



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

**CALL TO ORDER**

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

**PRESENT**

Councilmember Brown Clarke  
Councilmember Kathie Dunbar  
Councilmember Tina Houghton- arrived at 5:51 p.m.  
Councilmember Adam Hussain  
Councilmember Patricia Spitzley  
Councilmember Jody Washington  
Councilmember Carol Wood  
Councilmember Jessica Yorko- arrived at 5:42 p.m.

**OTHERS PRESENT**

Sherrie Boak, Council Staff  
Jim Smiertka, City Attorney  
Chief Yankowski, Lansing Police Chief  
Chief Randy Talifarro, Lansing Fire Chief  
Randy Hannan, Mayor Executive Staff  
Alec Malvetis, Department Public Service  
Mayor Bernero- arrived at 5:51 p.m.  
Kathy Miles  
Elaine Womboldt  
Tonatzia Maiz  
Dennis Burnside  
Loretta Stanaway  
David Mittleman, Church Wyble  
Pado Gordillo  
Al Salas  
Mark Bernstein, Sam Bernstein Law Firm  
Paul Novack, Weitz & Luxenburg

**Minutes**

MOTION BY COUNCIL MEMBER BROWN WOOD TO APPROVE THE MINUTES FROM OCTOBER 23, 2017 AS PRESENTED. MOTION CARRIED 6-0.

### **Public Comment on Agenda Items**

Mr. Salas spoke in support of the Grand River Avenue renaming to Cesar Chavez Avenue.

Ms. Miles spoke in opposition to the proposed Form Based Code.

Ms. Womboldt spoke in opposition to the setting of a hearing for the proposed Form Based Code. She also spoke on an interest in the information that would be provided during the opioid presentation and lastly in her time, spoke in opposition to a City Council Facebook page

Ms. Maiz spoke in support of the street renaming of Grand River to Cesar E. Chavez, however she did question the time frame allotted for how long it would take, asking the streets signs to be installed in 90 days not 2 years.

Mr. Burnside spoke about his role in the renaming of MLK and then voiced a concern on the proposed time frame of 2 years, asking for 90 days also.

Ms. Stanaway spoke in opposition to the proposed resolutions for the opioid epidemic as a public nuisance, and was opposed to hiring outside counsel for the opioid litigation. She then spoke on the agenda topic of the Cesar Chavez street renaming and was opposed to that as well, but encouraged a museum in his honor.

### **Presentation**

- The Opioid Crisis and its Public Nuisance Effects on the City of Lansing

Mayor Bernero spoke on the opioid epidemic and made a strong legal argument that those that manufacture the drugs need to be held accountable. The first responder administered 243 doses of Narcon in 2016, now first responders respond to opioid over doses on a daily basis. It has led to ¾ million in incurred costs, and in the past year alone, over \$100,000. Mayor Bernero stated he was looking to bring a law suit against the opioid manufacturer and distributors, and then spoke on the dangers to the community, asking Council to allow the City Attorney to obtain outside Counsel.

Mr. Smiertka stated that over the last 5 months his Office of the City Attorney has studied the issues looked at statistics weekly and what is going on across the country. His office is proposing the Committee listen to the Lansing Police Chief and Lansing Fire Chief on their testimony of the situation, and then consider his proposed outside legal Counsel. The actions the City Attorney is looking for at this meeting is for the Council to declare the activity with the opioid crisis to be a public nuisance; defined as any act or admission that obstructs or endangers the health, safety and welfare of the public, and the second action item would be to begin litigation. They are looking at 3 outside legal firms to see who is best suited to handle a class action and have accessibility to the federal level. Mr. Smiertka confirmed his office has selected 3 firms to recommend to Council and they will represent a consortium of law firms monitored with the City Attorney.

