



Agenda: Battle Creek City Commission

Meeting Date: July 16, 2024- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

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

VIDEO

ATTENDANCE

Mayor Mark Behnke

Commissioner Jim Lance

Commissioner Carla Reynolds

Commissioner Jake Smith

ABSENT:

Commissioner Jenasia Morris

COMMISSIONERS

Commissioner Roger Ballard

Commissioner Patrick O'Donnell

Commissioner Christopher Simmons

Vice Mayor Sherry Sofia

CITY STAFF

Ted Dearing, Assistant City Manager

Victoria Houser, City Clerk

Shannon Bagley, Police Chief

Katie Norton, Facilities Manager

Eric McClure, Communications
Specialist

Helen Guzzo, Community Development
Manager

Jessica Vanderkolk, Communications
Manager

Jill Steele, City Attorney

Darcy Schmitt, Planning Manager

Bill Beaty, Fire Chief

Stacy Tullis, Service Desk Tech

Michelle Hull, HR Director

Marcie Gillette, Community Services
Director

Breanne Humphreys, Communications
Manager

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.

Proclamation for National Day of Summer Learning 2024

Mayor Behnke presented a proclamation declaring July 26, 2024 as "National Day of Summer Learning" in the Battle Creek area, recommending this observance of all neighbors and encouraging all Battle Creek youth to seek summer learning and enrichment opportunities.

PRESENTATIONS

Staff Presentation - Communications - Jessica Vanderkolk, Communications Manager

Jessica Vanderkolk, Communications Manager, presented the monthly staff report.

Staff Presentation - Planning - Darcy Schmitt, Planning Supervisor

Darcy Schmitt, Planning Manager, provided an update on the work of the Planning Department.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PETITIONS COMMUNICATIONS REPORTS

There were no petitions, communications or reports.

INTRODUCTION OF ORDINANCES

13-2024 A Proposed Ordinance, #13-2024, to amend Section 02, Articles X and XVII, of Chapter 212, "Rules of Procedure of the Commission," regarding Public Comment to ensure a better flow to the Business Meeting.

Motion to Postpone

Moved By: CHRISTOPHER SIMMONS

Supported By: JAKE SMITH

Joe Harris and David Moore expressed disagreement with the changes to public comment opportunities.

Brian Nedelski and Barry Wayne Adams commented on the ordinance introduction.

Justin Schotts stated he was troubled by the changes to the public comment time and opportunities.

Adam Heikila stated he did not feel less public comment time was right.

Autumn Smith commented on the first amendment.

John Kenefick stated he was not interested in other municipalities' public comment policies.

Comm. Smith suggested more discussion on the proposed amendment is needed as several attendees feel less time would not be beneficial.

Comm. Ballard reminded everyone that the commissioners are at other meetings where residents can talk with their elected officials and community members about their concerns.

Comm. Simmons stated he wished there had been more discussion on the proposed amendment,

stating there are sometimes ordinance amendments on the agenda with great consequences for residents. Comm. Simmons asked if the mayor would have the option of curtailing comments not related to a specific ordinance or resolution.

Attorney Steele noted the provision remains in the ordinance that the mayor may increase or decrease public comment time. Attorney Steele noted speakers use other topics to associate their comments with an agenda item.

Comm. Simmons, supported by Comm. Smith, made a motion to postpone the introduction of this ordinance to the 2nd Commission meeting in August.

Ayes: BALLARD, O'DONNELL, REYNOLDS, SIMMONS, SMITH, SOFIA

Nays: LANCE, BEHNKE

Absent: MORRIS

MOTION PASSED

ADOPTION OF ORDINANCES

494 A Resolution seeking adoption of Ordinance, #10-2024, to amend Section 08 of Chapter 882 Real Estate Taxation, by updating the terms of the Payment in Lieu of Taxes (PILOT) to reflect the new ownership and financing for "Westbrook Place."

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: MORRIS

MOTION PASSED

495 A Resolution seeking to adopt Ordinance #11-2024, an Ordinance to amend the Zoning Code for the City of Battle Creek.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Autumn Smith asked if the changes were being made for hotels only, or other commercial property.

Barry Adams commented on the modifications to the zoning ordinance.

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

Absent: MORRIS

MOTION PASSED

496 A Resolution seeking adoption of Ordinance, #12-2024, amending the Chapter Title, as well as

Sections 01, 02, 04 - 06, 08, 09, and 99, of Chapter 694 "Youth Offenses," by making it consistent with state law, replacing outdated statutory references, and ungendering language.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Justin Schotts and Joe Harris stated more information should be shared for each agenda item prior to the meetings.

Autumn Smith and Adam Heikila commented about the proposed changes to gendered language.

John Kenefick noted the changes are to adjust to state law.

