



Agenda: Battle Creek City Commission

Meeting Date: July 5, 2016- 7:00 PM

Location: Commission Chambers City Hall

Chair: David A. Walters, Mayor

Title: Prepared by Michelle Redman

ATTENDANCE

Mayor Dave Walters	Rebecca Fleury, City Manager
Vice Mayor Susan Baldwin	Jill Steele, City Attorney
Commissioner Kaytee Faris	Ted Dearing, Assistant City Manager
Commissioner Kate Flores	Ernesto Reyes, Assistant City Manager
Commissioner Lynn Ward Gray	Victoria Houser, City Clerk
Commissioner Andy Helmboldt	Jim Blocker, Police Chief
Commissioner Deb Owens	Steve Hudson, City Assessor
Commissioner Mike Sherzer	Larry Bowron, Transportation Director
Absent:	Marcie Gillette, Community Services Director
Commissioner Mark Behnke	Dave Schmaltz, Fire Chief

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Comm. Sherzer.

PRESENTATIONS

Presentation by Jorge Zeballos, Center for Diversity and Innovation

Jorge Zeballos, Center for Diversity and Innovation, made a presentation to the Commission, stating additional information could be obtained on their website or through email notifications.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

Clerk Houser noted Resolution 190 was added to the agenda.

PETITIONS COMMUNICATIONS REPORTS

Communications were received from Ben Damerow, Director of Michigan Works! Southwest regarding resolution 190 and Tracy Bronson, Executive Director of the Calhoun Conservation District, both of which have been provided to the Commission.

PUBLIC HEARING

A Public Hearing to receive citizen input on a proposed Industrial Facilities Tax Exemption Certificate at the request of Asmo Manufacturing Inc. for real and personal property located at 500 Fritz Keiper Blvd. in Industrial Development District No. 2.

Mayor Walters declared the Public Hearing open, and invited attendees to comment.

John Compton, 191 Summer St., commented on the wages the company pays their employees, both permanent and temporary, stating ASMO does not provide benefits to their employees.

Joe Sobieralski, Vice President, BCU, expressed his support of ASMO's IFT request, noting they paid prevailing wages for the construction work, encouraging the Commission to continue to help bring business to Battle Creek.

David Moore, 102 Taylor Avenue, stated he disagreed with the tax abatements.

Stan Hurn, General Manager, ASMO Manufacturing, discussed the average hourly wage ASMO paid its employees, noting they also pay benefits.

Chris Walden, Michigan Works!, noted that of the 27 new positions ASMO would be creating, 12 were highly technical and skilled positions at higher wages.

Jeanine Deal, 3508 Capital Ave. SW, commented on the tax abatement, and the fringe benefits the City provides to their employees.

Bridgett Jones, BCU, noted ASMO could have expanded or relocated to a different site in another county, state or country, but chose Battle Creek.

Hearing no additional comments, Mayor Walters proclaimed the Public Hearing closed.

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA

Jim Austin, 120 Brentwood, co-owner of Attic Storage, discussed his application for a Special Use Permit, stating he met with the NPC and the Planning and Zoning staff.

David Moore commented on resolution 190 regarding the ASMO tax abatement request.

John Kenefick, 234 South Avenue, commented on resolutions 187 and 188, regarding the Quiet Zone, stating this is not an essential service.

John Compton, regarding resolution 190, commented on wages paid by ASMO, McDonald's and the local temporary agencies.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

Comm. Helmboldt asked that resolution 180 be moved from the Consent Agenda to Regular Resolutions.

CONSENT AGENDA

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

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

Absent: BEHNKE
MOTION PASSED

CONSENT RESOLUTIONS

- 182 A Resolution setting a Public Hearing for 7:00PM, July 19, 2016, on behalf of 180urban Development and Management LLC, on the application for an Obsolete Property Rehabilitation Act Tax Exemption (OPRA), in Obsolete Property Rehabilitation District No. 15.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

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

Absent: BEHNKE
MOTION PASSED

- 181 A Resolution reappointing three members to the Human Relations Board.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

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

Absent: BEHNKE
MOTION PASSED

- 183 A Resolution reappointing members to the Bicycle Advisory Committee.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

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

Absent: BEHNKE
MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

180 A Resolution appointing members and reappointing a member to the Battle Creek Tax Increment Finance Authority (BCTIFA).