Chief Yankowski began his testimony directed by the City Attorney. The first question posed by the City Attorney was what the Chief's duties were, at which the Chief stated he was responsible for the entire Lansing Police Department actions. Mr. Smiertka then asked the Chief for details on his experience with the matters on this subject. Chief Yankowski stated to the Council that over his years on the police force he has worked road patrol and worked with the drug patrol, starting in the 1990's when cocaine was prevalent and all resources were being spent on those in comparison to what heroin is now. Mr. Smiertka then asked for the Chief's experience in working on the drug trafficking and opioids. Chief Yankowski confirmed he has had experience and in career has learned to recognize what it looks like, and the drug

market in the City of Lansing. Mr. Smiertka then asked him to describe the condition of the opioid epidemic in Lansing. Chief Yankowski informed the Committee that the LPD started to notice a difference in 2010 when heroin started coming back into Lansing. On a daily basis now the LPD is utilizing resources to respond, investigate education, hold responsible, and find ways to help those addicted. The hardest impact is people are dying in the community and all over the country, close to 90 a day due to opioid, which is above the impact of cocaine in the mid 90's. The Chief then went through his presentation handout (attached). Included in that presentation were items on Action Plan which is being led by the Public Health Office. One slide outlined the crisis in the making from prescription pill abuse, overprescribing doctors, etc. In 2017 along there have been 177 overdoses, 16 deaths in comparison the calendar year of 2016 where there were 155 overdoses and 21 deaths. The presentation then highlighted the statistics on reported overdoses, average responding officers, time spent on those responses, and the estimated costs. From 2015 – 2017 the estimated expenses, the Chief reflected at \$748,995.75. Examples were provided by the Chief, including showing the Council Naloxone, a drug reversal known as narcan. The Chief concluded by informing the Committee that Ingham County has a task force working on trying to reduce the overdoses, but it is getting worse.

Council Member Yorko stepped away from the meeting at 6:17 p.m.

The Chief explained to the Committee that the LPD uses Naloxone because it is lifesaving chemical for drug reversal, but a special machine had to be purchased so that the officers do not touch the opioid because it is that dangerous. Mr. Smiertka then asked the Police Chief if based on his experience as Chief, his education and studies that have been done, if the over prescription, distribution and marketing of opioids is resulting in, addition to heroin and other drugs, leading to serious injury or death. Chief Yankowski confirmed, and added it was also at the State and Federal level. Mr. Smiertka then asked Chief Yankowski if he had reviewed the resolutions in front of the Council tonight and if they have true facts, and the Chief confirmed he support the fact it is a public nuisance.

Chief Talifarro introduced himself and confirmed he had been a Chief for 17 years, had 34 years of fire service and 30 years with a paramedic license, along with a level one trauma experience.

Council Member Yorko returned to the meeting at 6:20 p.m.

Mr. Smiertka asked Chief Talifarro to provide Council with examples of his experience with the opioid addition, withdrawal and costs. Chief Talifarro confirmed there has been an up-tick in death and overdoses and synthetic opioids. This is attributed to the over prescribing of the drugs, and causes people to pursue a non-legal way to obtain the drug. Heroin is an opioid, and people start by using OxyContin, fentanyl, and at some point they can't afford those prescriptions or have lost their medical resources, so they move onto heroin which has similar affects. Chief Talifarro pointed out that there have been 46 overdose deaths in the County, and 39 of those 46 were opioids. He stated that fire department, when looking at the costs, sends a fire truck with 4 first responders, then there is an ambulance with 2 staff, and all six are on scene for over an hour. Mr. Smiertka asked if there is a cost to have the emergency vehicles equipped with narcan. Chief Talifarro stated the paramedics start the drug directly in and IV which provides a more direct route. Mr. Smiertka asked if the Fire Department gets reimbursed by the insurance companies. Chief Talifarro stated that in studies it has been documented with workers comp claims and costs went up when attributed to pain relief or contributed to that. Mr. Smiertka then stated for clarity, that the costs are attributed to the employer if they are employed who then pays the premium, and the Chief concurred. Mr.

Smiertka then asked Chief Talifarro if he too had read the resolutions in front of Council and concurred with their findings, and he confirmed.

Mr. Smiertka introduced Mr. Mittleman who would present on the three (3) proposed outside Counsels.

