



Agenda: Battle Creek City Commission

Meeting Date: September 3, 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

COMMISSIONERS

Mayor Mark Behnke

Commissioner Jenasia Morris

Commissioner Carla Reynolds (7:14)

Vice Mayor Sherry Sofia

ABSENT: Commissioner Jim Lance

Commissioner Roger Ballard

Commissioner Patrick O'Donnell (7:10)

Commissioner Jake Smith

Commissioner Christopher Simmons,
remote

CITY STAFF

Ted Dearing, Assistant City Manager

Chad Frein, IT Director

Shannon Bagley, Police Chief

Phil Kroll, Aviation Director

Bryce Hamilton, Service Desk Tech

William Kim, City Attorney

Victoria Houser, City Clerk

Bill Beaty, Fire Chief

Travis Sullivan, City Planner

Helen Guzzo, Community Development
Mgr

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Comm. Ballard.

ROLL CALL

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

15-2024 A Proposed Ordinance, #15-2024, amending Chapter 882 "Real Estate Taxation," by amending Section 23, modifying the terms of a Payment in Lieu of Taxes for the Housing Development to be known as "Station Side Lofts."

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: BALLARD, MORRIS, BEHNKE, SIMMONS, SMITH, SOFIA

Absent: LANCE, O'DONNELL, REYNOLDS

MOTION PASSED

16-2024 A Proposed Ordinance, #16-2024, amending Chapter 882 "Real Estate Taxation," by amending Section 22, modifying the terms of a Payment in Lieu of Taxes to Northern Pines Apartments previously approved on October 17, 2023.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: BALLARD, MORRIS, BEHNKE, SIMMONS, SMITH, SOFIA

Absent: LANCE, O'DONNELL, REYNOLDS

MOTION PASSED

17-2024 A Proposed Ordinance, #17-2024, amending Chapter 882 "Real Estate Taxation," by amending Section 24, modifying the terms of a Payment in Lieu of Taxes for the Housing Development to be known as "Manchester Place."

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

David Moore commented about taxes.

Autumn Smith stated she was not in favor of the payment in lieu of taxes.

John Kenefick commented about the voucher program and subsidies for future residents.

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

Absent: LANCE, REYNOLDS

MOTION PASSED

ADOPTION OF ORDINANCES

537 A Resolution seeking adoption of Proposed Ordinance #13-2024, amending 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 Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

David Moore suggested the ordinance adoption be postponed to 2025.

Reece Adkins agreed the ordinance adoption should be postponed.

Joe Harris suggested Battle Creek lead the way instead of following other municipalities, asking the commission to leave the public comment opportunities as is.

Autumn Smith also expressed disagreement with the proposed ordinance.

John Kenefick expressed his opinion the proposed 4-minute public comment period for all legislative agenda items was not sufficient.

Comm. Simmons noted the difference between the constitutional right to free speech and the public comment time required at meetings of a public body. Comm. Simmons shared many residents' concerns that the meetings are hijacked by a few citizens who do not reflect the views of most citizens.

Ayes: BALLARD, MORRIS, BEHNKE, REYNOLDS, SIMMONS, SOFIA

Nays: O'DONNELL, SMITH

Absent: LANCE

MOTION PASSED

PUBLIC COMMENTS REGARDING CONSENTAGENDA AND RESOLUTIONS NOT ON CONSENTAGENDA

Nick Zuehlke, Walters Dimmick, discussed their plans to redevelop and reconstruct their facility at the corner of Urbandale, noting the project will improve the community and neighborhood and allow improved service to more residents.

Reece Adkins expressed support of the project, appreciating the future expansion and improvements, and the elimination of a vacant building.

David Moore commented on the many changes occurring in the Urbandale area, stating he liked the improvements.

John Kenefick commented on resolution #538, regarding cameras that read license plates and resolution #543 regarding the expansion of a gas station in Urbandale.

Autumn Smith also commented on resolution #538, expressing a concern of privacy.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

Comm. Ballard commended Johnny's on the expansion of the gas station and the relocation of Speed's Restaurant, thanking city staff for helping them find a new location.

Comm. Smith commented on resolution #538, asking for policy as to how the cameras will be used and video stored.

CONSENTAGENDA

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

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

Absent: LANCE
MOTION PASSED

Minutes for the August 20, 2024 City Commission Regular Meeting

City Manager's Report for September 3, 2024

CONSENT RESOLUTIONS

538 A Resolution seeking authorization to enter into a contract for License Plate Recognition Cameras from Flock Group, Inc. in an initial 2-year amount of \$69,500.00.

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

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

Absent: LANCE
MOTION PASSED

539 A Resolution seeking acceptance of the qualifications-based proposal from C&S Companies to provide general architectural/engineering services for the Battle Creek Executive Airport at Kellogg Field.

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

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

Absent: LANCE
MOTION OTHER

540 A Resolution authorizing the City Manager to execute a Fourth Amendment to Lease with New Cingular Wireless, PCS, LLC for use and access to property at

294 Kellogg Street.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: LANCE

MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

- 541 A Resolution seeking acceptance of the lowest responsive, responsible bid for Air Traffic Control Tower Rehabilitation project from Berglund Construction Company in a not-to-exceed amount of \$373,500.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Absent: LANCE

MOTION PASSED

- 542 A Resolution seeking authorization for the City Manager to execute a grant agreement with Battle Creek Area Habitat for Humanity for the development and resale of a single-family home to a low-income and moderate-income household at 273 W. Spaulding, Battle Creek, MI 49037, with federal HOME Investment Partnership funding.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Comm. Ballard thanked Habitat for Humanity for the construction of 5 new houses in the Urbandale area, encouraging residents to volunteer on Tuesdays and Thursdays.

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

Absent: LANCE

MOTION PASSED

- 543 A Resolution seeking to approve Petition PSUP24-0002, a special use permit request for the expansion of an existing gas station at 1439 W Michigan Avenue in the B-1, Corridor Commercial District located at 1439 W Michigan Avenue Parcel #4000-00-036-0.

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

Comm. O'Donnell expressed excitement for this project, thanking the developers for their investment in the community.

Mr. Zuehlke shared that several improvements would improve safety at the location, closing one of the drives into the business that was too close to the intersection, while also adding a rear drive designated for delivery trucks only. Responding to Mayor Behnke, Mr. Zuehlke stated the general contractor runs a tight ship, employing a good core group of people who ensure the project is completed quickly, stating their goal is to complete the project in 75-90 days, to ensure continued operation of the business.

Comm. Ballard encouraged everyone to be watchful of all the new things happening in Urbandale.

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

Absent: LANCE
MOTION PASSED

GENERAL PUBLIC COMMENT

David Moore encouraged all residents to vote in the upcoming November election.

Joe Harris expressed his disappointment with the approval of the ordinance adoption that changed public comment opportunities at commission meetings.

Autumn Smith expressed disagreement with the adoption of ordinance #13-2024. Ms. Smith also commented on former Attorney Steele's request for a \$200 monthly stipend for not participating in the City's retiree health insurance.

John Kenefick commented on elected officials, the neighborhood planning commissions and commissioners listening to residents.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Comm. Simmons thanked city staff for their assistance accommodating his remote attendance due to military responsibilities. Comm. Simmons confirmed he returns every phone call from residents, also completely reading emails from residents, even visiting a resident's home with the mayor to discuss their concerns.

Comm. O'Donnell thanked the clerk and her staff for their work on an accurate election and recent recount.

ADJOURNMENT

Mayor Behnke adjourned the meeting at 8:03 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.