith Associates about the Abandon Well Project. Need to call him back and see what they want.
    - b. Webb’s Insurance Company:
  7. Main Street Sidewalk: DPW Dave Kinney estimates the cost of the South side, project will cost \$17,640.00, doesn’t include curbs and gutters. Need to contact M-Dot first. Problem at the Post Office about people tripping on the sidewalk. Need to fix this.
  8. LC United Painting: Received a bill for \$10,000.00 balance due on water tower. Need to check with the County Treasurer if all the payments were made..
  9. Second Street Abandon House: Water in basement. Need to contact Judy Ferguson from the Public Health Director.

**MAYOR’S REPORT:**

1. Schedule public hearing for Llink Technologies IFT applications. Scheduled Public Hearing on July 26, 2004 at 7:45 P.M.

Move by CM Miller, second by CM Jacobson, to hold a Public Hearing on July 26, 2004 at 7:45 P.M. for Llink Technologies IFT applications. Motion Carried.

**GENERAL CONCERNS OF THE COUNCIL:**

Move by CM Miller, second by CM Jacobson to accept Jason Nielsen resignation from City Council. Motion Carried.

Dave VanCura wanted to know if CM Lukacs is supposed to be paid as acting City Manager. Will have an answer at the next meeting.



Move by CM Miller, second by CM Jacobson, to adjourn the meeting at 11:07 P.M. Motion Carried.

Respectfully Submitted,

Christine J. Lee  
City Clerk