



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

Meeting Date: April 10, 2018- 7:00 PM  
Location: Commission Chambers City Hall  
Chair: Mark A. Behnke, Mayor  
Title: City Hall Commission Chambers

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### **ATTENDANCE**

Mayor Mark Behnke	Rebecca Fleury, City Manager
Commissioner Kaytee Faris	Ted Dearing, Assistant City Manager
Commissioner Kate Flores	Jill Steele, City Attorney
Commissioner Lynn Ward Gray	Victoria Houser, City Clerk
Commission John Griffin	Chris Dopp, Director of Public Works
Commissioner Christopher Simmons	
Commissioner Sherry Sofia	
Vice Mayor Dave Walters	

**Absent:** Commissioner Susan Baldwin

### **INVOCATION**

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Comm. Sofia.

### **ROLL CALL**

### **PROCLAMATIONS AWARDS**

Proclamation for Asa Philip Randolph Day

Mayor Behnke proclaimed Saturday, April 14, 2018 as Asa Philip Randolph Day.

Deboraha Salley, President of the A. Philip Randolph Institute, accepted the proclamation, announcing a reception at the SW Michigan Urban League on Saturday, April 14, 2018 at noon.

### **CHAIR NOTES ADDED OR DELETED RESOLUTIONS**

There were no added or deleted resolutions.

**PETITIONS COMMUNICATIONS REPORTS**

There were no petitions, communications or reports.

**PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA**

John Kenefick, 234 South Avenue, referring to resolution 122, regarding the change in parking fees, stated his opposition.

(Limited to five minutes per individual)

**COMMISSION COMMENT REGARDING MEETING BUSINESS**

There were no Commission comments.

**CONSENT AGENDA**

Motion to Approve

Moved By: JOHN GRIFFIN

Supported By: CHRISTOPHER SIMMONS

Ayes: FARIS, FLORES, GRAY, BEHNKE, GRIFFIN, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN

MOTION PASSED

Minutes for Regular Commission meeting on March 20, 2018

City Manager's Report for April 10, 2018

**CONSENT RESOLUTIONS**

120      A Resolution supporting the rehabilitation of five Battle Creek bridges.

Motion to Approve

Moved By: JOHN GRIFFIN

Supported By: CHRISTOPHER SIMMONS

Ayes: FARIS, FLORES, GRAY, BEHNKE, GRIFFIN, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN

MOTION PASSED

**RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA**

121      A Resolution approving an Application for Waiver and Plan of Underfunded Status for the City of Battle Creek's MERS Defined Benefit Pension Retirement System as required under Public Act 202 of 2017.

Motion to Approve

Moved By: JOHN GRIFFIN

Supported By: CHRISTOPHER SIMMONS

Comm. Flores requested staff provide additional explanation.

Ms. Fleury stated PA 202 is a new act, requiring improved reporting requirements of municipal pension and retiree health plans. Ms. Fleury further stated the MERS defined benefit pension plan, according to the calculations, was below the 60% funded level, which is considered underfunded. Ms. Fleury noted the formula does not include all of the City's revenues, which carry the liabilities for the pension plan, without which the City would be considered underfunded. Ms. Fleury stated the formula is still being looked at. Ms. Fleury stated that if the City was in a different situation, the next step would be a review of the waiver form, and the Treasury Department would either grant the waiver, or move to a more formal review. Ms. Fleury expressed her belief that a waiver will be granted based upon the additional information provided to the Treasury. Ms. Fleury noted many other municipalities are experiencing the same issues with the form calculations. Ms. Fleury noted the City was at 59.6% funded, stating the Treasury were taking it as an actuarial in the past, noting if they were to do a current actuarial, it would have been over 60%. Ms. Fleury also stated they did not take all of the City revenue into the calculation, including enterprise funds. Ms. Fleury noted the information has always been available to the public, but the calculation for form 5572, that is a requirement of PA 202 of 2017, is new.

Ayes: FARIS, FLORES, GRAY, BEHNKE, GRIFFIN, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN

MOTION PASSED

122            A Resolution amending the "2017 Fee, Bond and Insurance Schedule" for the City Revised  
of Battle Creek.

Motion to Approve

Moved By: JOHN GRIFFIN

Supported By: CHRISTOPHER SIMMONS

Comm. Gray requested staff consider an alternative to raising the fee for the second half of the first hour of parking, stating she wanted to encourage more residents to come downtown, stating she would not support an increase in the fee.

Comm. Simmons expressed support of the change to include all city-owned parking lots in the monthly permit fee, and that he felt the \$10 downtown event fee was reasonable. Comm. Simmons stated he was not supportive of a fee increase for the second half hour of the first hour, stating it would discourage visitors to the downtown area.

Vice Mayor Walters, expressing agreement with prior comments, stated the Commission's job was to consider the yield to all citizens, stating raising the fees was not good for citizens. Vice Mayor Walters questioned why revenues were down.

Comm. Sofia also expressed a lack of support, asking why there has been a decreased demand for parking, requesting staff provide information on the current ramp and lot usage, and how long people are using the parking areas.

