



Agenda: Battle Creek City Commission

Meeting Type: Workshop

Meeting Date: July 19, 2016

Chair: David A. Walters, Mayor

Prepared By: City Hall - Room 302A - 5:30 pm

City Commission

ATTENDANCE

Attendance

Mayor Dave Walters	Rebecca Fleury, City Manager
Vice Mayor Susan Baldwin	Jill Steele, City Attorney
Commissioner Mark Behnke	Ted Dearing, Assistant City Manager
Commissioner Kaytee Faris	Ernesto Reyes, Assistant City Manager
Commissioner Kate Flores	Victoria Houser, City Clerk
Commissioner Lynn Ward Gray	Jim Blocker, Police Chief
Commissioner Andy Helmboldt	Sunny Sahu, Deputy City Attorney
Commissioner Mike Sherzer	

Absent:

Commissioner Deb Owens

City Manager Evaluation Process

Comm. Helmboldt provided an update on the City Manager Evaluation Committee and the annual retreat to discuss the City Manager's performance goals for the 2016/2017 review period. Comm. Helmboldt informed the Commission that evaluations will need to be completed by September 2016. Comm. Helmboldt requested the Commission provide input as to the evaluation process so the Committee can discuss any concerns at the August 10, 2016 committee meeting. Comm. Helmboldt further stated the Committee envisioned both the Priority Based Budgeting and Managerial Competency goals to be streamlined, noting the managerial competencies were the foundation of the City Manager's work. Comm. Helmboldt noted Peter Dams would facilitate the Commission work session to establish the 2016/2017 management goals.

PANHANDLING DISCUSSION

Jill Steele, City Attorney, stated she has received several concerns from Commissioners, the Police Chief, downtown residents and businesses, and City staff members, who have encountered aggressive solicitations while in the City, on both public and private properties. Attorney Steele stated she assigned the review and consideration of proposed ordinance amendments to Deputy City Attorney Sunny Sahu, noting his experience

defending, interpreting, and litigating First Amendment issues, stating he has worked with the MI ACLU, serving as a statewide executive board member, as well as a member of their litigation committee. Attorney Steele noted Attorney Sahu was also the lead counsel in national first amendment and due process cases involving the Department of Justice to defend peoples' rights to freedom of expression and association. Attorney Steele also noted Attorney Sahu has defended other government entities against religious discrimination, noting he has taught civil rights litigation and constitutional law at a couple law schools.

Deputy City Attorney Sunny Sahu presented information to the City Commission regarding ordinance proposals. Attorney Sahu discussed the numerous types of concerns the City Administration has received regarding aggressive panhandling, including crime, public safety, sidewalk obstruction, burdens on retail trade and obstruction of public access to public spaces. Attorney Sahu noted the City did have the power to address the issue of aggressive panhandling as it relates to the City's interest.

Attorney Sahu recommended the City address unlicensed financial solicitations in the Central Business District, less than a 1% area of the City, and to address loitering and aggravated begging throughout the City. Attorney Sahu stated the ordinance amendments would address the behavior or conduct of aggressive begging. Attorney Sahu stated the ordinance amendments would include a very limited area, addressing unlicensed or unpermitted sales or solicitations that detract from the business friendly aesthetics of the regular businesses. Attorney Sahu stated permits/licenses would help to regulate solicitations.

Attorney Sahu discussed loitering, stating the definition is different for a public park than for a business, stating the amendments would focus on conduct that obstructs public buildings and spaces, harasses passers-by or infringes particularly sensitive places, such as ATMs, intersections and bus stations.

Attorney Sahu stated the issues are similar to the Cities of Kalamazoo, Royal Oak and Kentwood, recommending the ordinance related to Aggravated Begging, begging combined with obstructing entry to a building or ATM, making the request repeatedly or while accosting someone, suggesting the ordinance be anchored on the conduct of the panhandler or solicitor.

Vice Mayor Baldwin, noting the City had several zoning/planning ordinances in the Central Business district, asked if the proposed ordinance amendments had considered other existing ordinances.

Attorney Sahu stated he had worked with the City Manager's office to try to have the most consistent and coherent ordinance for the Central Business District. Attorney Sahu stated that due to the City's interest in economic revitalization, it weighs in favor of narrowly defining the area.

Attorney Steele stated the proposed amendment does not match up with zoning downtown, stating the amendments were focused on economic interests.

Vice Mayor Baldwin stated it was worth considering how the proposed amendments interrelate to the current zoning ordinances. Vice Mayor Baldwin also asked if there was any case law that would suggest the City should look at the regulation in a different way.

Mayor Walters questioned why they were not considering the ordinance cover the entire city, asking if there would be an impact if the City decided to expand the ordinance to other business areas in the city.

Attorney Sahu stated it was stronger when done narrowly, stating other issues may arise if implemented city-wide.

Comm. Flores asked what problems the ordinance would solve, requesting data as to the type and extent of problems, expressing concern as to the consequences of criminalizing the behavior.

Attorney Sahu stated it would be best to allow the audience to speak of their concerns, stating he has heard of complaints of harassment, loitering, and congregating in inappropriate places.

