



## **Agenda: Battle Creek City Commission**

**Meeting Type:** Workshop

**Meeting Date:** July 26, 2016

**Chair:** David A. Walters, Mayor

**Prepared By:** DPW Multipurpose Room - 6pm

City Commission

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### **ATTENDANCE**

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

#### **Absent:**

Commissioner Deb Owens

### **PUBLIC COMMENT - Limited to three Minutes per Individual**

Jill Steele, City Attorney, introduced the workshop, stating the City has received numerous requests to review the City's ordinance regarding panhandling and aggressive begging.

Bill Schroer, Bedford Township, downtown business owner, stated the aggressive panhandling is a consistent problem that has gotten considerably worse, stating panhandlers stake out the back exit of his building, making it difficult for tenants to come and go from the building. Mr. Schroer stated this is very intimidating for his tenants, especially in the evening, stating they are often unsure if the panhandlers are only asking for money. Mr. Schroer stated the pattern of fear has caused many to choose to vote with their feet, moving their business or changing employment away from downtown, just when the City is trying to revitalize the downtown area.

Peter VanGoethem, 650 Linwood Ave., stated the current problems are the same problems faced downtown several years ago when VA patients and others aggressively panhandled, stating the City needed to find a way to solve the problem.

Ross Simpson, owner, Clara's on the River, stated this was a very complicated issue, stating he understands

everyone's right to free speech, but that people also had a right to feel safe and to be left alone. Mr. Simpson stated this issue is not any different than other municipalities, stating it is not a crime to be poor, but that a business owner should be able to operate a profitable business, and their patrons should not be harassed. Mr. Simpson stated it is as simple as "NO means NO", that any persistence beyond no should mean they should stop. Mr. Simpson stated customers should not be afraid to come to his business, stating panhandlers have come into the restaurant or leaned over the patio fence while soliciting his customers.

Doug Stewart, 844 Edgehill Place, CEO of Share Center, stated the Share Center serves all of Calhoun County, about 4,500 unique individuals. Mr. Stewart stated the panhandling discussion is not unique to Battle Creek, stating communities have been trying to resolve this issue for their residents for several years. Mr. Stewart informed the Commission that their Self Help Recovery Enrichment program does not support panhandling, stating our community has an abundance of resources to help persons with food, shelter, medical care, and counseling, stating the City is enabling individuals when aggressive panhandling is allowed. Mr. Stewart also noted several panhandlers have been banned from agencies due to inappropriate behavior, stating the root cause of the need for money is addiction.

Charles Yarger, 280 Pleasantview, stated panhandling exists all over the city, stating some people do it because they have to, recommending the City regulate panhandling and soliciting by requiring they apply for a solicitation permit, which would then also allow income tax to be paid on the income they generate. Mr. Yarger stated the permit application may also lead to help and services they may need. Mr. Yarger reminded the attendees that regulating freedom of speech is nearly impossible, but regulating behavior is not.

Beverly Kelly, Executive Director, Habitat for Humanity, stated they have had increasing numbers of panhandlers knocking on their door asking for money, cautioning the Commission that if the ordinance amendments only covered the downtown area, the panhandlers will simply move to other areas of the city, outside of the downtown area.

Elaine Hunsicker, Executive Director, Haven of Rest Ministries, stated the problem is not with people on street corners with signs, stating she has a choice whether to interact with them, however persons in the downtown area and near downtown, are aggressive when approaching persons on foot. Ms. Hunsicker stated she understood peoples' fears, stating residents should feel safe in their environment. Ms. Hunsicker encouraged everyone to stop giving money to panhandlers, stating this enables them, and is not safe for them either as they become a target for someone else to rob them.

David Sciacca, 47 Orchard Place, expressed his agreement with everyone, stating the City does need to address the issue of aggressive panhandling, stating he did not believe enforcement was the answer, although it should be a component. Mr. Sciacca stated there should be more education and a better understanding of the problem, stating a lot of the panhandlers are compromised, asking the City not rush to pass an ordinance until they have considered other viable solutions.

Jane Ford, Share Center employee, stated she was homeless for 30 years, stating she has also experienced different types of panhandling. Ms. Ford stated the panhandlers on Beckley Road are not homeless, stating this is a form of revenue for them, stating she has followed them to hotels or houses. Ms. Ford stated the panhandlers downtown are different, stating many have substance abuse and health issues, stating their underlying issues are not being addressed, but giving them money only continues their abuse issues. Ms. Ford stated she had seen people who have been assaulted when they did not give money to panhandlers, stressing the City needed to address the core issues.