Mr. Littleton introduced the other legal firms and acknowledged Council for what they had thus far. He confirmed that they had already presented to the Ingham County Human Resources Committee. Mr. Mittleton then noted to the Committee that if they were hired by the City they would only get paid if the City gets recovery and it would be a percentage of the recovery. A handout (attached) was presented on the opioid crisis by Weitz & Luxenberg and that was referenced throughout the presentation. In addition to that presentation Mr. Mittleton provided a brief history on his experience in law and dealing with the opioid crisis. He offered his 33 years of experience in litigation, and history of being a pharmacist prior to getting his law degree. He pointed out that the Bernstein Law firm will be part of the three with their experience of being equipped to handle the litigation State wide. They have been actively approaching other municipalities. Weitz & Luxenberg will handle national wide with Paul Novack in their Detroit office.

Mr. Bernstein then spoke on the effects of the opioid crisis on communities across Michigan and the huge financial impact on cities and counties across the State. Mr. Bernstein assured the Council all three firms offer 50 years collectively of legal experience. He then concluded by stating to the Committee that they need to hold pharmaceutical companies and the manufactures accountable. Currently there are 60-70 lawsuits across the country.

Mr. Novak introduced himself and acknowledged Council for their consideration in approving the resolutions.

Council Member Washington stepped away from the meeting at 6:45 p.m.

Mr. Novak stated to the Committee that public nuisance is the common law theory, and on a State wide basis there are 1.07 prescriptions daily in the State and the rate in Ingham County is higher.

Council Member Washington returned to the meeting at 6:47 p.m.

Weitz & Luxenberg have represented the State of Michigan on behalf of the State Attorney General and with all three firm experiences in local, state and national, it is believed they can represent the City appropriately. By the end of November there should be a motion by the panel on a multi-jurisdictional litigation. Mr. Novak then referenced a comment made earlier about the perception there are more heroin cases in South Lansing, and noted heroin is an opioid product, and Ingham County Health Department has identified some hot spots in South Lansing.

Mr. Smiertka acknowledged all that spoke and then turned to the Committee and stated that those testimonies submit evidence that there is a public nuisance issues and Lansing is suffering financial and human costs, and the resolutions in front of the Committee have been supported.

Council Member Spitzley acknowledged everyone for presenting.

Council Member Dunbar asked if the City had to declare it a nuisance for law to proceed. Mr. Smiertka stated that is the theory, because of the State Law of Michigan that protects the companies, it is the City Attorney's theory that the City needs to declare it a public nuisance.

Council Member Dunbar asked if declaring it a public nuisance if it wouldn't open up the door to go after the addict, when we want to go after the distributor. Mr. Smiertka stated that Council speaks through resolution, and if they first resolve it is a public nuisance against the manufacture and distributors it will be addressed. Chief Yankowski assured Council that they understand addicts do not belong in jails or prisons, and if they come to the LPD and declare their addiction and want help, there is an Angel program, that will take them and not charge them for help. They want to focus on holding the dealer responsible, and have successfully charge 5 people for deaths on overdoses.

Mr. Mittleman stated to the Committee that declaring it a public nuisance would show monetary damages and equitable relief for education and this would then allow them to go after the manufacture.

Council Member Brown Clarke asked as it relates to the position of the City, would there be any out of pocket costs, understanding the outside counsel costs, if they litigate and fail, and if here is a ceiling on the expenses. Mr. Smiertka confirmed his office is currently negotiating a retention agreement and monitoring process. It will not be forwarding out of pocket costs, it is a contingency negotiation.

Mr. Hannan informed the Committee that the LPD, LFD and EMS are available to the public without regard to pay and they recognize will not be compensated. The services will not have a barring effect for any treatment.

Council Member Wood asked if other communities have filed litigation. It was noted that Wayne and Oakland counties had, and they attorneys have spoken to other communities and anticipate launching with them.

Council Member Wood asked what the down side would be for the City in declaring a public nuisance and if it would open this up for liability. Mr. Smiertka stated there is nothing in that regard that has come to laws attention in this analysis. Council would be finding a safety health concern and therefore declaring it a public nuisance.