Comm. Faris expressed agreement with prior comments, asking if staff had contacted local businesses, requesting they consider helping with the parking expense by validating parking for downtown customers.

Ayes: BEHNKE, GRIFFIN  
Nays: FARIS, FLORES, GRAY, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN  
MOTION FAILED

123        A Resolution accepting the lowest responsive, responsible bid for the 2018 construction season watermain project from Hunter-Prell Co., Inc., in an estimated amount of \$1,783,312.08, with unit prices prevailing.

Motion to Approve  
Moved By: JOHN GRIFFIN  
Supported By: CHRISTOPHER SIMMONS

Ayes: FARIS, FLORES, GRAY, BEHNKE, GRIFFIN, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN  
MOTION PASSED

124        A Resolution accepting the lowest responsive, responsible bid for 2018 Capital Preventive Maintenance project from Pavement Maintenance Systems, LLC in an estimated amount of \$1,151,943.65, with unit prices prevailing.

Motion to Approve  
Moved By: JOHN GRIFFIN  
Supported By: CHRISTOPHER SIMMONS

Comm. Gray requested staff inform residents how they can find out what streets are being worked on and how the City notifies affected residents.

Chris Dopp, DPW Director, stated that in addition to a map of street projects on the City webpage, the City also mailed postcard notices to residents who were to be affected by street projects, staff attends NPC meetings to provide neighborhood information, and they put door hangers on homes where the work is being completed. Mr. Dopp stated staff has receive calls from some residents who received a postcard.

As to the quality of the product being placed on the roads recently, Mr. Dopp noted the results of the chip seal treatment are dependent upon the weather. Mr. Dopp shared that work completed in the fall did not grab as well as treatment applied during the warmer summer months, stating the work would begin earlier this year, anticipating a better result. Mr. Dopp stated the road treatments that were completed in the fall will smooth out during the summer. Mr. Dopp also informed the Commission that the most recent treatments have included a higher grade of stone, also used in Canada, stating different gradations were applied dependent upon the traffic count. As to Comm. Simmons concern regarding overspray, Mr. Dopp stated the gutter spans were already covered with asphalt, agreeing that staff would keep an eye on the contractor to ensure results.

Comm. Flores expressed concern many older trees were being removed when staff did sidewalk repairs, asking if there were other options or designs that may preserve the older trees, asking staff to take a more conservative approach to tree removal.

Ayes: FARIS, FLORES, GRAY, BEHNKE, GRIFFIN, SIMMONS, SOFIA, WALTERS

Absent: BALDWIN  
MOTION PASSED

## **GENERAL PUBLIC COMMENT**

Deboraha Sallee, as a former City employee, asked how resolution 121, affected retirees' MERS pension.

Ms. Fleury stated there would not be any affect on the MERS plans.

Ms. Sallee thanked Commissioners who participated in an October 2017 pre-election event.

Peter VanGoethem, Bedford Township resident, commented on a variety of topics, including the free market, vacant buildings and taxes.

Steve Koch, 548 N. Washington, commented on chip seal, snow plowing, income taxes, renovating vacant houses and the new police facility.

John Kenefick, 234 South Avenue, commented on a response to some questions he had previously asked, not satisfied with the response regarding Robert's Rules of Order and taxes and permits on residential property.

(Limited to three minutes per individual)

## **COMMISSION COMMENTS**

Comm. Faris informed the Commission that the Historic District Commission unanimously supported the reinstatement of the State Historic Preservation tax credits, for both residential and commercial properties. Comm. Faris stated the tax credits have an economic benefit to neighborhoods and the City, requesting the Commission support a similar resolution at the next meeting.

Comm. Gray asked staff to respond to Mr. Kenefick comments.

Attorney Steele stated she provided Mr. Kenefick a broad explanation of the hierocracy of all the things that come before Robert's Rule of Order. Attorney Steele, referencing the Blue Ribbon Committee, noted they adopted a resolution regarding meeting business and public comment that mirrored the City Commission rules. Attorney Steele noted the committee chair talked about adding additional public comment time, which is within his authority, and that the chair simply asked the members if they were in agreement. Attorney Steele noted a motion was not required, and a motion was not made, stating they do not get to Robert's Rules of Order when the body has adopted their own rule that takes precedence over Robert's Rules of Order.

Comm. Gray informed everyone that the Youth Advisory Board was accepting applications, noting they were due to the City Manager's office by 5:00 on Friday, April 13th, stating there were 6-8 openings. Comm. Gray also announced the YAB Town Hall meeting on Tuesday, May 22nd, in Commission Chambers at 7:00 pm, noting they would be discussing school safety, with the Battle Creek and Lakeview Schools superintendents present. Comm. Gray announced Information Technology would be the topic of the April Keeping You Informed program. Comm. Gray also informed everyone that NPC 1 and NPC 2 have expressed opposition to the urban animal ordinance, noting the NPC 3 Chair has indicated he was against the ordinance. Comm. Gray also note the YAB members have discussed the topic, but did not vote on it. Comm. Gray stated she has not gotten to NPC 4 yet.

## **ADJOURNMENT**

Mayor Behnke adjourned the meeting at 7:59 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.