



Agenda: Battle Creek City Commission

Meeting Date: August 15, 2017- 7:00 PM
Location: Commission Chambers City Hall
Chair: Mayor David A. Walters
Title: Prepared by Shawna M. Allen

ATTENDANCE

Mayor Dave Walters	Rebecca Fleury, City Manager
Vice Mayor Susan Baldwin	Ted Dearing, Assistant City Manager
Commissioner Mark Bahnke	Jill Steele, City Attorney
Commissioner Kaytee Faris	Victoria Houser, City Clerk
Commissioner Kate Flores	Jim Blocker, Police Chief
Commissioner Lynn Ward Gray	Chris Dopp, Director of Public Works
Commissioner Deb Owens	Carl Fedders, City Engineer
Commissioner Andy Helmboldt	Rich Werner, Transit Manager
Commissioner Mike Sherzer	Marcel Stoetzel, Deputy City Attorney

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Sherzer.

ROLL CALL

PROCLAMATIONS AWARDS

Beautiful Battle Creek Awards

Mayor Walters presented the Beautiful Battle Creek Awards.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PETITIONS COMMUNICATIONS REPORTS

Clerk Houser noted a communication was received from Lindsay Wheeler which has been provided to Mayor Walters, City Manager Fleury, Assistant City Manager Dearing and DPW Director Dopp as requested.

PUBLIC HEARING

A Public Hearing for the purpose of reviewing and receiving public comment on a request to vacate a portion of International Lane in the Battle Creek - Fort Custer Urban Renewal Plat No. 2.

Mayor Walters declared the public hearing open, inviting the public to comment.

Hearing no public comment, Mayor Walters closed the public hearing.

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA

David Moore, 102 Taylor, commented on resolution 173, regarding modifications to Capital Avenue NE, and resolution 172, regarding a regional service agreement with St. Joseph County.

John Kenefick, 234 South Avenue, commented on resolution 173, expressing concern it would cause more traffic congestion, and resolution 180, regarding an MOU between the City, BCU and CCDC.

(Limited to five minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

Comm. Flores requested resolution 173 be removed from the Consent Agenda.

CONSENT AGENDA

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

City Commission Regular Meeting Minutes for August 1, 2017

Ambulance Report for July 2017

City Manager's Report for August 15, 2017

CONSENT RESOLUTIONS

172 A Resolution authorizing the City Manager to enter into a Regional Service Agreement with the St. Joseph County Transportation Authority.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS,

SHERZER

MOTION PASSED

- 174 A Resolution authorizing the City Manager to enter into an agreement with the Kalamazoo River Community Recreational Foundation to accept grant funding assistance for our local Kanoe the Kazoo event.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

- 175 A Resolution setting a Public Hearing for 7:00 PM, September 5, 2017, on a proposed Industrial Facilities Exemption (IFE) Certificate at the request of Bowers Aluminum Company for real property located at 1401 Shiga Drive in Industrial Development District No. 2.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

- 176 A Resolution appointing City of Battle Creek representatives to the Calhoun Public Safety Information Alliance.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

- 173 A Resolution supporting the Michigan Department of Transportation's (MDOT) recommendation for converting M-66 (Capital Avenue) from its existing four-lane configuration to a three-lane configuration with the rehabilitation project scheduled in 2018.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Comm. Flores requested staff comment on the resolution.

Carl Fedders, City Engineer, noted the City held a public open house in April with MDOT to discuss the possible changes to Capital Avenue NE. Mr. Fedders stated the proposed change from a four lane road to a three lane road, with a turn lane in the middle and bike lanes on each side, was part of the City's Non-Motorized Master Plan. Mr. Fedders further discussed the way these changes would improve safety for drivers, cyclists and pedestrians, noting studies have revealed the changes would have a calming affect on traffic by reducing traffic speeds, and allowing a separation between bike and traffic lanes. Mr. Fedders noted cyclists are free to use the roads whether a bike lane exists or not.

