



Agenda: Battle Creek City Commission

Meeting Date: January 20, 2015- 7:00 PM

Location: Commission Chambers City Hall

Chair: Deborah G. Owens, Mayor

Title: Prepared by Michelle Kay Redman

ATTENDANCE

Mayor Deb Owens	Susan Bedsole, Interim Assistant City Manager
Vice Mayor Lynn Gray	Jill Steele, City Attorney
Commissioner Susan Baldwin	Victoria Houser, City Clerk
Commissioner Mark Behnke	Jim Blocker, Police Chief
Commissioner Jeff Domenico	Rich Werner, Transportation Supervisor
Commissioner Andy Helmboldt	Larry Bowron, Transportation Director
Commissioner Dean Newsome	Dave Schmaltz, Fire Chief
Commissioner Mike Sherzer	Ken Kohs, Utilities Director
Commissioner Dave Walters	Dan Ryan, Chief Information Officer
	Linda Morrison, Finance Director

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Aaron Nichols of Scout Troop 309.

PROCLAMATIONS AWARDS

Beautiful Battle Creek Award

Mayor Owens presented the Beautiful Battle Creek Awards.

PRESENTATIONS

Presentation by Mark Kettner of Rehmann Robson CPA Firm and Battle Creek Finance Director Linda Morrison on the June 30, 2014, City of Battle Creek Audited Financial Statements. (10 minutes)

Linda Morrison, Finance Director, presented information on the June 30, 2014 City of Battle Creek Audited Financial Statements, thanking her staff and other City department staff for making the audit process extremely efficient. Ms. Morrison discussed details of the audited financial statements.

Mark Kettner, Rehmann Robson, noted the high points in the audit, stating page 12 contains the auditor's opinion that the financial statements are fairly presented in accordance with generally accepted accounting principals for governments, noting they are not materially misstated. Mr. Kettner recommended the

Commission review comparable government's financial statements at the Department of Treasury's website.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PUBLIC COMMENT

There were no public comments regarding the Consent Agenda.

PUBLIC COMMENTS REGARDING CONSENT AGENDA

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

There were no Commission comments.

CONSENT AGENDA

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

Minutes:

City Commission Minutes for Regular Commission Meeting on January 6, 2015

Petitions, Communications, Reports:

City Manager's Report for January 20, 2015

Resolutions:

62 A Resolution authorizing a contract for the service, repair, and calibration of the instrumentation and controls from Oudbier Instrument Co. in the annual not-to-exceed amount of \$29,400.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

A Resolution approving a change order to contract #2014-006C with Pulverdryer,

61 USA, in a not-to-exceed amount of \$21,642.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

63 A Resolution setting a Public Hearing for 7:00 PM, February 3, 2015, on a proposed Industrial Facilities Tax Exemption Certificate at the request of ReConserve of Michigan, Inc., for real and tangible personal property located at 170 Angell Street in Industrial Development District No. 37.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

64 A Resolution setting a Public Hearing for 7:00 PM, February 3, 2015, on a proposed Industrial Facilities Tax Exemption Certificate at the request of WKW Roof Rail Systems, LLC, for real and tangible personal property located at 215 N. Hill Brady Road in Industrial Development District No. 2.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

PETITIONS COMMUNICATIONS REPORTS

There were no petitions, communications or reports.

PUBLIC COMMENTS REGARDING RESOLUTIONS

John Kenefick expressed his opinion there was a conflict of interest regarding Resolution 65, stating the agencies that receive the funding have representatives present on the Local Advisory Council and the Local Coordinating Council who approve the funding requests.

(Limited to five minutes per individual)

RESOLUTIONS

- 65 A Resolution supporting the submittal of applications to the Michigan Department of Transportation (MDOT) for FY 2016 Specialized Services and Section 5310 funds.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 66 A Resolution of Intent to apply for State financial assistance for Battle Creek Transit for FY 2015 - 2016 under Act No. 51 of the Public Acts of 1951, as amended.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 67 A Resolution authorizing Police Officer Esteban Rivera to purchase 12 months of military time to increase his service credit towards retirement.

