



MINUTES
Committee of the Whole
Monday, October 23, 2017 @ 5:30 p.m.
City Council Chambers

CALL TO ORDER

Council Vice President Wood called the meeting to order at 5:30 p.m.

PRESENT

Councilmember Brown Clarke
Councilmember Kathie Dunbar- arrived at 5:32 p.m.
Councilmember Tina Houghton
Councilmember Adam Hussain
Councilmember Patricia Spitzley- excused
Councilmember Jody Washington
Councilmember Carol Wood
Councilmember Jessica Yorko

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney- arrived at 5:35 p.m.
Heather Sumner, Assistant City Attorney
Dick Peffley, BWL Manager
Heather Shawa, CFO
Calvin Jones, BWL
Elaine Womboldt
Bill Rieske, Planning & Neighborhood Development
Robert Doyle, Smith Group JJR
Oliver Kiley, Smith Group JJR

Minutes

MOTION BY COUNCIL MEMBER BROWN CLARKE TO APPROVE THE MINUTES FROM OCTOBER 9, 2017 AS PRESENTED. MOTION CARRIED 7-0.

Public Comment on Agenda Items

Ms. Womboldt spoke with an interest in the Form Based Code and her concern with it as a method for the City of Lansing.

Presentation

Lansing Board of Water and Light (LBWL) FY 2018-2023 Capital Improvements Plan (15-20 minutes)

Mr. Peffley introduced Ms. Shawa. Council Member Wood asked Mr. Peffley and Ms. Shawa to also speak to the proposed rate increases that are being referred later at the Council meeting.

Ms. Shawa referred the Committee to the six year forecast spreadsheet in their packet. The six year total before the new plant would be \$393,970 million, and the new plant is projected at \$473,636 million bringing the total for the six year forecast to \$867,606 million. Major changes include the shutting of the coal plants by 2025, new technology implementations such as the smart meters which will replace the current systems.

Council Member Wood reminded them that when they came to Council about building the new plant, they mentioned upgrading 2-3 other plants, and then asked if those were in this forecast. Ms. Shawa confirmed there will be 3 new build substations, some updating at others but she did not have the exact locations of those projects.

Mr. Peffley then outlined the proposed rate increases that the Council will see as a referral at the Council meeting later in the evening. Mr. Peffley stated that the BWL Management put together a proposal for a multi-rate strategy, and then the Finance Committee submitted their suggestions for rate increases for electric, water and steam. There will not be a rate increase in the chill water. The plan will be for a 3 year plan of increases to pay capital debt and by planning for increases over 3 years, the residents can plan for 3 years, and not the unknown from year to year. The BWL Commissioners have set a public hearing for November 30, 2017 at 5:30 p.m. at their Depot location. After the hearing the BWL Board will hold a meeting on December 5, 2017 at 5:30 p.m. to consider the recommendations for approval. Regarding the increases, the electrical rate will increase overall at 3% per year, each year for 3 years. They determined this by a cost service study by rate class. The residential rate increase will be 3.9%, a \$3.16 per month increase, which is the cost of service that BWL bares. Residential usage is 20% of the BWL revenue and makes up the bulk of their customers. The rates increase will start on February 1, 2018. This rate increase, Mr. Peffley stated was based on the cost of inflation and no services will be cut back. The water rates will increase by 5.5% for the first year, then 7.5% for the second and third year for residential customers.

Council Member Yorko asked for the confirmation date of the coal plants closing, and Mr. Peffley stated it would be 12/31/2025. She then asked for specifics again on the water increases. Mr. Peffley confirmed it would be 5.5% the first year, then 7.5% for year 2 and 3, which is an average increase of \$2.29. They are looking at the 3 year increase because if they didn't, and came back in 6 years it would be higher. The average is going to be less than inflation over 6 years.

Council Member Hussain asked for the dates of the public hearing again and their determination meeting. The public hearing is November 30, 2017 at 5:30 p.m. in the Depot location, and then the Board will meet on December 5, 2017 at 5:30 p.m. in the same location.

Council Member Brown Clarke stepped away from the meeting at 5:48 p.m.

Council Member Wood asked if how the proposed rates compare to Consumers Energy rates.

Mr. Peffley admitted that the rates vary month to month, and his goal is to always be under the competitor rates by double digits. Council Member Wood then pointed out the 90% of the residents have water and electric so will be effected by both increases.

Council Member Brown Clarke returned to the meeting at 5:49 p.m.

Council Member Wood asked the BWL representatives to consider not starting the increase in February but in March when it is warmer. Mr. Peffley stated that the new plant will be between \$470 million and \$550 million, and that needs to be bonded for which will occur in the summer of 2018. The rate agencies want to see that rates have been set in place and by starting in February this will help BWL secure the bond funding for the new plant. Mr. Peffley stated he would still take her suggestion back to the BWL Commissioners.