Comm. Helmboldt, commenting on residents concerns with traffic congestion, stated the MDOT studies and data do not demonstrate future traffic congestion issues. Comm. Helmboldt noted concerns were expressed at recent NPC 4 meetings, stating they were addressed with traffic flow data provided by MDOT. Comm. Helmboldt noted Capital Avenue and Golden Avenue areas experience more traffic than Capital Avenue NE. Comm. Helmboldt also noted the Bicycle Advisory Committee was unanimous in their support of the resolution.

Mr. Fedders confirmed Comm. Helmboldt's comments, stating that with a 20 year growth pattern, this road will continue to function, controlling traffic while increasing safety, noting the most congestion at Emmett and Capital Avenue NE, but a new signal in 2019 would continue upon the improvements. Mr. Fedders stated a residual concern was bus stops, stating the center lane was not to be used for taking over a bus.

Comm. Gray expressed concerns with the bend in the road as it transitions from Division to Capital Avenue NE, near Fremont Street.

Mr. Fedders noted the curves would not be changing, stating there would be shared lanes until the bike lanes began at Elm Street. Mr. Fedders stated MDOT will study the curved area while completing a larger construction project in the future.

Comm. Flores thanked staff for their research and due diligence, expressing support for the resolution as she felt it would provide more safety to drivers, cyclists and pedestrians, especially in the winter.

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

- 177 A Resolution authorizing the City Manager to execute an Amended and Reinstatement of a Building Space Lease Agreement and Memorandum of Lease with New Cingular Wireless, PCS, LLC.

Motion to Approve

Moved By: SUSAN BALDWIN
Supported By: MARK BEHNKE

Comm. Behnke asked if New Cingular Wireless had made the past due payment yet.

Marcel Stoetzel, Deputy City Attorney, noted the representative has assured the City the past due balance would be paid within 30 days of contract signing.

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

178 A Resolution authorizing the vacation of the street dedicated as International Lane in the Battle Creek - Fort Custer Urban Renewal Plat No. 2.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

179 Resolution Consenting to the Replat of Part of Battle Creek - Ft. Custer Urban Renewal Plat Number 2.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

180 A Resolution authorizing the City Manager to sign a Memorandum of Understanding (MOU) between the City of Battle Creek, Battle Creek Unlimited (BCU) and the Cereal City Development Corporation (CCDC) with respect to economic development activities.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: MARK BEHNKE

Comm. Flores requested staff provide an update and contact information.

Ted Dearing, Assistant City Manager, gave an update on the current progress of Cereal City Development Corporation's work, stating John Hart would be the Development Director, along with a

Business Recruitment and Retention Manager and a Marketing Specialist, working with businesses downtown and throughout the community, to ensure the City does not miss business and retail opportunities. Mr. Dearing stated CCDC would be located in the Riverwalk Center, inviting everyone to contact the City Manager's office for more information.

Ms. Fleury stated they have developed a comprehensive economic development model unlike any in the state. Ms. Fleury also noted the agreement was connected to the work of BC Vision.

Comm. Behnke thanked everyone for their work to develop the agreement, stating this was an historic opportunity for the City to assist people with new businesses.

Comm. Faris also expressed excitement, stating this was a revolutionary opportunity to have large and small businesses work in tandem while complimenting each other.

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

- 181 A Resolution authorizing the City Manager to execute an Agreement between the City of Battle Creek and the Leila Arboretum Society for the provision of educational programming, park stewardship, urban forestry consultation to the City and its citizens, as well as installation and maintenance of the Seasonal Planting Plan and Winter Display for Downtown Battle Creek for FY 2017/2018.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Comm. Helmboldt thanked the staff at Leila Arboretum for their work downtown and at the Arboretum, noting the Arboretum is an incredible asset for our community.

Comm. Faris complimented the work of the LAS, stating the downtown looks beautiful.

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

- 182 A Resolution authorizing the City Attorney to hire outside counsel to defend the City in pending litigation.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: MARK BEHNKE

Ayes: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION PASSED

GENERAL PUBLIC COMMENT

Lindsay Wheeler, 218 Leland Drive S, commented on the Metcalf Lake property being open to the public, expressing concern the public was not notified, presenting a sign posted at the site.

