



## Agenda: Battle Creek City Commission

**Meeting Type:** Workshop

**Meeting Date:** January 3, 2023

**Chair:** Mayor Mark A. Behnke

**Prepared By:** City Commission Chambers

City Commission

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### ATTENDANCE

#### Commissioners

Mayor Mark Behnke

Commissioner Roger Ballard

Commissioner Jenasia Morrie

Commissioner Patrick O'Donnell

Commissioner Carla Reynolds

Commissioner Jake Smith

Commissioner Christopher Simmons

Vice Mayor Sherry Sofia

**Absent:** Commissioner Jim Lance

#### City Staff

Rebecca Fleury, City Manager

Jill Steele, City Attorney

Ted Dearing, Assistant City Manager

Alicia Greene, Deputy City Clerk

### Public Comment

There were no public comments.

### Training with Brandon Fournier, Shifman Fournier Law, on Roles and Responsibilities of Commission and City Manager

Rebecca Fleury introduced Mr Brandon Fournier, General Counsel for Shifman Fournier Law, to present information to assist the City Commissioners in their roles and responsibilities as city officials.

Mr. Fournier presented information to Commissioners related to roles and responsibilities of city officials. Mr. Fournier reviewed the Home Rules City Act, Act 279 of 1909, allowing for the incorporation of cities. Mr. Fournier reviewed provisions of the city charter, discussing key state statutes that city officials are required to adhere to.

Mr. Fournier stated the City of Battle Creek has a City Commission Manager form of government. Noting the Mayor is elected At-Large and serves as the presiding officer of the City Commission, with a voice on the Commission, emergency powers and serves as the ceremonial Chief Executive Officer.

Mr. Fournier reminded Commissioners that all employee requests and media reports are to be directed the the City Manager or appropriate staff.

Mr. Fournier reviewed local Charter Provisions covering the City of Battle Creek, noting all employees, with the exception of the City Attorney, report to the City Manager.

Mr. Fournier presented 6 hypothetical cases, seeking feedback from Commissioners on how to handle each example.

1. A resident experienced a silent leak in their restroom and now has an extremely high bill.
2. A Union member approaches a City Commissioner about reaching impasse at the bargaining table.
3. A resident contacted you concerning the location of a business and asked that the City Commission turn the application down.
4. Poor language is used during a City Commission Meeting, or other verbal assaults are levied.
5. A concern is raised about police conduct, a video surfaces supporting police misconduct. Profane language is used by the officer.
6. A non-profit has asked for the City to provide supplemental funding to a poverty program.

## **ADJOURNMENT**

Mayor Behnke adjourned the meeting at 6:00 pm.

Citizens who wish to address a specific issue on the floor may do so after being recognized by the Mayor or presiding Commissioner. At the time for general public comments, after being properly recognized, citizens may address the commission on any subject within the control and jurisdiction of the City of Battle Creek. Citizens will be subject to the following summarized limitations, which are set out fully in ordinance 212.02, Art XVII:

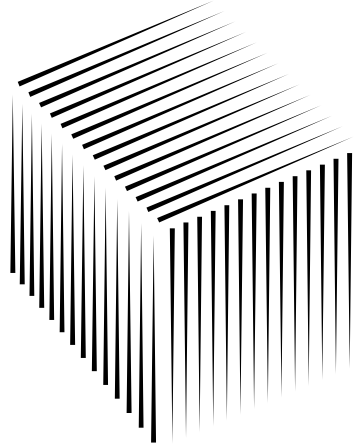
1. Citizen comments on any Resolution before the Commission may be made either before or after the Commissioners have had an opportunity to discuss the Resolution, at the discretion of the Chair;
2. Citizens wishing to speak to a particular Resolution should raise their hands and wait to be recognized before speaking;
3. Before speaking, an individual who has not filled out a comment card disclosing this information, shall identify themselves by name and address and, if appropriate, group affiliation for the record.
4. Citizens will confine their remarks to matters currently pending on the floor, and be brief and concise in making their remarks;
5. If a citizen becomes repetitive or, in the opinion of the Chair, takes an inordinate amount of time in making comments, that citizen will be ruled out of order and the Commission will continue with its business;
6. Citizens should address all remarks to the Commission as a whole, and not to individual Commissioners.

These Rules will apply to comments by citizens during the Public Comment section of the Agenda.