Motion to Postpone

Moved By: SUSAN BALDWIN

Supported By: ANDY HELMBOLDT

Comm. Helmboldt stated he did not oppose any of the candidates recommended for appointment, simply that he felt the process for reviewing and appointing members should be the same as the process the City uses for other Board/Committee appointments.

Vice Mayor Baldwin recommended the Commission postpone the approval of the resolution, providing time to review the process, while retaining current members, whose terms may have expired, until new appointees are approved.

Jill Steele, City Attorney, stated there was some ambiguity between Resolution 138, adopted May 19, 2015, and BCTIFA bylaws, which sets out the requirements for the BCTIFA Board, to be implemented as the current terms expire, including term limits. Ms. Steele further stated the BCTIFA Bylaws should be amended to be consistent with the resolution, noting the language allowing members to serve until replaced.

Vice Mayor Baldwin stated she did not feel the Commission should rush to decision, stating there were still a sufficient number of members to continue while clarifying the issues, suggesting the resolution be postponed to no later than August 16, 2016.

Comm. Sherzer asked if the BCTIFA Nominating Committee had authority to appoint members, or if they were an advisory panel.

Rebecca Fleury, City Manager, stated the Nominating Committee did not have the authority to make appointments, noting the City Manager makes the appointments with the approval of the City Commission, taking into consideration the Nominating Committee's recommendations.

Ms. Steele noted the Nominating Committee was not mentioned in BCTIFA's bylaws.

Ms. Fleury confirmed the terms expired in April, noting the terms would end only for those who no longer meet the board criteria, stating one member can continue to serve until reappointment as he meets the board criteria.

Comm. Faris expressed her support for the amendment to postpone the resolution, stating an application and a resume should be required so that the City Manager and the City Commission knew the qualifications of the person they were considering for appointment.

Comm. Owens noted the City Manager is familiar with and has had conversations with the board candidates.

Comm. Helmboldt stated he was not challenging the City Manager's judgment, stating there should be a process for recommending and approving candidates for all board and committee positions.

Comm. Sherzer expressed his opinion the process is clear, that the City Manager considers the Nominating Committee's recommendations, making the determination, stating they should follow the bylaws.

Ms. Steele noted a change to the nominating process would need to be approved through resolution,

as the process was already set by a prior resolution.

Comm. Helmboldt stated the City Manager has been very open and transparent regarding the nominating process, stating he felt an application should be required so that the Commission knows each candidate's experience.

Comm. Flores stated she would support an open application process that would provide more information, for a better understanding of each candidate's qualifications, vision and interests. Comm. Flores stated the City should be consistent on how appointments are made.

Mayor Walters expressed his opinion all 3 candidates were well qualified, stating it was an honor to consider them for appointment. Mayor Walters noted the City Manager has not varied from the established process, stating it has worked well in the past, stating it was important to have continuity. Mayor Walters recommended the Commission consider the resolution as presented, and consider changes to the process for future appointments.

Comm. Gray stated she would prefer the process for BCTIFA Board appointments be similar to the process for all City board and committee appointments, stating she was open to taking care of the renewal appointment, but to review the process for the new member appointments.

Mayor Walters stated he wanted to ensure politics are not part of the process, ensuring an equitable process, stating they should move forward and take care of the business before them.

Ayes: BALDWIN, FARIS, FLORES, GRAY, HELMBOLDT

Nays: WALTERS, OWENS, SHERZER

Absent: BEHNKE

MOTION PASSED

- 184 A Resolution authorizing the City to purchase property from The First Assembly of God of Battle Creek and authorizing the City Manager to sign all necessary documentation to effectuate the purchase.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

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

Absent: BEHNKE

MOTION PASSED

- 185 A Resolution to approve S02-16 Special Use Permit for additional storage units on a portion of Parcel #0066-00-115-0, W. Columbia.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

Vice Mayor Baldwin noted the applicants have met the requirements for the Special Use Permit.

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

Absent: BEHNKE
MOTION PASSED

- 186 A Resolution to approve S03-16 Special Use Permit for a licensed group day care home at 118 E. VanBuren Street.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

Vice Mayor Baldwin stated the Planning Commission reviewed the application, noting it meets the requirements for the Special Use Permit.

