



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

Meeting Date: June 18, 2024- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers - 3rd Floor

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### **ATTENDANCE**

#### **COMMISSIONERS**

Mayor Mark Behnke

Commissioner Jim Lance

Commissioner Patrick O'Donnell

Commissioner Christopher Simmons

Vice Mayor Sherry Sofia

Commissioner Roger Ballard

Commissioner Jenasia Morris

Commissioner Carla Reynolds

Commissioner Jake Smith

#### **CITY STAFF**

Rebecca Fleury, City Manager

Victoria Houser, City Clerk

**Shannon Bagley, Police Chief**

Bill Beaty, Fire Chief

Phil Krol, Aviation Director

Helen Guzzo, Community Development  
Manager

Joby Puruker, Service Desk Tech

Jill Steele, City Attorney

Ted Dearing, Assistant City Manager

Aaron Kuhn, Revenue Services Director

Michelle Hull, Human Resource Director

Steve Skalski, Director of Public Works

Amanda Woodin, Asst. Revenue Services  
Director

### **INVOCATION**

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Comm. O'Donnell.

### **ROLL CALL**

### **PROCLAMATIONS AWARDS**

Beautiful Battle Creek Awards

Mayor Behnke presented the Beautiful Battle Creek Awards.

**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**

Jeff Franklin, BCATS, commented on resolutions 472 and 479.

David Wayne Adams commented on the resolutions on the agenda.

Autumn Smith also commented on the resolutions on the agenda.

John Kenefick commented on resolution 472 regarding a transit study and resolution 482 regarding Cereal City Development.

(Limited to three minutes per individual)

**COMMISSION COMMENT REGARDING MEETING BUSINESS**

There were no Commission comments.

**CONSENT AGENDA**

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

Minutes for the June 4, 2024 City Commission Regular Meeting

City Manager's Report for June 18, 2024

Review Committee Meeting Minutes for June 12, 2024

**CONSENT RESOLUTIONS**

467            A Resolution reappointing David Schweitzer and Mark Steinbrunner to the Lakeview Downtown Development Authority Board.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS,

SMITH, SOFIA

MOTION PASSED

468 A Resolution appointing Michael Hall and Skyler Huber as new members to the Sustainable Battle Creek Committee.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

469 A Resolution reappointing Terry Youmans to the Battle Creek Transit Local Coordinating Committee.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

470 A Resolution seeking approval of the fiscal year 2023-2024 amended budget for the Battle Creek Local Development Finance Authority (LDFA).

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

471 A Resolution seeking adoption of the fiscal year 2024-2025 budget for the Battle Creek Local Development Finance Authority (LDFA).

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS,  
SMITH, SOFIA

MOTION PASSED

472            A Resolution seeking approval for the City of Battle Creek to participate in the funding of the FY 2025 local share cost of the Battle Creek Area Transportation Study.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS,  
SMITH, SOFIA

MOTION PASSED

473            A Resolution seeking authorization of payment of invoice #50578.B dated June 3, 2024, in the amount of \$51,700.00 to Keystone Conveyor Corporation for emergency wastewater sludge cake loading conveyor parts.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS,  
SMITH, SOFIA

MOTION PASSED

474            A Resolution seeking authorization for the City Manager to enter into Contract No. CS&PMFRF2024 with the Michigan Department of Transportation (MDOT) for Crack Seal and/or Paint Marking at the Battle Creek Executive Airport at Kellogg Field.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS,

SMITH, SOFIA

MOTION PASSED

475 A Resolution seeking authorization for the City Manager to execute a Quit Claim Deed to Rokena Coy who is purchasing 180 Maryland Drive, Parcel No. 13-52-3500-00-140-0, from the Battle Creek Housing Commission.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

476 A Resolution seeking authorization for the City Manager to execute a Quit Claim Deed to Jasmine and Bernard Richardson-Johnson who are purchasing 222 Hillsdale Street, Parcel No. 13-52-3500-00-150-0, from the Battle Creek Housing Commission.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION OTHER