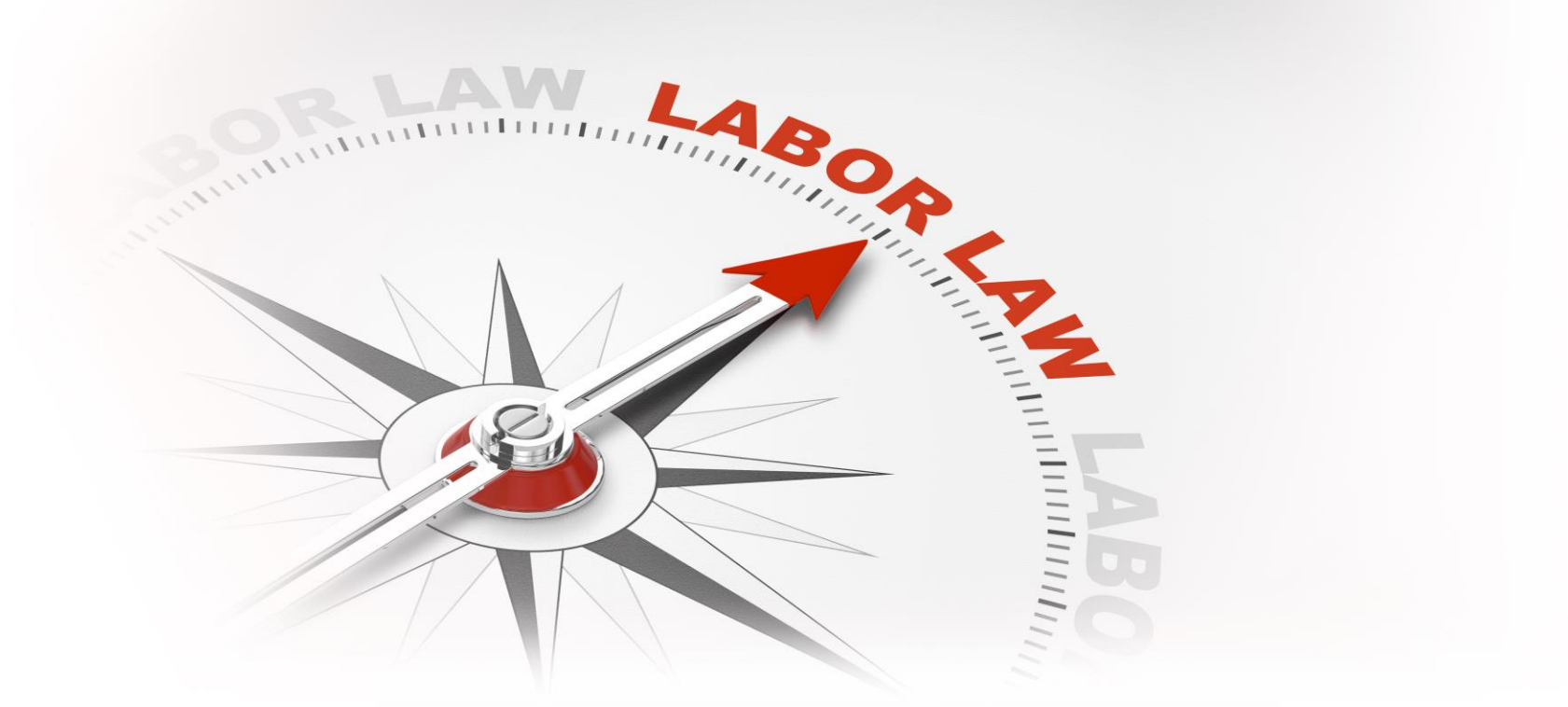
The City of Battle Creek will provide necessary, reasonable, auxiliary aids and services, such as signers for the hearing impaired, and audiotapes of printed materials being considered in the meeting, upon seven days' notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services, should contact the City of Battle Creek by writing or calling the following:

Victoria Houser  
Office of the City Clerk  
Post Office Box 1717  
Battle Creek, Michigan 49016  
269/966-3348 (Voice)

269/966-3348 (TDD)



shifman  
fournier



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31600 Telegraph Road, Suite 100, Bingham Farms, MI 48025  
(248) 642-2383 [shifmanfournier.com](http://shifmanfournier.com)

# THE HOME RULE CITY ACT

## Act 279 of 1909

- An Act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds...

# City of Battle Creek

## Mandatory City Charter Provisions

- Election of Officials
- Elections
- Officer compensation
- Taxation
- Financial Appropriation
- Ordinance authority
- Open Meetings
- System of Accounts

# City of Battle Creek

## Local Government Official Overview

### Other Key Statutes

- Michigan Open Meetings Act: Requires Public Meetings, minutes, etc.
- Michigan Freedom of Information Act: Most City records are public
- Public Employee Labor Relation Act: Created collective bargaining rights.
- General Property Tax Act: System of taxation and foreclosure

# City of Battle Creek

## Local Government Official Overview

### Other Key Statutes

- Surplus Funds Investment Pool Act: How Cities invest Money.
- Uniform Budgeting and Accounting Act: Creates budget requirements.
- Urban Cooperation Act: Permits City's to work with close communities.
- Michigan Zoning and Enabling Act.
- Many, many more...