Motion to Amend

Moved By: DAVE WALTERS

Supported By: MIKE SHERZER

Comm. Newsome asked Commissioners Baldwin and Behnke if they recalled the discussions in 2006, asking for the rationale of considering each request on a case by case basis, instead of a blanket policy covering all requests.

Comm. Baldwin noted two resolutions were passed, one requiring that each request be approved individually, and the second adopting the policy that only 12 months would be allowed to be purchased. Comm. Baldwin stated each request required Commission approval.

Comm. Walters thanked Officer Rivera for his service to the country and the City. Comm. Walters asked if the City picked up an officer's same cost while on active duty. Comm. Walters asked what the difference would be, stating he would like to amend the resolution to ask for the full 41 months instead of the 12 months.

Ms. Bedsole clarified Comm. Walters' questions, stating that if an employee is on active military duty, for an entire calendar year, during that time period does the City make a contribution to the Police & Fire fund on the employee's behalf for purposes of retirement.

Ms. Morrison clarified that if an officer is on active duty, and therefore not on the payroll, there would be no contribution to the pension fund, stating the pension contributions are based upon the actual payroll. Ms. Morrison asked if Comm. Walters was asking about service credit.

Comm. Walters also asked if that year still counted toward the employee's 25 years of service.

Ms. Morrison confirmed it does count toward service credit, but that a contribution is not being made by the City to the Police & Fire Pension Fund as he is not being paid by the City.

Comm. Walters stated he still wanted to amend the resolution.

A motion was made by Comm. Walters, supported by Comm. Sherzer, to amend the resolution to allow Officer Esteban Rivera to purchase 41 months of military time to increase his service credits toward retirement, instead of the 12 months stated within the resolution.

Comm. Newsome asked what the additional cost would be to the City to amend the resolution from 12 months to 41 months.

Ms. Morrison stated the cost to the City for 41 months would be \$234,005, with Officer Rivera's cost of \$18,648.

Comm. Newsome asked what the compelling case was for the 41 months buyback.

Chief Blocker noted the law allows up to 48 months, allowing the governing body to set individual policy regarding the number of months, stating Officer Rivera requested the 41 months.

Comm. Baldwin requested the specific language of the policy.

Mayor Owens confirmed with Ms. Morrison that the approval of the purchase of 12 months of military time would increase the Police & Fire millage by .002 to the citizens for 30 years. Mayor Owens noted the funding of the 41 months would increase the millage by .008 for 30 years to the citizens of Battle Creek.

Ms. Morrison agreed either the millage would increase or the general fund would need to cover the cost, which would result in a reduction of services.

Mayor Owens noted other City employees could purchase service credit through the MERS program, with the full cost paid by the employee, and no cost to the City.

Comm. Baldwin stated that if the Police and Fire millage is not raised, the general operating fund would be affected, potentially affecting services.

Comm. Sherzer asked if there were other positions in the department that Officer Rivera could be placed in if the 41 months was not an option.

Chief Blocker confirmed the department would make all reasonable efforts to accommodate Officer Rivera.

Comm. Walters stated that although he was concerned with the dollars, he was more concerned with the individual, stating there were concerns expressed that this may set a precedent, believing the policy states requests will be considered on a case by case basis.

Comm. Gray asked how they arrived at 41 months.

Chief Blocker stated this was the amount of time to achieve the officer's 25th year of employment.

Comm. Behnke asked Chief Blocker if an option was workman's comp.

Chief Blocker stated workman's comp was an option, but he was referring to other possible positions within the department.

Comm. Behnke, supporting Comm. Baldwin's statements, noted that in the past, many veterans' applications to purchase military time were being rejected by the administration, stating the Commission worked with the employees to establish a policy of a maximum of 12 months.

Comm. Domenico asked if Officer Rivera was trying to purchase sufficient time to obtain the 25 years required for full compensation, noting the officer could receive an equivalent percentage of compensation for his current time employed, as he was completely vested after 10 years.

