



Agenda: Battle Creek City Commission

Meeting Date: March 19, 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 Jim Lance

Commissioner Carla Reynolds

Commissioner Jake Smith

ABSENT: Commissioner Jenasia Morris

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 Bagely, Police Chief

Bill Beaty, Fire Chief

Travis Sullivan, Planner

Todd Gerber, Field Services

Superintendent

Joby Purucker, Service Desk Tech.

Jill Steele, City Attorney

Mallory Avis, Transportation Director

Michelle Hull, Human Resource Director

Steve Skalski, Public Works Director

Duska Brumm, Recreation Director

Helen Guzzo, Community Development
Manager

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Sofia.

ROLL CALL

PROCLAMATIONS AWARDS

Beautiful Battle Creek Awards

Mayor Behnke presented the Beautiful Battle Creek Awards.

Proclamation for National Donate Life Month 2024

Mayor Behnke proclaimed the month of April 2024 as "National Donate Life Month" in the Greater Battle Creek Area, encouraging all neighbors who are able to register their decision to be an organ, eye and tissue donor in the National Donate Life Registry at RegisterMe.org or the State of Michigan Donor Registry at michigan.gov or your local Secretary of State.

Proclamation for Kidney Awareness Month 2024

Mayor Behnke proclaimed the month of March 2024 as "Kidney Awareness Month" in the Greater Battle Creek Area, urging neighbors to join in the commitment to fight Chronic Kidney Disease (CKD) and take preventative and early detection measures in the battle against this progressive disease.

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

A proposed Ordinance, #02-2024, seeking to amend the Zoning Code of the City of Battle Creek.

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

A proposed Ordinance, #03-2024, seeking to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

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

Codie Burt, representative for the property owner of 695 W. Michigan Ave, expressed support for the rezoning of the parcels, believing this will encourage growth, entice new business, find use of vacant parcels, and increase revenue for the city and community.

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

Absent: MORRIS
MOTION PASSED

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA

Autumn Smith referenced Attorney General opinion 5332, also commenting on resolution 392 regarding the flying of a flag.

John Kenefick commented on resolution 393, regarding the construction of a restroom at ANYbodies Playground.

David Moore also commented on resolution 392.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

There were no commission comments.

CONSENT AGENDA

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

Comm. Ballard noted the restrooms at Fell Park are always locked, stating he does not support the restroom project at ANYbodies Playground.

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

Absent: MORRIS
MOTION PASSED

Minutes for the March 5, 2024 City Commission Regular Meeting

City Manager's Report for March 19, 2024

Review Committee Meeting Minutes for March 13, 2024

CONSENT RESOLUTIONS

384 A Resolution appointing Ezra Bell as a new member to the Battle Creek
Downtown Development Authority.

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

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

Absent: MORRIS
MOTION PASSED

385 A Resolution appointing Tha Par as a new member to the BCTIFA/ Brownfield
Redevelopment Authority.

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

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

Absent: MORRIS
MOTION PASSED

386 A Resolution reappointing James Eldridge, Sharon Miller, Jana Davis, Karen
Roebuck and Rebecca Squires to the License Review Board.

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

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

Absent: MORRIS
MOTION PASSED

387 A Resolution seeking authorization for a change order for mobile video equipment
and software services for the City of Battle Creek Police Department with
Motorola Solutions, Inc., in an estimated amount of \$39,000.88, with unit prices
prevailing.

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

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

Absent: MORRIS
MOTION PASSED

388 A Resolution seeking to authorize the City Manager to execute an easement
agreement between Consumers Energy Company and the City of Battle Creek in
order to install two streetlights on the Capital Avenue bridge at Capital Avenue and
Beckley Road.

Motion to Approve
Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 389 A Resolution seeking acceptance of the proposal of best value from Union Electric, Inc., for a new fire alarm system at the Valentine Center in a not to exceed amount of \$51,475.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 390 A Resolution seeking to correct the identity of the Grantee/Buyer in Resolution 126, approved May 2, 2023.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 391 A Proposed Resolution authorizing the City Manager to execute all documents necessary to sell the city-owned vacant land located in Assyria Township in Barry County, Parcel #08-01-031-020-00, to Barry County for \$1.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

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

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

392 A Resolution seeking approval to direct staff to fly the Donate Life flag at City Hall from noon on April 1, 2024 through April 30, 2024.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Vice Mayor Sofia noted she is opposed to the flag policy.

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

Nays: SIMMONS, SOFIA

Absent: MORRIS

MOTION PASSED

393 A Resolution authorizing the City Manager to submit a grant application to The Michigan Department of Natural Resources Trust Fund for the construction of a permanent and accessible restroom facility at the ANYbodies Playground and boat launch area in Bailey Park.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Comm. Simmons noted he did not support the excessive cost for this project, stating the park improvement projects are not equitably placed throughout the city.

Comm. O'Donnell expressed support for the playground restroom project, noting the costs for construction projects has increased the last few years.

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SOFIA

Nays: BALLARD, SIMMONS, SMITH

Absent: MORRIS

MOTION PASSED

394 A Resolution seeking approval for the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the codified ordinances; and repealing ordinances and resolutions in conflict therewith.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Comm. O'Donnell thanked the City Clerk for collecting all the data for the resolution.

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

Absent: MORRIS

MOTION PASSED

395 A Resolution authorizing the City Manager, under the provisions of 296.09(c), to continue to employ Jill Wood who presently holds the position of Customer Service Rep II at the WWTP and to allow for Ms. Wood's years of service as a

Fire Fighter with the BCFD to count towards vesting and eligibility with MERS.

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

396 A Resolution seeking acceptance of the lowest responsive, responsible bid for
Wastewater Treatment Plant HVAC project from Shouldice Industrial
Manufacturers and Contractors, Inc., in a not-to-exceed amount of \$769,757.00.

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

383 A Resolution seeking to set a Closed Session on a labor matter for March 19,
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 expressed support for the restrooms at ANYbodies Playground.

Autumn Smith commented on a State Attorney General's opinion regarding public comment at public meetings.

John Kenefick commented on President Biden's State of the Union address.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Jill Steele, City Attorney, announced she would be celebrating 15 years at the City, the last 11 years

as City Attorney. Attorney Steele shared that she and her husband of 44 years set a goal of retiring after their 4 children completed college, noting her youngest daughter graduated last year. Attorney Steele announced she would be retiring from the City as of August 1, 2024.

Comm. Reynolds stated she will miss Attorney Steele, encouraging her to enjoy her retirement, thanking her for her service.

Comm. Ballard thanked Attorney Steele for her service to the City, sharing his husband Jim's best wishes for her as well.

Motion to charge the existing City Attorney Evaluation and Salary Review Committee with recommending a process to select a new city attorney following Attorney Steele's retirement.

Motion to Approve
Moved by: Sherry Sofia
Supported by: Carla Reynolds

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

Absent: MORRIS

MOTION PASSED

RECESS

The Commission recessed to Closed Session at 7:52 pm.

CLOSED SESSION

RETURN FROM RECESS

The Commission returned from Closed Session at 8:04 pm.

Motion to approve the tentative agreement with POLC Non-Supervisory Unit dated February 29, 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

ADJOURNMENT

Mayor Behnke adjourned the meeting at 8:05 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.