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

Absent: MORRIS

MOTION PASSED

PUBLIC COMMENTS REGARDING CONSENTAGENDA AND RESOLUTIONS NOT ON CONSENTAGENDA

John Kenefick, David Moore, Justin Schotts, Adam Heikila, Autumn Smith and Barry Adams commented on resolution 503.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

There were no commission comments.

CONSENTAGENDA

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: MORRIS

MOTION PASSED

Minutes for the July 2, 2024 City Commission Regular Meeting

Minutes for the July 2, 2024 City Commission Closed Session

City Manager's Report for July 16, 2024

Review Committee Meeting Minutes for July 10, 2024

CONSENT RESOLUTIONS

497 A Resolution reappointing Keona Ackley to the Human Relations Board.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: MORRIS

MOTION PASSED

498 A Resolution appointing Tamera Hill as a new member to the Local Officers Compensation Committee.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: MORRIS

MOTION PASSED

499 A Resolution reappointing Samuel Gray to the Battle Creek Housing Commission.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: MORRIS

MOTION PASSED

500 A Resolution to appoint 3 new members (Gary McKinley, Andre Robinson, Debra Evans) to the North Central Neighborhood Planning Council (NPC # 2).

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

SOFIA

Absent: MORRIS
MOTION PASSED

501 A Resolution seeking authorization for the sale of vacant, tax-reverted property, Parcel Numbers 9740-00-019-0, 8880-00-025-0.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

502 A Resolution seeking acceptance of the proposal of best value from CivicPlus for public meeting agenda Software as a Service (SaaS) in a first year amount of \$24,415.00.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

503 A Resolution appointing Commissioner Jenasia Morris as the City of Battle Creek's official representative and Commissioner Roger Ballard as the official alternate at the 2024 Annual Business Meeting of the Michigan Municipal League.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

504 A Resolution seeking authorization regarding a contract for citywide HVAC maintenance services with W. Soule & Co. in an estimated first-year amount of \$115,181.00 with unit prices prevailing.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

505 A Resolution seeking authorization for the City Manager to execute the attached 911 Radio Project User Agreement with the CCCDA.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

506 A Resolution seeking authorization for the City Manager to enter into the attached Transfer, Service and Limited License Agreement with CCCDA for the transfer, reprogramming and license to use radios by the Battle Creek Fire Department.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

507 A Resolution seeking authorization for the City Manager to execute all documents necessary to participate in the Kroger Opioid Settlement litigation.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

508 A Resolution recognizing the City Attorney's overall performance rating of "Exceeds Expectations", pursuant to the terms of Section 5 of the Employment Agreement between the City Attorney and the City Commission.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

509 A Resolution seeking to set a Closed Session on a labor matter for July 16, 2024.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

Absent: MORRIS
MOTION PASSED

GENERAL PUBLIC COMMENT

David Moore wished Attorney Steele well in her retirement, stating he would miss her.

Joe Harris commented on freedom of speech.

Ron Smith introduced himself, noting he is the Calhoun County Resource Commissioner.

Kathy Antaya thanked Tanner Dean, Tony Wright and Mark Drain, DPW staff, who worked on the Helen Montgomery monument for which a Beautiful Battle Creek Award was presented, also thanking the commission for their forward thinking to ungender language in the ordinances.

Brian Nedelski suggested no limit on public comment time.

Adam Heikila commented on ungendered language and public comments.

Autumn Smith read a part of the Declaration of Independence.

John Kenefick presented 2 flags he designed.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Comm. Smith, referencing a recent resolution approving a \$201,000 allocation to the Transit Authority of Calhoun County, stated a marketing contract was also approved by city administration without informing the commission because the contract was for not more than \$49,000. Comm. Smith asked why the commission was not informed the contract was signed prior to the resolution to approve the \$201,000, as they may not have approved this large amount if they had known about the other contract. Comm. Smith expressed belief the contract was for less than \$49,000 to avoid commission oversight. Comm. Smith also questioned why the vendor with the 3rd highest score on the RPF was awarded the contract, instead of the vendors who had the first and second highest scores. Comm. Smith encouraged city administration to better inform the public of the proposed transit plan and millage.

Comm. O'Donnell advised residents to be aware of their safety due to areas of high water and flooding.

Comm. Ballard expressed his condolences to the family of Derek, a child who died after an accident, also requesting police better enforce speeding and traffic laws.

Vice Mayor Sofia thanked Attorney Jill Steele for her guidance, wishing her well in retirement. Vice Mayor Sofia also thanked Jessica Vanderkolk for all the information she has shared with the Commission and the community, wishing her well in her new adventures.

RECESS

The Commission recessed to Closed Session at 9:56 pm.

CLOSED SESSION

RETURN FROM RECESS

The Commission returned from Closed Session at 10:06 pm.

Motion: To approve the minutes of July 16, 2024 closed session.

Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

MOTION PASSED

Motion: To approve the July 15, 2024 tentative agreement with SEIU.

Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

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

MOTION PASSED

ADJOURNMENT

Mayor Behnke adjourned the meeting at 10:09 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.