Scott Mawby, Battle Creek business owner, recommended people stop giving money to panhandlers, instead giving the money to local charitable service agencies that provide services to assist people. Mr. Mawby stated persons are hurting the community when they give panhandlers money, stating that if they stop, the problem will go away.

John Kenefick, 234 South Ave, stated he agreed with the businesses, stating there were other concerns to take into consideration. Mr. Kenefick asked about the consequences of panhandling, including incarceration, the need for legal services, jail and court costs. Mr. Kenefick stated this will not solve the problem as the panhandlers will not be able to pay any of the costs. Mr. Kenefick noted panhandling is happening in other areas of the city, not just

downtown.

Naomi Curtis, 98 W. Pitman, stated she did not know the solution, but that she would like another alternative to the ordinance. Ms. Curtis stated she used to own a business in the City, stating she got to know the panhandlers, stating this made her more comfortable. Ms. Curtis stated she did not feel it was up to her to determine what they can spend the money on if she gives them money. Ms. Curtis expressed her concern the ordinance may be difficult to enforce city wide, stating it would result in locking up people who are vulnerable with substance abuse or mental issues, who will not be able to pay fines or jail fees, recommending people take the time to make the human connection.

Joe Hooper, Pastor, Faith Temple Church, discussed the issue from a Christian point of view, stating he tries to help people in need, understanding that when you try to help some, you may do more harm than good, recommending the City focus on the issues that are creating the problem. Pastor Hooper suggested a place or institution where panhandlers could go to receive the help they need, which may deter them from going into the streets. Pastor Hooper appealed to the kindness in everyone, stating it is hard not to help others, but this may be enabling them to continue.

## **DISCUSSION OF PANHANDLING ORDINANCE**

Comm Gray asked City staff if there were any consideration or concerns regarding enforcement difficulties, how offenders will pay fines or taxes, or if it will be difficult to regulate in one area, and what to do when the issues move to a new area.

Chief Blocker stated the ordinance amendments were part of bigger strategy, stating a lot of people were concerned with safety in downtown and how the ordinance will be enforced. Chief Blocker stated his officers practice compassion daily, emphasizing their concern was not the homeless of our community, stating the officers know most of them by name, stating they are the people his officers bring in from the cold on harsh winter nights. Chief Blocker stated they were concerned about people who are not from the community, who are coming from outside, stating the ordinance amendment gives the officers an opportunity to talk to those outside of the norm. Chief Blocker noted very few tickets were given for begging, vagrancy, or loitering. Chief Blocker stated the ordinance gives them the right to make contact and provide alternatives if people are being aggressive.

Comm. Faris asked what enforcement will look like, asking if someone calls 911 and reports they are feeling threatened, are they required to stay in the situation until an officer arrives, asking how the situation will play out.

Chief Blocker noted every case is different, stating the issue is not whether the victim stays or not, the officer will have the authority to make contact with the solicitor based upon the description provided and the allegation of violation, stating the victim may be called upon if the case goes to court. Chief Blocker stated that without the ordinance amendments, the officers do not have ability or right to stop or detain, but if they can make contact, they could assist them by taking them to the Haven, the Share Center or the Salvation Army, stating they just need to know the rules.

Comm. Helmboldt clarified that the City presently did not have legal reason to make contact as there is not an ordinance defining the activity as illegal, that what is available now is vague.

Chief Blocker confirmed the amendments to the ordinance would provide his staff the tool to approach persons, stating no other City ordinance or State statute addresses the aggressive panhandling issue, the officer would simply remove the person.

Mayor Walters asked if the ordinance would protect both residents and panhandlers, possibly that panhandling may lead to other crimes such as assault or larceny.

Chief Blocker agreed, stating the aggressive panhandlers are almost creating a market where they are developing territories, some are saying "this is my corner, my time of day", at a level of aggressiveness the officers have not seen before. Chief Blocker informed the Commission that they have recently received a tip that some are soliciting others to come in and get money, for illicit drugs or share of money, stating this is destabilizing the norm downtown.

Comm. Behnke asked how his department would use the ordinance to address problems at City Hall.

Chief Blocker noted the ordinance would not cover City Hall, unless the action was aggravated.

Attorney Steele noted they have talked of prohibiting aggravated panhandling city-wide.

Comm. Gray stated better education of the resources and service providers in the community would help with the problem, stating that residents may believe they are helping someone by giving them money, but they may actually be hurting the situation.

Comm. Faris referenced Attorney Sahu's comment that the City can regulate behavior, asking if there was proposed language to separate types of behavior when soliciting alms, such as using intimidation or threats, such as accosting or forcing themselves on someone.