David Moore, 102 Taylor, commented on bike lanes on local roads and safety.

John Kenefick, 234 South Avenue, commented on the limited amount of public comment time at the prior workshop. Mr. Kenefick also commented on resolution 180 regarding the MOU with BCU and CCDC, asking what the previous agreement was.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Attorney Steele discussed the reasons the lease payment on the cell tower had not been made, stating they thought there was only one lease, which they had been making payments on. Attorney Steele discussed the work of Deputy City Attorney Stoetzel to track the numerous cell tower agreements and payments, along with assistance from Brad Waite and Perry Hart.

Vice Mayor Baldwin informed the City Commission that the City Manager and City Attorney Performance Evaluations were both occurring, requesting the Commission to review and complete both surveys as quickly as possible so that the committees could finalize the recommendations on time.

Comm. Owens clarified information related to Mr. Wheeler's comments, noting Woodland Park and Nature Preserve has been adopted by a grassroots group who has collected donations for the signs and an endowment fund, stating there are many grassroots groups doing great things in the community.

Mayor Walters, regarding Mr. Kenefick's comments, noted he informed all attendees at the workshop preceding the Commission meeting that public comment would be provided after the presentation, allowing staff to provide the information relevant to the workshop. Mayor Walters also noted attendees were invited to stay for the Commission meeting for additional public comment opportunities or to contact the Commissioners via the City website.

Comm. Sherzer announced tonight's Commission meeting was expected to be his last meeting as he and his family would be moving from Battle Creek before the end of his term, stating he thought the process of finding a new home and selling his current home would take longer. Comm. Sherzer thanked the residents of Ward 4 for their support and dedication to the City. Comm. Sherzer also thanked his fellow Commissioners and City staff, stating they are very hard working professionals.

Mayor Walters recommended the City Commission discuss the process of filling the Ward 4 Commission vacancy, noting the position would need to be filled if vacant more than 60 days prior to

the election.

Attorney Steele noted the City Charter and Ordinances did not have a set process, simply stating they are required to fill the vacancy. Attorney Steele recommended the Commission not appoint a current Ward 4 candidate, stating this may give them an unfair advantage. Attorney Steele suggested the Commission consider a Ward 4 resident who may have previously served on the Commission.

Mayor Walters discussed the process when he was chosen to fill a vacancy, stating the process is fairly time consuming, requiring resumes and background work, stating this process may take too long with only 4 scheduled Commission meetings prior to the November 7, 2017 election.

Comm. Owens stated she is aware of a Ward 4 resident who previously served on the Commission and has kept up with city business, stating he would be a good candidate for the seat.

Comm. Helmboldt stated he has talked with John Godfrey, former Mayor and Ward 4 Commissioner, stating he would be a qualified appointment to the Commission, to consider among other possibilities.

Vice Mayor Baldwin agreed, stating John Godfrey would be an outstanding person to fill the role, stating the Commission should determine the process so that it is done efficiently, while following the appropriate process.

Attorney Steele noted there is no process set out, suggesting there could be a motion properly worded, that in the event there is a vacancy that is required to be filled in Ward 4, that John Godfrey, if willing to do so, be appointed to the Ward 4 Commission position immediately upon its vacancy. Attorney Steele stated Comm. Sherzer would need to submit a letter of resignation to the City.

A motion was made by Vice Mayor Baldwin, supported by Comm. Gray, that in the event there is a vacancy that is required to be filled in Ward 4, that John Godfrey, if willing to do so, be appointed to the Ward 4 Commission position immediately upon its vacancy.

Comm. Flores expressed her understanding why the Commission may want to fill the vacancy in the manner discussed, however expressing her concern the vacancy should instead be filled by an open process, allowing others to step forward, while allowing an expedited process.

Comm. Faris expressed similar concern as Comm. Flores, stating she wants to ensure it is an equitable process, stating she is hesitant to accept just one name without allowing others to present an interest.