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

Absent: BEHNKE
MOTION PASSED

- 187 A Resolution accepting the lowest responsive, responsible bid for Quiet Zone project from Hoffman Bros, Inc., in an estimated amount of \$665,044.70, with unit prices prevailing.

Motion to Approve
Moved By: SUSAN BALDWIN
Supported By: KAYTEE FARIS

Comm. Shezer asked if there was any grant money to assist with the funding of the project.

Larry Bowron, Transportation Director, stated the next resolution was to accept closure exempt funds, stating they were a combination of State, Federal and Grand Trunk Western funds, amounting to approximately \$592,000.

Comm. Gray requested the City Manager outline the bond process.

Ms. Fleury noted the City Commission issued Capital Improvement bonds in 2013, of which the Quiet Zone was one of the projects, stating the Commission approved the refunding of the bonds in 2016 for more favorable interest rates. Ms. Fleury also noted a requirement that all funds must be expended by September 23, 2016.

Comm. Helmboldt asked if there was only one bidder for the project.

Mr. Bowron informed the Commission that he personally sent an invitation to bid to one other contractor, who declined. Mr. Bowron stated Hoffman Brothers was very experienced with the City's curb and gutter process.

Comm. Flores confirmed the bonds were already issued specific to this project

Ms. Fleury affirmed the Quiet Zone was very specifically spelled out in the bond project documents.

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

Absent: BEHNKE

MOTION PASSED

- 188 A Resolution authorizing the City Manager to execute a reimbursable agreement with Grand Trunk Western Railroad (GTW). The agreement provides for the reimbursement of expenses incurred by GTW for improvements that are required to create a Quiet Zone as allowed under the Federal Train Horn Rule (CFR49 Part 222).

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

Comm. Helmboldt asked if Graphic Packaging would no longer be able to use their loading docks on Capital Avenue, asking if they would be moving the loading docks to Fountain Street.

Mr. Bowron stated loading dock #7 was built closer to the rail than legally allowed, noting the other loading docks were still able to be used.

Ted Dearing, Assistant City Manager, stated the City was assisting Graphic Packaging to relocate the loading docks to Fountain Street.

Comm. Flores expressed concerned there was not a lot of data showing input from more residents for the Quiet Zone project, noting the City has received good input on other processes and projects, recommending staff use the tools they have to receive citizen input.

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

Absent: BEHNKE

MOTION PASSED

- 189 A Resolution setting a Closed Session on a legal matter.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

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

Absent: BEHNKE

MOTION PASSED

- 190 A Resolution approving an Industrial Facilities Exemption Certificate on behalf of Asmo Manufacturing Inc. for real and tangible personal property located at 500 Fritz Keiper Blvd in Industrial District No. 2, and having an estimated cost of \$12,189,262.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

Comm. Helmboldt thanked all who provided comments on the tax abatement, noting the IFT is an encouragement for industrial business, noting this does not take away the City's concern for residents

and smaller businesses. Comm. Helmboldt stated the City implemented a process to review and ensure companies were in compliance.

Comm. Flores agreed it was important to have a business friendly community, noting the need to also have community friendly businesses. Comm. Flores encouraged ASMO representatives to be involved in the community, considering transportation and childcare services that were supportive of their employees.

Vice Mayor Baldwin reminded the Commission that AMSO was committing to a \$12 million investment in the community and hiring highly skilled employees. Vice Mayor Baldwin also noted the City requires information from the companies regarding the number of new employees, noting the reports are provided to the Commission annually.

Comm. Sherzer expressed his agreement with Vice Mayor Baldwin, noting the wages are different depending on skill level, stating the higher technical jobs do pay more. Comm. Sherzer also noted that although they were requesting a tax abatement, they will still be paying over \$700,000 in taxes over the life of the agreement.

Comm. Helmboldt reminded everyone the IFT did not grant a 100% tax abatement, noting this is a partnership between the company and the City. Comm. Helmboldt expressed his appreciation to Michigan Works! for their input, stating this helps the Commission to make better decisions when they hear from others in the community.

Comm. Owens stated she is troubled when the improvements begin before the tax abatement is approved. Comm. Owens commended ASMO for paying prevailing wages and not requesting a waiver.

Mayor Walters noted the number of years of the tax abatement is dependent upon the investment in the project, along with the number of jobs being created, stating 27 families will benefit from the investment in the community.

