



## **Agenda: Battle Creek City Commission**

Meeting Date: April 2, 2024- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

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

VIDEO

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### **ATTENDANCE**

#### **COMMISSIONERS**

Mayor Mark Behnke

Commissioner Jim Lance

Commissioner Patrick O'Donnell

Commissioner Christopher Simmons

Vice Mayor Sherry Sofia

Commissioner Roger Ballard

Commissioner Jenasia Morris

Commissioner Carla Reynolds

Commissioner Jake Smith

#### **CITY STAFF**

Rebecca Fleury, City Manager

Victoria Houser, City Clerk

Shannon Bagely, Police Chief

Duska Brumm, Recreation Director

Stacy Tullis, Service Desk Tech.

Jill Steele, City Attorney

Ted Dearing, Assistant City Manager

Jonathan Baber, Deputy City Attorney

Darcy Schmitt, Planning Manager

Steve Skalski, Director of Public Works

### **INVOCATION**

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Comm. O'Donnell.

### **ROLL CALL**

### **PROCLAMATIONS AWARDS**

Proclamation for National Public Safety Telecommunicators Week 2024

Mayor Behnke presented the proclamation for "National Public Safety Telecommunicators Week" in the Greater Battle Creek area for the week of April 14 through April 20, 2024 in honor of the men and women whose diligence and professionalism as Public Safety Communicators keep our City,

staff and neighbors safe.

#### Proclamation for the Battle Creek Optimist Club's Excellence in Arts Week 2024

Mayor Behnke presented the proclamation for "Excellence in Arts Week" in the City of Battle Creek for the week of April 21 through April 26, 2024, thanking the Battle Creek Optimist Club, Kendall College of Art and Design of Ferris State University, the Art Center of Battle Creek and Kellogg Community College for providing an occasion for art students to share their talents, encouraging students in the area of art, and offering educators an opportunity to showcase the importance of art in the classroom.

#### **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**

04-2024      A Proposed Ordinance #04-2024 seeking to amend the Historic Preservation Code of the City of Battle Creek.

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

Autumn Smith expressed her opinion residents did not have a willingness to serve on city boards or committees.

David Moore feels the public should be more informed.

John Kenefick agreed with Ms. Smith, commenting on board members' actions regarding properties in the city.

Steve Koch commented on fraud, waste and abuse, and the oath the commissioner have taken.

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

Nays: BALLARD

MOTION PASSED

#### **ADOPTION OF ORDINANCES**

397              A Resolution seeking to adopt Ordinance #02-2024, an Ordinance to amend the Zoning Code of the City of Battle Creek.

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

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

MOTION PASSED

- 398        A Resolution seeking to adopt Ordinance, #03-2024, an Ordinance 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: JIM LANCE

Supported By: ROGER BALLARD

Comm. Morris shared that NPC 2, along with the Washington Heights Neighborhood Advisory Committee, supported this resolution as they feel this will bring good opportunities to the community.

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

MOTION PASSED

**PUBLIC COMMENTS REGARDING CONSENTAGENDA AND RESOLUTIONS NOT ON CONSENTAGENDA**

There were no public comments.

(Limited to three minutes per individual)

**COMMISSION COMMENT REGARDING MEETING BUSINESS**

There were no commission comments.

**CONSENTAGENDA**

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

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

MOTION PASSED

Minutes for the March 19, 2024 City Commission Regular Meeting

Minutes for the March 19, 2024 City Commission Closed Session

City Manager's Report for April 2, 2024

**CONSENT RESOLUTIONS**

- 399        A Resolution seeking authorization for the sale of two vacant, tax-reverted properties. Parcel Number 1530-00-003-0 and 1750-04-011-0.

Motion to Approve  
Moved By: JIM LANCE  
Supported By: ROGER BALLARD

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

MOTION PASSED

- 400        A Resolution seeking acceptance of the proposal of best value for janitorial services for the Department of Public Works Building from Blu Perspective, LLC in a not-to exceed, first-year amount of \$23,842.80.

Motion to Approve  
Moved By: JIM LANCE  
Supported By: ROGER BALLARD

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

MOTION PASSED

- 401        A Resolution seeking acceptance of the proposal of best value from Shouldice Industrial Manufacturers and Contractors, Inc., for two contracted journeyman electricians to fill staffing gaps at the Wastewater Treatment Plant and Verona Pumping Station for six months, at a base rate of \$99.41 per hour.

Motion to Approve  
Moved By: JIM LANCE  
Supported By: ROGER BALLARD

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

MOTION PASSED

**RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA**

- 402            A Resolution seeking authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan.

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

Comm. Ballard requested clarification if the pension would be based on combined years of service.

Jill Steele, City Attorney, stated an employee's prior years of service would be considered for vesting purposes, not for the benefit credit, or pension earnings.

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

Nays: BALLARD

MOTION PASSED

- 403            A Resolution seeking authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement.

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

Comm. Smith asked if 7.5% of gross sales was a standard in the concessions industry.

Jonathan Baber, Deputy City Attorney, noted the City received 10% under the previous contract, but did not have any consideration for all events. Attorney Baber stated the amended contract included concessions on all sales, stating anticipated concession revenue will be similar, or more.

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

MOTION PASSED

- 404            A Resolution requesting approval of a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street.

Motion to Approve

Moved By: JIM LANCE

Supported By: ROGER BALLARD

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

MOTION PASSED

405            A Resolution seeking approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney.

Motion to Approve  
Moved By: JIM LANCE  
Supported By: ROGER BALLARD

Vice Mayor Sofia, noting the City Charter requires a city attorney on staff, stated the Committee recommended a two-pronged approach for the search for a new city attorney as they wanted to fill the position in a timely manner, allowing time for a new hire to work with Attorney Steele before she retires.

Responding to Comm. Simmons, Rebecca Fleury, City Manager, stated the City Attorney position would be posted to several sites and organizations by the Human Resource Department, with an online application, also noting internal candidates were allowed to apply for the position. As to a search firm, Ms. Fleury stated an RFP would be issued simultaneously as they may be needed if the City did not receive sufficient interest in the position. Ms. Fleury noted a search firm may have relationships with other interested candidates, also noting a search firm would walk the commission through the process, first vetting the candidates and conducting phone interviews, to narrow down the number of qualified candidates. Ms. Fleury also noted the entire process would be open to the public, complying with the Open Meetings Act.

Comm. Simmons expressed hope the internal process would provide sufficient interest.

Responding to Comm. Smith, Attorney Steele confirmed this resolution was simply to approve the job description and the process, stating candidate interviews would be conducted at an open meeting.

Comm. O'Donnell expressed support of the search process, stating the commission will work together to find the best candidate.

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

MOTION PASSED

#### **GENERAL PUBLIC COMMENT**

Jim Haadsma, State Representative, provided an update on the legislature and opportunities to bring economic development back to the city.

David Moore said he would like more information and would like more people to be involved.

Joe Harris expressed concern there was only one bid for the restroom building at Anyone's Playground, asking if the City has a minimum bid requirement.

Steve Koch suggested those being represented by the city attorney compensate the attorney, not the taxpayers.

Autumn Smith commented about the city attorney, also commenting on a document that showed the mayor and city manager expressed support of the battery plant in Marshall.

John Kenefick expressed disagreement with the 3-minute time limit for public comments at the Commission meeting.

(Limited to three minutes per individual)

### **COMMISSION COMMENTS**

Comm. O'Donnell thanked retiring Fire Marshal Quincy Jones for his years of service.

### **ADJOURNMENT**

Mayor Behnke adjourned the meeting at 7:51 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.