Council Member Wood then asked Mr. Peffley about the strategies for those residents that have a difficulty paying for their utilities, and questioned why when the opportunity was presented to BWL to work with the State why they chose not to participate in that program. Mr. Peffley stated that 2/3 of the utility companies do not opt in, and if they do opt in it is \$.96 on each meter. If BWL is going to take the customers money, they want to give it back to the customer, and if BWL were to opt in to the program, 40% of the money would go to the 3rd party. This fund does help on energy, but on the back of the electric customers. Ms. Shawa confirmed there are several programs currently and you can opt in or opt out every July 1st, so BWL can still consider it in the future. The BWL has long been opting out, primarily due to the Board's stance that during the crisis time (November to April) if they opt in, they have to issue final notices and shut offs, and this is against the BWL Board policies.

Council Member Wood then asked if any BWL workers were sent to hurricane effected states. Mr. Peffley stated they did go to Florida, and they are currently looking at options to assist Puerto Rico.

City of Lansing Form-Based Code (FBC) Draft Ordinance (Planning & Neighborhood Development)

Mr. Rieske introduces Mr. Doyle and Mr. Kiley with Smith Group JJR. Mr. Rieske then provided a quick introduction on timeline from when the Master Plan was adopted in 2012. The proposed Form Based Code is a tool to implement the recommendations of the Master Plan with land use and aesthetics recommendations. Part of the determinations in portions of the proposed Form Based Code came from the questionnaire that was done during the Master Plan process. This was done to find out where people want to enhance, transform or preserve. The current development patterns were also taken into consideration with the Form Based Code.

Mr. Kiley shared a power point presentation which outlined the switch to Form Based Code that would embody and enforce the vision and goals of the Comprehensive Plan and culminates in the replace of the existing zoning ordinance, in a way that promotes economic vitality and community benefit. In creation of the Form Based Code they looked at residential areas, commercial corridors and small commercial areas. They took what they saw out to the public and asked them what they thought needed to be enhanced, preserved or transformed. The key findings during the Master Plan process was that people found the neighborhoods were great, but that the image of the City viewed from the corridors were not at the same level as the neighborhoods.

The presentation continued with maps of the existing pattern and the map of the areas there is an interest to preserve, enhance and transform. Form Based Code will not deal with setbacks, but accommodate the surroundings and address it that way. The Committee was informed that in September, 2017 in addition to public meetings, there were also developer forums. The proposed Code will protect residential areas and achieve the overall Master Plan. From a developer standpoint, Form Based Codes can speed up the review process. Form Based Code sets the visions and the developer meets the criteria. Form Based Code also provides incentives to add in or include elements that the community was asking for in the Master Plan,

such as green building standards. Page 6 of the presentation provided a comparison between the current conventional zoning and the Form Based Code. The new code is more graphic and easier to navigate, there are regulating plans and the section of the code will address the layout. A list of cities in Michigan was provided that currently have Form Based Code in some area of their community. The maps reflected the three districts; Commercial, Residential and Special Districts, in addition to a map on street typologies. Several pages in the presentation addressed architectural guidelines and features. Mr. Rieske concluded the presentation by stating that all the information was available on the City of Lansing website, under the Planning and Neighborhood Development page, under Design Lansing Master Plan, then Form Based Code.

Council Member Wood asked if they provided a table that integrates the current zoning into the proposed. Something that would show what the current districts could change into.

Council Member Yorko asked if uses are allowed in each district, could her neighbor in a residential home open a retail business as long as they keep it looking like a house. Mr. Doyle state that thee characterize the change more permissive, not a free for all but particular to the residential districts. When they spoke to the public at the meetings, the community wanted to preserve what they have now in their neighborhoods, so it will be a very little difference then what is there now. Mr. Kiley referenced page 12 of the presentation, which breaks down under 1243, 1244 and 1245 the use tables, and there is also a table in the appendix of the code itself.

Council Member Yorko asked for numbers across the United States where the communities use the current zoning and how many use Form Based Code, and what the pros and cons are. Mr. Rieske had no estimate because Form Based Codes are a new thing and the bulk of the communities have a separation of uses on the land, so the uses in a commercial area will never meet a residential use, and there are not a lot of mixed uses. Currently the City is similar to that now because they do not allow commercial in a residential zone. Form Based Code takes advantage of mixed use and walkability to the districts. Council Member Yorko referred the group to page 7 of the presentation which appeared to allow changes in use without a rezoning and a variance. Mr. Doyle clarified that the use has to fall within the list of allowed use. Council Member Yorko asked if the communities that have done Form Based Code, if they have eliminated the opportunity to request rezoning. Mr. Doyle stated the City will have a balance in regulating uses.