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

Absent: BEHNKE
MOTION PASSED

GENERAL PUBLIC COMMENT

Mayor Walters reminded everyone that public comments were to pertain to City business, noting General Public Comment time was not for political campaigning, stating it will be allowed this evening, but not in the future.

John Compton commented on the land at 5400 Baseline Road which is leased by Calhoun Conservation District.

Lindsay Wheeler, 218 Leland Drive S, commented on the cutting of trees on the Metcalf Lake property.

Dave Rook, Nashville, commented on the Metcalf Lake property, asking the lease be terminated, asking Commission members to tour the property.

Jeanine Deal, 3508 Capital Ave. SW, commented on smart meter research.

David Moore, 102 Taylor Avenue, commented on the new Police facility and the City budget.

Debra Evans, 118 Creekside Drive, Emmett Township, expressed appreciation of the passion and

participation of residents at the Commission meeting.

John Sims, candidate for 37th District Court, expressed appreciation to the Commission and the community for their hospitality.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Comm. Owens requested staff address residents' concerns of the Calhoun Conservation District's management of the Metcalf Lake property.

Mr. Dearing discussed the information he received from Tracy Bronson, Calhoun Conservation District, noting the information was provided to the Commissioners. Mr. Dearing stated the information addressed the initial forestry plan, a future management plan, the development plan, intended use of property, money generated from timber sales and how they have spent the monies. Mr. Dearing stated the Conservation District intended to maintain the property as a natural site, but available for public and educational use. Mr. Dearing stated the City did very little with the property for the first 14 years of ownership, noting the City did not have the financial resources. Mr. Dearing stated the Calhoun Conservation District has the expertise to manage the property. Mr. Dearing also noted the Parks & Rec Manager and City Attorney met with Mr. Bailey to discuss his vision for the property, ensuring the deed restrictions are being complied with.

Comm. Owens asked if the Calhoun Conservation District was cutting Oak trees, stating they were not to be cutting Oak trees after April.

Mr. Dearing agreed to confirm this with Ms. Bronson and ensure they comply with all laws regarding the cutting of Oak trees.

Comm. Sherzer asked if the City received a quarterly financial statement from the Conservation District, noting the value of the trees that have been removed and demonstrating the value has been reinvested in the property.

Mr. Dearing noted the lease agreement does not require quarterly financial reporting, stating he will ask on the Commission's behalf.

Comm. Helmboldt, noting the Commission approved the lease agreement with Calhoun Conservation District, asking what a conservation district was.

Mr. Dearing stated a conservation district is a subdivision of the State of Michigan, organized by local land owners for the purpose of managing resources, noting they are governed by a 5 person publicly elected body, stating they are generally organized by county. Mr. Dearing informed the Commission that staff first approached the Barry County Conservation District, noting they were not interested.

Comm. Flores asked Mr. Dearing if he had any knowledge why the City accepted the property.

Mr. Dearing stated the City had a long standing relationship with the Bailey family, stating Mr. Bailey met with City staff to discuss his vision for the property and the deed restrictions.

Mayor Walters noted there would be tax savings by leasing the property to Calhoun Conservation District.

Ms. Steele stated one of the primary reasons for considering the lease to the Conservation District was that the property did not qualify for a tax exemption as it was not put to public use.

Comm. Owens asked if former Mayor Bailey was the grantor of the property, recommending staff contact Mr. Bailey's decedents.

Comm. Gray offered condolences to the family of Dr. Velma Laws Clay, sharing her special personality and contributions to the community.

Mayor Walters expressed appreciation for everyone's comments, assuring he and the Commission would follow up on their concerns.

RECESS

The City Commission recessed to Closed Session at 9:10 pm.

CLOSED SESSION

RETURN FROM RECESS

The Commission returned from Closed Session at 9:29 pm.

Mayor Walters opened for Commission comment.

A motion was made by Vice Mayor Baldwin, supported by Comm. Faris, to approve the settlement of the Kane v City of Battle Creek lawsuit in the amount of \$34,000 plus plaintiff's half of mediation fees.

Motion to Approve

Moved By: SUSAN BALDWIN

Supported By: KAYTEE FARIS

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

Absent: BEHNKE

MOTION PASSED

Hearing no additional Commission Comment, Mayor Walters adjourned the meeting.

ADJOURNMENT

Mayor Walters adjourned the meeting at 9:30 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.