Chief Blocker provided information related to complaints the department has received from grids 18 and 19, the Central Business District. Chief Blocker noted they receive many different types of complaints, stating the

officers need to determine the type of problem, noting there is no specific label for beggar, panhandler or solicitor. Chief Blocker stated the department has received over 1400 calls for service related to aggressive panhandling, noting an incredible spike in recent years. Chief Blocker discussed the characteristics after the state law changed, stating the panhandlers were not as often the homeless who were members of the community, but instead other panhandlers came into the City who were more aggressive, causing more problems. Chief Blocker stated the ordinance amendment would give the officers a tool to address the problems associated with aggressive panhandling. Chief Blocker noted the Haven has confirmed giving to the panhandlers supports bad habits and does not contribute to the community.

Chief Blocker stated this would give the officers the tools to better understand through investigation a person's needs and interests in being in our community. Chief Blocker stated the officers were encouraged by the ordinance, stating this would allow them to do the work they need to do.

Comm. Gray recommended the City address the root cause of the problem, asking if a representative of the Haven or other non-profits could offer suggestion for treatment. Comm. Gray recommended a follow-up work session to further discuss the proposed ordinance, stating she wanted all available information to make an informed decision.

Attorney Sahu emphasized the City focus on the specific conduct of the solicitor, if it was disruptive on business or accompanied with troublesome behaviors, including financially aggressive solicitations. Attorney Sahu noted they were not mixing and matching homelessness with solicitations, stating the amendments would provide the City's officers with tools to work with all situations.

Comm. Sherzer noted there would be opportunities to speak at both the introduction and adoption of the ordinance amendment, questioning the need for a second workshop.

Vice Mayor Baldwin cautioned that once the ordinance amendment was introduced, if changes were desired, it would need to be reintroduced, instead recommending a second workshop to allow citizens to express their concerns and Commissioners to research other municipalities ordinances and legal cases.

Comm. Flores agreed a second workshop would be beneficial, stating she was uncomfortable with the broad information that downtown business owners have said panhandling has become a problem, asking who is saying it is a problem and the percentage who is impacted.

Attorney Steele stated her preference was to hold an additional workshop to ensure the Commission could hear from concerned residents.

Comm. Helmboldt agreed input from the community would be beneficial.

Mayor Walters expressed his agreement for a workshop, noting he has had several people contact him, stating it was important to hear from everyone, recommending it be scheduled as soon as possible.

PUBLIC COMMENT - Limited to three Minutes per Individual

Rebecca Fleury, City Manager, informed the Commission that City Hall staff are very concerned with aggressive panhandling at City Hall, stating she received a petition signed by 47 staff members requesting the Commission address the issue.

Elaine Hunsicker, Executive Director of the Haven of Rest Ministries, stated many of the people soliciting are not homeless, stating they are often adult foster care residents, noting they often have serious health issues. Ms. Hunsicker stated they usually have substance abuse issues, stating they use the money they receive for drugs or alcohol, which further hinders their health. Ms. Hunsicker noted there are programs available to persons in need, but they often do not want to abide by the rules of the program and are then not eligible to participate.

Denise Rust, Broad Street, stated she is offended by the constant begging outside City Hall, stating the handrails are often blocked and inaccessible to persons who may need them. Ms. Rust also commented on the new landscaping the panhandlers use as seats or benches. Ms. Rust asked the Commission not to limit the new

ordinance amendment to the downtown area, but to include public parks and public spaces also.

Gail Bradstreet, City Treasurer, spoke on behalf of citizens who come to City Hall, stating about one of every three visitors to City Hall make complaints daily, stating she has had residents ask her to escort them to their cars, and employees ask for solutions to the problem. Ms. Bradstreet agreed to keep statistics of the number and type of complaints her office receives if that would help the Commission to make a decision.

Megan Reynolds, Legal Services, noted it was essential the City remain familiar with Federal law that has been used to strike down local begging laws. Ms. Reynolds stated there were other tools that could be used to limit offensive behavior, such as trespass and assault.

Laura Adams, 86 Calhoun Street, stated a person's rights guaranteed in the constitution are not based on other people's feelings, stating the City should not infringe on people's first amendment rights.

ADJOURNMENT

Mayor Walters adjourned the work session at 6:47 pm.

Citizens who wish to address a specific issue on the floor may do so after being recognized by the Mayor or presiding Commissioner. At the time for general public comments, after being properly recognized, citizens may address the commission on any subject within the control and jurisdiction of the City of Battle Creek. Citizens will be subject to the following summarized limitations, which are set out fully in ordinance 212.02, Art XVII:

1. Citizen comments on any Resolution before the Commission may be made either before or after the Commissioners have had an opportunity to discuss the Resolution, at the discretion of the Chair;
2. Citizens wishing to speak to a particular Resolution should raise their hands and wait to be recognized before speaking;
3. Before speaking, an individual who has not filled out a comment card disclosing this information, shall identify themselves by name and address and, if appropriate, group affiliation for the record.
4. Citizens will confine their remarks to matters currently pending on the floor, and be brief and concise in making their remarks;
5. If a citizen becomes repetitive or, in the opinion of the Chair, takes an inordinate amount of time in making comments, that citizen will be ruled out of order and the Commission will continue with its business;
6. Citizens should address all remarks to the Commission as a whole, and not to individual Commissioners.

These Rules will apply to comments by citizens during the Public Comment section of the Agenda.

The City of Battle Creek will provide necessary, reasonable, auxiliary aids and services, such as signers for the hearing impaired, and audiotapes of printed materials being considered in the meeting, upon seven days' notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services, should contact the City of Battle Creek by writing or calling the following:

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Post Office Box 1717
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