# City of Battle Creek

## City Commission Manager Form of Government

- Voters elect Mayor and City Commission (elected officials are not employees)
  - Approximately 175 Michigan Cities are Manager Commission Government
    - The City Commission serves as policy makers
- The City Manager is the Chief Administrative Officer, Personnel Director and has numerous executive functions.
  - Mayor is the Chief member of the City Commission

# City of Battle Creek

## Local Charter Provisions: Charter Sections § 2.2, 2.3, 2.4, 2.9, and 3.3

- Mayor, elected At-large as a separately elected office.
- Has a voice on the Commission
- Presiding Officer of the Commission
- Emergency Powers Law
- Ceremonial Chief Executive Officer

# City of Battle Creek

## Local Charter Provisions: City Commission

- The City Commission shall have full authority, except as otherwise provided herein or by general law, to exercise all of the powers conferred upon the City, to adopt all ordinances, resolutions or other measures relating to its Municipal concerns, and to otherwise govern its affairs.

# City of Battle Creek

## Local Charter Provisions: City Commission

- All meetings require a quorum (a majority of members)
- Make policy through a resolution
- Adopts resolutions through official act of the Commission, individual members do not set policy or adopt resolutions.
- Cities are like the Federal and State government, powers are limited to the Charter and various state statutes.

# City of Battle Creek

## Local Charter Provisions: § 5.1. City Manager .

- A City Manager shall be appointed by a majority of the membership of the City Commission to hold office for an indefinite term and at the pleasure of said majority of the City Commission.
- All employees report to the City Manager
- Directs daily operations.
- Purchasing Director
- Budget and Audit are completed under the director on the City Manager.

# City of Battle Creek

## Local Charter Provisions: § 5.3. Manager's General Powers

- To supervise and control the administrative affairs of the City and all departments thereof and to seek quality, economy and efficiency therein.
- To fully advise the Commission regarding the policies, affairs, and financial condition and needs of the City, with the right to take part in all discussions relating thereto.
- To recommend an annual budget or budgets to the City Commission and to carry out the policies, budgets, and directives of the Commission.
- To preserve the public peace, health, and safety of persons and property and see to the enforcement of the ordinances of this City, this Charter, and general law.
- To install a system of centralized purchasing, control expenditures, and superintend all operating units and contracts of the City.
- To appoint and remove, subject to the provisions of this Charter or the administrative code adopted pursuant hereto, all officers and employees of the City, all appointments to be on a basis of fitness, training and experience and for indefinite terms.
- To perform such other functions and have such other powers as may be established by general law, this Charter, any ordinance or resolution of this City, or as may be required of or accorded to him by the Commission.

# City of Battle Creek Commission Meetings:

- 212.02 RULES OF PROCEDURE OF THE COMMISSION.
- Well established format of a meeting.
- Formal process of the legislative body.

# City of Battle Creek: Commission Overview

- All department and employee requests are to be directed to the City Manager or appropriate staff.
- All actions taken as a commissioner become part of the City's official records
- This includes text messages and emails from personal accounts, that were part of their duties.
- Information requests are



# City of Battle Creek: Best Practices

- All department and employee requests are to be directed to the City Manager or appropriate staff.
- All actions taken as a commissioner become part of the City's official records
- Media Reports should be directed to the City Manager
- All elected officials receive the same information.
- Asking questions in advance: staff welcomes the opportunity to provide a thorough explanation prior to a Commission Meeting, providing ample time to research the issue.

# Elected Official Hypothetical

- A resident experienced a silent leak in their restroom and now has an extremely high bill.
- What can the City Commission do?
- Water that is charged passed through a meter.

# Elected Official Hypothetical

- A Union Member approaches a City Commissioner about reaching impasse at the bargaining table?
- What should the commissioner say?
- How does PERA apply?

# Elected Official Hypothetical

- A resident has contacted you concerning the location of a particular business has asked that the City Commission turn the application down.
- Michigan Zoning Law has an established objective process. It is not about the business request, but the current ordinance standards.

# Elected Official Hypothetical

- A resident has contacted you concerning the location of a particular business has asked that the City Commission turn the application down.
- What governs the placement of a business.

# Elected Official Hypothetical

- Poor language is used during a City Commission Meeting, or other verbal assaults are levied.
- What is the remedy?
- Defamation standards for public officials.
- City Commission role.

# Elected Official Hypothetical

- A concern is raised about police conduct, a video surfaces supporting police misconduct. Profane language is used by the officer.
- Public Sector Labor Rights, the process of the CBA.
- Public statements municipal liability.

# Elected Official Hypothetical

- A non-profit has asked for the City to provide supplemental funding to a poverty program.
- Governmental spending has strict limitations.
- Expenses are to be community based and not base
- Such expenditures have been held not to be used for a public purpose. Even if the expenditure benefits the public incidentally, the expenditure may be nonetheless invalid if the appropriation is not under control of the city/village.