477 A Resolution seeking authorization of the sale of vacant, tax-reverted property Parcel numbers 5790-00-074-0, 3660-00-001-0, 3660-00-002-0, 1530-00-029-0.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

**RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA**

- 478 A Resolution seeking authorization for the City Manager to execute an Easement Agreement with PWS Holdings 23 Battle Creek LLC for the purpose of a sidewalk easement and a fire hydrant easement upon Parcel No. 13-52-0615-40-000-0.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

- 479 A Resolution seeking authorization for the City Manager to sign Contract No. 24-5169 with the Michigan Department of Transportation for chip seal, fog seal, and permanent pavement markings along Helmer Road from Gethings Road to Columbia Avenue, along Hamblin Avenue from Washington Avenue to Division Street, along Kendall Street from Dickman Avenue to Michigan Avenue, and along West Territorial Road from Helmer Road to Capital Avenue.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

- 480 A Resolution requesting authorization for the City Manager to accept the proposal from Midwest Employers Casualty Company to provide Excess Workers' Compensation Insurance services for the period of 7/1/2024 through 6/30/2025 at a total cost of \$93,368.00.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

- 481 A Resolution seeking approval for the Fiscal Year 2023-2024 year-end budget adjustments for the City's General Fund (Fund 101), Local Street Fund (Fund

203), and Michigan Justice Training Fund (Fund 270).

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

482            A Resolution seeking authorization for the City Manager to execute a Management Agreement with Cereal City Development Corporation regarding Kellogg Arena, Festival Market Square and other assistance.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

483            A Resolution seeking approval to set a Closed Session to review confidential employment applications for the position of City Attorney.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: PATRICK O'DONNELL

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

**GENERAL PUBLIC COMMENT**

David Moore requested additional meeting information be included in the local newspaper.

Kathy Antaya announced the arrival of former Mayor Maude Bristol Perry, thanking her for her contributions to the community.

J.R. Reynolds complimented the work of the Department of Public Works for their continued work on the Linear Path, allowing residents to bike, walk or run, also thanking city staff for their courteous behavior.

Barry Adams commented on the Marshall Mega Site.

Rebekah Sebring also commented on the Marshall Mega Site.

Autumn Smith made a statement about content discrimination and Non-Disclosure Agreements with the MEDC.

Reece Adkins thanked Mayor Behnke for the information he shares on social media. Mr. Adkins also commented on the difficulty those with prior felony convictions have finding housing.

(Limited to three minutes per individual)

### **COMMISSION COMMENTS**

Comm. O'Donnell expressed appreciation for all of the community events in the city the last several weeks, also asking residents to be more careful when driving to protect residents.

Comm. Ballard commented on the difficulty those with prior felonies have finding housing. Comm. Ballard also noted the many times he has witnessed drivers violating traffic laws.

Comm. Simmons shared an experience his wife had with an aggressive driver, noting increased traffic enforcement in the next few weeks.

### **RECESS**

The Commission recessed to Closed Session at 7:48 pm.

### **CLOSED SESSION**

### **RETURN FROM RECESS**

The Commission returned from Closed Session at 8:31 pm.

### **SELECTION OF CANDIDATES TO BE INTERVIEWED**

Motion to  
Moved By:  
Supported By:

Vice Mayor Sofia shared that the Commission received 5 candidate applications, noting 4 of the candidates did not meet the qualifications.

MOTION

### **CANDIDATE INTERVIEWS**

Motion to  
Moved By:  
Supported By:

Mr. Kim was invited into chambers to meet the commissioners and to discuss his experience.

Mr. William Kim stated he is currently the City Attorney for the City of Flint, being hired in 2015 as the Assistant City Attorney, primarily for federal litigation, and then promoted to City Attorney in 2022. Mr. Kim noted he previously worked for the State of Michigan in the office of Financial Insurance Regulation, and the City of Lansing as Assistant City Attorney, as legal advisor to the Police Department for criminal cases and civil litigation. Mr. Kim stated he has experience with civil rights litigation from Lansing and Flint, in his role as legal advisor to both police departments.