Comm. Baldwin reviewed the policy set March 21, 2006, pursuant to State Act 345 of 1937, requiring a 3/5 vote of the Commission. Comm. Baldwin noted there were two resolutions approved in March 2006, specifically resolutions 118 and 119. Comm. Baldwin noted military time could not be purchased for the purpose of vesting in the pension system or for enhancing a pension benefit. Comm. Baldwin further noted all requests must include an actuarial analysis of the cost to the pension system, and that the Commission will review each request on a case by case basis, noting the policy should not be viewed as a guarantee that requests will be granted. Comm. Baldwin stated resolution 119 set the maximum number of months for the Commission to consider was 12 months.

Comm. Sherzer asked if the policy regarding 12 months was only for new employees.

Comm. Helmboldt stated current employees were given a certain window of time to ask for additional months, but once the time period expired, the 12 months would be the maximum amount of time.

Comm. Baldwin requested clarification regarding "may not be purchased for vesting in the pension system or enhancing a pension benefit."

Jill Steele, City Attorney, stated she would need to review the statute to provide additional clarification, agreeing with the case by case consideration of each request.

Comm. Walters stated an enhancement would be military time purchased to go beyond the 25 years needed for the full pension benefit, stating this would not be allowed.

Comm. Newsome stated he would not support amending the resolution to 41 months, referring to discussions the prior year when the general fund was offset by the pension fund to avoid an increase to the Police & Fire millage. Comm. Newsome stated that without considering an alternate position, he would not support the amended resolution.

Comm. Helmboldt expressed his support of the current policy, stating he will support the 12 months, not the 41 months.

Mayor Owens asked if other options for employment were available if only the 12 months were approved.

Chief Blocker stated the department would work with Officer Rivera for other employment options.

Motion to Amend

Moved by: DAVE WALTERS

Supported by: MIKE SHERZER

Ayes: WALTERS.

Nays: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER.

MOTION FAILED

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Comm. Baldwin noted a 3/5th vote was required.

Comm. Sherzer noted 6 other requests were approved previously, stating the City needed to take care of the officers as best they could, stating he trusted Chief Blocker would work with the officer to get to the 25 years needed for the full pension benefit.

Comm. Behnke thanked the administration for their research, stating the resolution was in the best interest of the employee.

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 68 A Resolution authorizing a contract for a new fire apparatus from Kodiak Emergency Vehicles in a not-to-exceed amount of \$426,490.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 69 A Resolution authorizing contract #2015-049C with Jones & Henry Engineers, Ltd., for construction engineering services, in an estimated amount of \$228,260, with unit prices prevailing.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 70 A Resolution authorizing contract #2015-052C with CTS Telecommunications, Inc., for indefeasible right to use, in the estimated five-year amount of \$193,265.54, with unit prices prevailing.

Motion to Approve

Moved By: LYNN GRAY

Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

- 71 A Resolution approving contract #2015-045C with Aviation Management Consulting Group, Inc., in a not-to-exceed amount of \$138,750.

Motion to Approve
Moved By: LYNN GRAY
Supported By: JEFF DOMENICO

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

72 A Resolution Supporting Adoption of Amendments to the City's Industrial Pretreatment Program After 30-Day Public Notice and Comment Period.

Motion to Approve
Moved By: LYNN GRAY
Supported By: JEFF DOMENICO

Ken Kohs, Utilities Director, noted the facility monitors and controls the amount of contaminants and wastes in the sewage to make sure the facility can treat it. Mr. Kohs noted several businesses require additional loadings in the sewage they discharge, such as the cereal industry and paper mills, stating they do allow certain businesses to discharge greater amounts than are allowed under City ordinance, noting the facility has the capacity to treat those components, stating the amendment formalizes the process.

Ayes: BALDWIN, BEHNKE, DOMENICO, GRAY, HELMBOLDT, NEWSOME, OWENS, SHERZER, WALTERS.

MOTION PASSED

GENERAL PUBLIC COMMENT

Mr. Compton read a definition of "conflict of interest", stating he disagreed with the City Attorney's comments at the prior meeting. Mr. Compton also expressed his opinion the Commissioners should not be allowed longer comment time than the public, also asking for a response to his questions from the last meeting relating to prevailing wage waivers and administrative leave.

Aaron Nichols, Boy Scout Troop 309, at First Presbyterian Church, requested permission to survey and catalog the grave sites in the City's 3 cemeteries so that he could complete his Eagle Scout project to place flags at all of the veterans' grave sites on Veteran's holidays.