Vice Mayor Baldwin stated she understood their concerns, expressing concern the process may detract from the current election process, stating she did not want to hinder the current candidates' ability to present themselves to residents. Vice Mayor Baldwin stated they were considering a very qualified candidate for the vacancy while not taking anything away from the current candidates.

Comm. Flores agreed current candidates should not be considered to fill the vacancy, stating she would be more comfortable with an open process.

Mayor Walters noted this is a very unique situation with only 4 meetings left, stating the appointment of John Godfrey, with his experience and knowledge, would be a seamless appointment and transition.

Attorney Steele stated the Commission should weigh the step of a more open process with the issue of only having 8 or less Commissioners available for a future meeting.

Comm. Behnke called the question. Comm. Owens supported the motion.

Motion to Approve

Moved by: MARK BEHNKE
Supported by: DEB OWENS

Ayes: BALDWIN, BEHNKE, WALTERS, HELMBOLDT, OWENS, SHERZER
Nays: GRAY, FARIS, FLORES

MOTION PASSED

A motion was made by Vice Mayor Baldwin, supported by Comm. Gray, that in the event there is a vacancy that is required to be filled in Ward 4, that John Godfrey, if willing to do so, be appointed to the Ward 4 Commission position immediately upon its vacancy.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: LYNN GRAY

Ayes: BALDWIN, BEHNKE, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER
Nays: FARIS, FLORES

MOTION PASSED

Comm. Gray asked if the Commission should consider a contingency plan if John Godfrey were unwilling to fill the Ward 4 vacancy.

Vice Mayor Baldwin stated she did not believe there would be any problems.

Comm. Owens stated she has know Commissioner Sherzer his entire time with the City, stating he has always been fair and honest, understanding the charge of the Commission and never wavering in his resolve. Comm. Owens stated she admired Comm. Sherzer's integrity, dedication and service to the community, stating he will be greatly missed by the community.

Comm. Flores, regarding resolution 173, noted this does not regulate bikes on local roads, that the bike lanes provide more safety for riders. Comm. Flores read a statement denouncing the white supremacy's recent acts of hate and terrorism in Charlottesville, Virginia, asking all to seek understanding and take action to rectify inequities.

Comm. Gray expressed appreciation to Comm. Flores for her comments, also commenting on Mr. Wheeler's comments.

Comm. Helmboldt thanked Comm. Flores.

Vice Mayor Baldwin expressed her appreciation to Comm. Sherzer, stating she has enjoyed serving on the Commission and committees with Comm. Sherzer, stating he always provides wonderful insights, wishing him success in his future community.

Mayor Walters thanked Comm. Sherzer for his work for the community, stating he has always demonstrated a unique passion for the city and the citizens, stating he has always led with integrity, both as a police officer and City Commissioner.

Comm. Faris stated Comm. Flores has given the City a call to action, stating she would like the City to start by removing the stained glass window in the main stairwell, stating it is a symbol of hate and violence, not what our city should stand for.

RECESS

Commission recessed at 8:20 pm.

CLOSED SESSION

RETURN FROM RECESS

Commission returned from recess at 9:04 pm.

Mayor Walters called the meeting to order.

A motion was made by Vice Mayor Baldwin, supported by Comm. Behnke, to accept the recommendation of the City Attorney from the closed session.

Motion to Approve

Motion: SUSAN BALDWIN

Support: MARK BEHNKE

AYES: BALDWIN, BEHNKE, FARIS, FLORES, WALTERS, GRAY, HELMBOLDT, OWENS, SHERZER

MOTION APPROVED

ADJOURNMENT

Mayor Walter adjourned the meeting at 9:05 pm.

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City

Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed five minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate. Period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the City Commission as a whole, and not to individual Commissioners. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business when the speaker:

- (a) Becomes repetitive or speaks longer than the allotted time;
- (b) Attempts to yield any unused portion of time to other speakers;
- (c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out his or her public duties or office;
- (d) Uses obscene or profane language;
- (e) Engages in slanderous or defamatory speech;
- (f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or
- (g) Engages in conduct that interrupts or disrupts the meeting.