Council President Spitzley referenced the earlier handouts and asked of the 243 doses of naran utilized over the last year, how many were on the same person calling 911. Chief Talifarro acknowledged they do not have those statistics, but they do see repeat effects, with 463 interventions at 309 patients. Chief Yankowski stated their stats show 15%-20% are repeat offenders, and they have an intervention for those who have multiple calls, which is outside of the earlier mentioned Angel program.

Council Member Brown Clarke asked for details on the cost, and Mr. Smiertka stated the frame work of the retention will come out of the recovery costs, and the City Attorney office is continuing to work out the details.

#### **Discussion/Action:**

#### **RESOLUTION – Declaring Opioid Epidemic a Public Nuisance**

**MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION THAT WOULD DECLARE THE OPIOID EPIDEMIC A PUBLIC NUSIANCE. MOTION CARRIED 8-0.**

RESOLUTION – Approval of Outside Counsel for Opioid Litigation

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION TO APPROVE OUTSIDE COUNSEL FOR OPIOID LITIGATION. MOTION CARRIED 8-0.

RESOLUTION - Renaming of East Grand River Avenue and W. Grand River Avenue from Oakland Avenue to Pine Street to Cesar E. Chavez Avenue

Council Member Washington informed the public that the transition period they have noticed in the resolution is for the post office, allowing them to recognize and deliver to both addresses on and envelope if it occurs. The placement of the signs and making it “official” will not take two (2) years.

Council President Spitzley asked the other Committee members what the time frame was for the renaming to MLK and Malcom X. Council Member Wood stated that MLK took longer than two years, but Main Street to Malcom X took was one (1) year.

Council Member Washington then stated to the public and Committee that the renaming is not to educate anyone on Cesar E. Chavez that is for the schools, but it is to honor him. In regards to the mentioned costs that will be incurred by the businesses, she then stated she had ideas on how to address that in the future, 2018.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION TO RENAME EAST GRAND RIVER AVENUE AND WEST GRAND RIVER AVENUE FROM OAKLAND TO PINE TO CESAR E. CHAVEZ AVENUE.

Council Member Wood mentioned that there was a recommendation to recognize Grand River as “historic” at the intersections of the current Grand River and Oakland, and current Grand River and Pine. She also noted that she had reached out to the City IT Director on finding out how long GPS, Google, Bing, and Yahoo would take to recognize the change, and he informed her GPS can provide both names in their system, however the other groups had not responded to him with timelines.

Mr. Hannan was asked on how long it would take to make and install the signs, at which he stated that the City Traffic Engineer suggested 4-6 weeks from the time the resolutions starts. With 30 signs that will cost roughly \$3,000.

Council President Spitzley asked Mr. Smiertka if there was a difference between “historic” and “honorary” for a name change to include Grand River Avenue. Council Member Yorko added to the discussion that after talking to business owners in Old Town, to keep with potential of keeping Grand River noted as historical, she will be proposing a “Late Item” at the Council meeting later in the evening, but at this time it cannot be added to the current resolution that has a motion on it, because per Law it will require a public hearing.

Mr. Smiertka stepped away from the meeting at 7:24 p.m.

Ms. Sumner stated that based on the Memorial Review Board ordinance and procedures, since this current name change to Cesar E. Chavez has already gone through the process, the appropriate thing would be to go through the same process and which can be initiated by Council and therefore no requirement to have it sent to the Memorial Review Board. It was noted that Council will have to pay for that mailing.

Council Member Dunbar asked for a date certain on the name change. Council Member Washington suggested an amendment to the Resolution that would state no sign would go up before January 1, 2018. Mr. Hannan stated the Administration would not initiate the work on

the name change until the resolution is effective and then it would take 4-6 weeks. Council President Spitzley asked if January 1, 2018 for installation was possible, and Mr. Hannan stated it could be achieved.

Council Member Hussain asked if Council could request another time frame with the Post Office, and Council Member Wood stated that her understanding from the Post Office was that 1-2 years is a standard time frame. Council Member Brown Clarke clarified for the public that if it takes up to 2 years, then there is no impact on the businesses, and if it has no impact because the post office will recognize both addresses for that time frame, she supported immediate effect and 4-6 weeks to print and install the signs.