Council Member Brown Clarke acknowledged the presentation and the structure and personality Form Based Code will provide to the City. She then asked if there was flexibility in the code for the facades because over time materials change and it would be a good idea to have projective thinking in the model. Mr. Kiley referenced Chapter 1246 of the Code which speaks to controls of the architectural standards and they are designed to have a greater flexibility, and broader visions. In a comparison to other Form Based Codes, the City of Lansing appears to be tight on the uses, but broader on the architectural features.

Council Member Washington supported the direction of districts similar to Old Town, REOTown and downtown, but asked if Lansing is a pioneer in this type of form based coding, why haven't other progressive cities adopted it. Mr. Kiley stated that the early forms of Form Based Code were trying to create mixed uses, and that is what happened in Grand Rapids where they have a hybrid code and now that has an uncertainty. Now 15 years later and more Form Based Codes area getting adopted which are applying the same ideas across the whole City. From the meetings PND has had in the City of Lansing, they have heard that people what to strengthen and preserve the residential corridors, so that was taken into consideration which the current zoning ordinance does not do. Council Member Washington asked if Form

Based Code would have been in effect would it have stopped NIOWAVE from being built, and Mr. Rieske confirmed it would.

Council Member Hussain asked for information on communities that have already adopted a Form Based Code, and if Lansing is one in a handful of communities, if they could provide a City that adopted it in a broader sense and how they applied it. Mr. Kiley confirmed that Buffalo had adopted their 6 months ago, and Cincinnati recently adopted one also. Council Member Wood referred Council Member Hussain to page 10 in the presentation. Mr. Doyle confirmed that some on that list were not full City adoptions, but he could provide a specific list. He then added that in Michigan people are cautious, and seek the benefit to learn from other communities and States before they embark on anything. The Form Based Code is the standard in the United States, and recently they presented the proposed City Form Based Code at a MAP event, and people came to see what the City was doing to follow in their footsteps.

Council Member Houghton acknowledged how cautious the plan appeared, supported the progress and encouraged more outreach to the neighborhoods and businesses.

Council Member Dunbar acknowledged the Master Plan that was done 9 years ago and the at the time it was hard to envision the plan to reinvigorate the corridors because this Form Based Code was not in place, and now after seeing the proposed Code it has come full circle

Council Member Wood asked if “home occupation” was still included in the Form Based Code, and Mr. Rieske confirmed it was. Council Member Wood then asked if Form Based Code was similar to spot-zoning. Mr. Kiley referred the Committee to the two maps in the presentation and their handouts, and concluded that with the comparison, the Form Based Code is more unified, simplifying it and providing more cohesiveness.

Council Member Dunbar encouraged Smith Group to attend neighborhood meetings to provide the presentation, and then asked if in the Form Based Code someone could take an industrial building in commercial areas, and provide residential units in them. Mr. Kiley stated the zone might still be industrial, but they could look at it depending on which industrial in the Special Districts, and Mr. Doyle confirmed they could look at that option for significance and consider top floor residential.

Discussion/Action:

Nothing on the agenda for action.

Other

Council Member Wood recapped for the public and Committee that a public hearing was set for the amendments to the 2011 Medical Marijuana Ordinance based on a petition that was filed on October 6, 2017 to repeal the 2017 Ordinance, however the Clerk determined October 20th that there were not enough valid signatures on the petition. Law was asked what the next steps would be. Ms. Smiertka added to the history stating the 2017 Ordinance was adopted September 7th, and took effect 30 days later, October 7, 2017. When the petition, claiming to be a referendum of the 2017 Ordinance, was filed on October 6th, under the Charter the 2017 Ordinance was automatically suspended until certain things occurred. This then put in place the 2011 Ordinance, and during the time frame needed to verify signatures on the petition, the 2017 remains suspended and the 2011 remains in effect. After the Clerk determined the petition did not have enough valid signatures, this in effect lifted the suspension of the 2017 Ordinance and makes it now in effect. Mr. Smiertka continued by noting the next steps, even if the group that submitted the petition got more signatures, the 2017 stays in effect. The group has 10 days to submit the remaining valid signatures needed. If the Clerk validates the

signatures and accepts the petition as valid, he will submit it to Council to either repeal the 2017 Ordinance as requested in the petition, and if they choose to repeal it the 2011 Ordinance will be back in effect. If Council does not repeal it, then it will go to a vote of the people in May, 2018. Mr. Smiertka concluded that it was their opinion that at this time they would advise Council to still hold the scheduled hearing on the 2011 Amendments. He did clarify that Law had reviewed the petition in question, and determined it had legal issues, however the Clerk chose not to take that into consideration, and in making his decision on the validity of the petition only used the fact there were not enough valid signatures. If the Clerk submits a petition to Council to consider they have 30 days to repeal or put on the ballot. If after the 10 days the group submits signatures and they still are not enough valid signatures, nothing will come to Council on this matter.

Adjourn

Adjourned at 6:57 p.m.

Respectfully Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by Committee on October 30, 2017