David Sarachick, 201 Winter Street, stated he took issue with Comm. Newsome's comments at the prior meeting, expressing concern with the way the City handled the issue.

Betty Robertson, 125 E. Northside Drive, asked what a resident needed to do to have the Vacant & Abandoned classification removed from their properties, stating the \$40 monthly fee was unjustified.

John Kenefick, referring to resolution 70, stated the City's past project to go paperless was at a cost to the residents, stating the Commission was responsible to oversee and keep in check the government from wasting money.

Niki Cummings, 85 Caine Street, requested time to talk with the Mayor about some issues with organizations in Battle Creek.

Mayor Owens informed Ms. Cummings of her available times at City Hall.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Vice Mayor Gray congratulated Pastor William Wyne of Second Baptist Missionary Church, who recently received the Spirit of Martin and Mandela Community Award for his work in the community. Vice Mayor Gray also announced "Coffee Hours" with the Mayor and Vice Mayor every other month, starting February 5th at Ritzee Hamburgers on W. Michigan Ave, from 5:30 - 6:30 pm. Vice Mayor Gray also noted the Police Department would be offering Crime Prevention Townhall meetings, starting January 22, 2015 at DPW 6:30 pm.

Chief Blocker stated the Crime Prevention Unit, consisting of 8 volunteers, would be holding presentations focused on crime prevention on many topics.

Comm. Walters thanked Aaron Nichols, stating the project was a noble cause, wishing him the best of luck.

Comm. Baldwin thanked the road and water crews who were repairing a water leak in front of her house, stating they were very prompt and polite.

Comm. Sherzer expressed concern that there was no opportunity for the public to comment when a resolution is being amended, asking that this be reviewed.

Comm. Helmboldt requested Dan Ryan, Chief Information Officer, to provide the Commission with assurances as to security for City data. Comm. Helmboldt also requested information on Vacant & Abandoned monitoring fees, asking when the fee stops, also asking if the billing is after the time period, which may explain why an invoice is received after work is started on the home.

Ms. Bedsole stated the Vacant and Abandoned Ordinance was put in place to discourage residents from holding vacant properties, noting it was not part of the Rental Ordinance. Ms. Bedsole stated the monitoring begins when the property has been identified and the Certificate of Occupancy has been revoked pursuant to the ordinance, stating that when the owner is willing to make the corrections referenced on the safety inspection, the monitoring fees are suspended while they are working to bring the property back up to code. Ms. Bedsole also noted recurring invoices are sent from the Finance Department, and that someone may not have stopped the invoices, therefore a resident may receive an invoice, noting the invoices are issued quarterly for the previous three months. Ms. Bedsole noted the resident must be making progress on the corrections, not just pulling the permits.

Comm. Helmboldt thanked the Police Department for their service during a recent lockdown at Coburn Elementary School due to a suspected firearm, stating the response time and performance were outstanding.

Mayor Owens requested Chief Blocker address the concerns that criminal charges were not filed in a recent employee investigation.

Chief Blocker stated there were no criminal charges the City had based on our resources, however believed federal authorities needed to be notified and brought into the investigation, stating it remains at the federal level and at their pace, stating it has passed to the Department of Homeland Security.

Mayor Owens also thanked the Road crew for allowing her to ride in a snow plow, stating several residents thanked the crew for their work while they were at lunch. Mayor Owens also provided information to the Commissioners for an opportunity to volunteer with Senior Services. Mayor Owens thanked Chief Schmaltz for the opportunity to participate in the swearing in of 4 new Fire Fighters earlier in the day.

ADJOURNMENT

Mayor Owens adjourned the meeting at 8:38 pm.

Citizens who wish to address a specific issue on the floor may do so at any time after being recognized by the Mayor or presiding Commission. At the time for public comments, after being properly recognized, citizens may address the commission on any subject. Citizens will be subject to the following limitations:

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. Citizens will confine their remarks to matters currently pending on the floor, and be brief and concise in making their remarks;
 4. 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;
 5. 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:

Victoria Houser
Office of the City Clerk
Post Office Box 1717
Battle Creek, Michigan 49016
269/966-3348 (Voice)
269/966-3348 (TDD)