Council Member Dunbar suggested that she would send signs to LARA for the businesses that needed to change the addresses on their business licenses.

Council Member Yorko made a point to the Committee that there was not a lot of overlap of Friends of Cesar Chavez and the Old Town residents and businesses, so the Friends would not be affected.

Council Member Houghton made a suggested amendment to the resolution to include "January 1, 2018 to last "Further be Resolved".

Mr. Smiertka returned to the meeting at 7:44 p.m.

Mr. Hannan assured the Committee that it would not be the first time the City has change a street name, and there are best practices in the digital world that will make the transition possible without any drop. He concluded by assuring them the Administration was on board with the name change.

Mr. Smiertka addressed the earlier question of "historic" vs. "honorary" for Grand River, and his opinion was that it since they were not making a historical monument, it should be "honorary". Council Member Yorko then asked Mr. Smiertka if making that name designation would require a public hearing because her earlier communications to his office confirmed it would. Mr. Smiertka stated if it goes through the Memorial Review Board it would need a hearing. Council Member Washington offered to make a friendly amendment to add in "Honorary Grand River Avenue". Council Member Yorko preference was still for "historic". The Committee held a brief discussion on the original street name of Franklin, original path of the road from Detroit. Council Member Dunbar and Council Member Brown Clarke agreed with the name of "Honorary". Council President Spitzley made a point of making sure the Committee and public know that the "Honorary" or "Historic" sign designation would only be placed at Oakland and Pine. She then asked Law if it can be amended to state this or would there need to be another application, review and hearing. Mr. Smiertka stated there can be a hearing and a mailing to the affected businesses and residents can be done. Council Member Spitzley determined that since it will require a mailing, the recommendation from Council Member Yorko will be done separately as a Late Item at Council, and not part of the current resolution or motion.

Council Member Wood voiced her concern of an earlier suggestion by Council Member Dunbar to send letters to LARA on behalf of the businesses, stating it would affect individual property rights. Council President Spitzley stated that would be a discussion for another date.

MOTION CARRIED 8-0.

RESOLUTION – Notice of Intent to Issue Bonds; Combined Sewer Overflow 34C Project

Mr. Malvetis noted to the Committee that the project addresses the water pollution problem, and the City is undertaking the projects in earnest. Any street closures will have detours set up. Council Member Wood asked if there were any funds left in the bond fund from other projects that will be going towards this project. Mr. Malvetis assured the Committee that each project is funded separately, and there are no bond proceeds. Council Member Wood then asked who the engineer on the project would be, and Mr. Malvetis confirmed it would be the City, and they will work as they have in the past with the neighborhoods, events and non-commercial properties on any detours. Council Member Houghton asked for a map of the affected areas, and that was distributed by Mr. Malvetis and also noted there was a smaller version on the website. Council Member Brown Clarke asked what the turn-around time on the project was, at which Mr. Malvetis informed the Committee it would take 2 years with a planned date of May 2020 for finish paving. Council Member Houghton asked if there was more CSO work, and Mr. Malvetis admitted there was, but they were bonding just for this project with the DEQ as the Administrators. Council Member Houghton asked what the percentage of work would need to be completed after this project was complete, and Mr. Malvetis stated after this project they would be 70% complete.

MOTION BY COUNCIL MEMBER HOUGHTON TO APPROVE THE RESOLUTION TO SEND A NOTICE OF INTENT TO ISSUE BONDS; COMBINED SEWER OVERFLOW 34C PROJECT. MOTION CARRIED 8-0.

RESOLUTION – 2018 City Council Meeting Schedule

Moved to the meeting on November 13, 2017.

RESOLUTION – Introduction and Setting of a Public Hearing on the City of Lansing Form Based Code

Moved to the meeting on November 13, 2017.

**Other**

- LBWL Proposed Electric, Water, Steam and Chill Water Rate Changes
- City Council Facebook Page Policy –City Attorney

**Adjourn**

Adjourned at 8:10 p.m.

Respectfully Submitted by,  
Sherrie Boak, Recording Secretary  
Lansing City Council

Approved by Committee on November 13, 2017