Mr. Kim noted he understands his role is to support elected officials who create and set policy, and staff who carry out those policies. Mr. Kim shared he has acted as FOIA coordinator, providing advice to city department staff. As to the Open Meetings Act, Mr. Kim stated he would follow the rules and statutes applicable. As to litigation, Mr. Kim shared he has experience in both civil and criminal litigation, also noting he led the City of Flint's legal response to the water crisis.

Mr. Kim expressed appreciation for the City's strategic work plan, noting concrete goals and intentions. As to ordinances, Mr. Kim noted he has drafted several ordinances, and amendments, with experience working with elected officials and staff to ensure understanding of what they want to accomplish, noting there may be some restrictions due to other laws, but researches alternatives.

As to challenges, Mr. Kim noted municipalities have experienced difficulties recruiting staff, as they are competing with private industry, while they stay reasonably competitive with salary and benefits.

Mr. Kim noted the importance of keeping lines of communication open, noting an open door policy and his availability to be contacted by phone. To mediate conflicts between elected officials and staff, Mr. Kim stated it would be dependent upon the issue and the source of conflict.

Mr. Kim also noted negotiating is a constant responsibility, noting the importance of protecting the city while ensuring respect of long term relationships, stating he would work with staff and subject matter experts to provide expertise.

Mr. Kim expressed appreciation to the City and the Commission, stating he has researched how the Commission interacts with each other and staff.

MOTION

**DELIBERATION AND SELECTION OF CITY ATTORNEY CANDIDATE  
WITH WHOM TO ENTER INTO CONTRACT NEGOTIATIONS**

Motion to Approve

Moved By: CARLA REYNOLDS

Supported By: CHRISTOPHER SIMMONS

**To Authorize the Mayor and Vice Mayor to enter into negotiations with Mr. Kim for the position of City Attorney.**

Vice Mayor Sofia noted Mr. Kim has been in the city today, meeting with senior staff and touring the city.

Ms. Fleury and Attorney Steele shared that Mr. Kim was able to answer questions from Senior Staff, noting he understood municipal government lingo, was personable and approachable, admitting when he did not have experience in a related field. Mr. Kim has experience with the Administrative Hearing Bureau in Flint, demonstrating knowledge and experience needed, which was reassuring to current City Attorney staff members.

Commissioners discussed Mr. Kim's experience and knowledge, asking the City Attorney as to the next steps.

Attorney Steele stated the commission had 2 options, the first to move forward by authorizing the Mayor to enter into negotiations with Mr. Kim, the second to take more time to investigate Mr.

Kim's background and references.

**Ayes: Ballard, Lance, Morris, O'Donnell, Behnke, Reynolds, Simmons, Smith, Sofia**  
**Nays: None**

**MOTION APPROVED**

Ayes: BALLARD, LANCE, MORRIS, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

MOTION PASSED

**ADJOURNMENT**

Mayor Behnke adjourned the meeting at 9:03 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 three 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.

(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.

(f) Applicants or Appellants, as defined below, or an attorney retained to represent them, are not bound by the specific time limitations set out above but may have the amount of time deemed reasonably necessary by the Mayor or presiding official to present their case to the City Commission without violating the rules set out below in sub-section 4(a) through (g), with which they are obligated to comply.

(i) Applicant is defined an individual or business entity seeking a City Commission final decision on a matter for which the individual has made application to the City based upon a specific provision in a City Ordinance or state statute for permission to take a specific action;

(ii) Appellant is an individual appealing a decision of a City official or an inferior body based upon a specific provision in City ordinances entitling the individual to appeal the decision to the City Commission.

(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 Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. 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, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

(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 their 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.

(5) Individuals attending City Commission meetings or workshops, excluding City staff, shall not pass the commission chambers bar upon which the podium is affixed (and which divides the audience section from the well of the chambers) without having been invited to do so by the Mayor or official presiding over the meeting, or after requesting and explicitly being granted permission to do so. Any individual violating this sub-section will be ruled out-of-order by the Mayor or presiding official and the individual may be required to leave the meeting for a breach of the peace committed at the meeting as permitted by the OMA.