Chief Blocker stated simple assault would apply, noting the ordinance incorporates aggressive or aggravated language, just prior to assault, allowing an officer to stop the action.

Comm. Helmboldt, expressing concern for everyone's civil rights and property rights, asked if simply asking for money is not against the law, but wanting the community where we work and live to be safe, and if residents do not feel safe, can they request BCPD come and assist. Comm. Helmboldt asked if there was a way to separate the act of just asking for money, compared to aggressively soliciting.

Chief Blocker stated the ordinance would establish rules everyone is to follow.

Attorney Steele noted the ordinance is being tied to soliciting alms because aggressive behavior is often not found except in these situations, stating that if someone is approaching you for some other reason, it is either to commit assault or someone you know approaching for other reasons. Attorney Steele noted there is also a Stalking law in Michigan, but that it requires 2 separate instances of the same persons if not related, but in aggressive panhandling instances, the victim and perpetrator are not usually the same, stating this is why other municipalities have adopted similar ordinances.

Chief Blocker stated giving to panhandlers is not helping their situation, stating the residents of the City are very compassionate and giving, stating the educational component would be more beneficial, redirecting people to the resources and programs they need, stating there was a brochure with resources that could be provided in the past.

Comm. Helmboldt noted there were other economic areas in the City with similar problems, such as Capital Avenue SW, commonly called Old Lakeview, Capital Avenue NE, the Columbia Avenue and Beckley Road corridors.

Mr. Dearing stated the City is interested in all of the economic areas of the City, stating the characteristics are different downtown, noting most people are walking, allowing for close proximity of public spaces to private spaces, suggesting the unique areas in downtown seem to facilitate aggressive panhandling behavior. Mr. Dearing noted people are less exposed on Beckley road as they are somewhat protected by their vehicles, whereas downtown, they are walking and exposed.

Mayor Walters stated the primary purpose was the protection of our citizens, stating the ordinance would be another tool to make a stop, to keep citizens safe, to get in the middle of an incident prior to escalation.

Comm. Behnke stated he would not be opposed to legislation for a license or permit, which would allow staff to provide information on the resources available.

Comm. Faris asked if the current sign ordinance would be applicable to persons panhandling with signs in the right of way.

Attorney Steele noted that if the panhandler was in the median or right of way, this would be prohibited.

Gail Bradstreet, City Treasurer, provided information specific to City Hall, speaking on behalf of the City's residents and customers. Ms. Bradstreet stated she has offered the panhandlers food. Ms. Bradstreet stated the money the panhandlers receive is not for food, it is for cigarettes, alcohol or lottery tickets. Ms. Bradstreet stated the individuals stand on or squat on the railings, blocking passage. Ms. Bradstreet noted she has been asked to escort people out of the building as they are fearful or anxious when leaving. Ms. Bradstreet stated she has seen one frequent individual who does not want change (coins) and will tell people they have not given him enough, often throwing the change into the flower bed. Ms. Bradstreet stated she has seen panhandlers knock on car windows, startling customers. Ms. Bradstreet stated they often wander in and out of the building, moving everything in the display racks, and taking decorations off window shelves, stating they should not be loitering in City Hall unless they have business to conduct. Ms. Bradstreet noted she receives comments from employees and customers daily, who are concerned with the erratic behavior, asking why the the City will not do anything about this. Ms. Bradstreet stated she understood their rights, but was concerned with customers', staff and residents' anxiety.

Comm. Flores stated she wanted to caution everyone that they needed to identify the conduct and behavior, stating the ordinance should not be about easing discomfort around poverty, not using policing to handle a complex social issue. Comm. Flores recommended they address the root causes of the behavior as a community. Comm. Flores stated she has heard from many who felt more boundaries were needed, stating she appreciates the BCPD's need to have the tools to work with the panhandling population, allowing them to connect people with services. Comm. Flores expressed concern over a "Zone", wanting to ensure the ordinance did not affect true business downtown or the soliciting of non-profit funders. Comm. Flores expressed concern of instances of selective enforcement, using as an example kids soliciting candy on Halloween.

Comm. Behnke thanked the City Attorney staff and Chief Blocker, stating this has been a real concern with members of the Parking Committee, stating many restaurateurs' downtown are looking for some help.

Mayor Walters thanked everyone for their patience, stating the Commission wanted to ensure that every citizen had an opportunity to speak.

## **ADJOURNMENT**

Mayor Walters adjourned the work session at 7:37 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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