MINUTES
Committee of the Whole
Monday, June 25 2018 @ 5:00 p.m.
City Council Chambers, City Hall 10th Floor

CALL TO ORDER
Council President Wood called the meeting to order at 5:00 p.m.

PRESENT
Councilmember Kathie Dunbar- arrived at
Councilmember Jeremy A. Garza
Councilmember Adam Hussain
Council Member Brian T. Jackson
Councilmember Peter Spadafore
Councilmember Patricia Spitzley
Councilmember Jody Washington
Councilmember Carol Wood

OTHERS PRESENT
Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Samantha Harkins, Mayor's Executive Assistant
Eric Brewer, Council Internal Auditor
Nick Tate, Chief Labor Negotiator
Greg Venker, Assistant City Attorney
Amanda O'Boyle, Assistant City Attorney
Alec Malvetis, Public Service
Steve Willobee, LEAP
Brian McGrain
Joseph Abood, Chief Deputy City Attorney
Kris Klein, LEAP
Angie Bennett, Finance Director
Kathy Miles
Elaine Womboldt
Loretta Stanaway
Mary Reynolds

Minutes
MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE MINUTES FROM JUNE 11, 2018 AS PRESENTED. MOTION CARRIED 8-0.

Public Comment on Agenda Items

Ms. Miles first apologized for a mistake she made in her statements at an earlier meeting regarding the rezoning for FTZ Laboratories. Ms. Miles then spoke in support of the Binni's revocation, asked the Committee to spend time reviewing the Lansing Housing Commission Board, and concluded by asking the Committee to deny the proposal for the Red Cedar Development.

Ms. Womboldt, on behalf of Rejuvenating South Lansing, supported action against Binni's Bar and Grill, and opposed setting a hearing for the Ferguson/Continental LLC Red Cedar Development.

Presentation

Corridor Façade Grants Implementation Area & Requirements

Council President Wood pointed out that during the budget process, one of the priorities was that LEAP work with Council on the criteria and create a resolution.

Mr. Klein went through the application and key points to the projects, noting that many were the same as the Pilot program they ran in 2017. The changes that were made were from recommendations from Council and past applicants. The grants will be up to $20,000, and there is a micro-grant for $5,000 that will cover painting, replacement of windows, etc. In addition, this time they have added in design services. Mr. Klein then noted the timeline component was added which is a rolling timeline on a first come first serve. The applicant itself has the same requirements, also a pre-application where they only need basic information to get the process started. The eligibility still stands and he referenced a map in the packet. Council Member Spitzley asked if there was something that can be done for those businesses that sit right on the edge of the border, but not in the area. Mr. Klein noted that the area is set up by the boundaries of the DDA and PSD, but there are other sources those outside businesses could use, including EDC micro loans. Council Member Spadafore asked how the guidelines were initially created. Council President Wood answered that question, stating that LEAP put them together and this will be Council's opportunity to make recommendations. Council Member Spadafore asked if Council could make the change that the unspent funds Council would determine where they would go. Council President Wood confirmed. Council Member Spadafore asked if applicants who apply late because of the "first come first serve" practice, if they could apply early for the next cycle. Mr. Klein noted that if they participate in the design step they are aware, and that could take several months. This would be a consideration to be prepared for the next cycle. Council Member Garza asked if they consider long term businesses first in their process. Mr. Klein stated they look at the impact and the need. Council Member Hussain asked how they were marketing the program. Mr. Klein stated they have been marketing, and gathering a list who were not in the last cycle and contacting them directly, letting them know the program is available again this year. They have also been attending neighborhood meetings, business meetings and also released it with the business association. Council Member Hussain asked if they have partnered with the colleges of MSU for services. Mr. Klein confirmed that can be a component, and if there are people that are interested in providing the service, but with large scale projects there would be a stronger need for a paid engineer. Council Member Hussain asked if there was a plan on how to distribute the grants throughout the City. Mr. Klein admitted there was no plan for a certain number per ward or per corridor, but location is one of the main components. Council Member Spadafore asked if there could be a criteria that 3% of the funds budgeted can go towards marketing the program. Mr. Klein noted it could be done in a resolution, and they could then do a mailing along the corridors. Council Member Spadafore suggested it could state "up to a threshold" for marketing. Council Member Washington asked if non-profits were eligible. Mr. Klein assured her any commercial business on the corridor. The applications can be found on the purelansing.com/incentives site and they can also contact him directly.

Council Member Garza asked if there is a stipulation that the business cannot sell after they receive the funds. Mr. Klein noted they have to maintain the building for a certain percentage of years, however he would have to research if here is a condition on sale. Council Member Spitzley asked if LEAP had marketing tools to that 3% of the funds would not have to be used for marketing. Mr. Klein acknowledged they had already been putting out in weekly email newsletter, a media release and social media. Council Member Jackson asked if the application has been created for those who do not speak English. Mr. Klein stated it was not, but they could have it translated to different languages.

Council President Wood asked Mr. Klein to plan to attend the July 9th meeting and bring back information on how many years they have to own and maintain; what funds does LEAP have vs. the City Council; regarding predatory businesses, how are they making the determination when a business comes forward to approve or deny. Mr. Klein assured the Committee that there would be a policy for the program that would highlight the requirements to address the predatory businesses. Council Member Spitzley also asked Mr. Klein to bring to the July 9th meeting the specific dollar amount that could be taken out for marketing.

<u>SRF Project Plan for Wet Weather Control Program Phase II</u>
Council President Wood noted that the Committee would not normally approve items the same night they see them, but this item has a deadline of June 29, 2018.

Mr. Malvetis first made Committee aware that the City generally applies on a 5 year rotating basis, usually because of low interest rates loans. The program pays for certain projects and for the CSO project however it does not pay for everything. In that case it will pay for water pollution control for the project, which comes to 70-75% on average coverage of the cost. Mr. Malvetis then outlined the project which is the second part of the project. With this there is little excavation. The Committee then went through the handout presentation on the projects and maps. The project does cost over $60 million and a cost to residential users, but does not represent an increase in the bill because other loans are dropping off at the same time, so it is not necessary to do a rate increase for the entire amount.

Council Member Spitzley asked if the Department will be coming back to Council in the future for bonding on the project. Mr. Malvetis noted bonding is associated with each SRF application. There will be three (3) applications, but 34E and 15S start in same year. SRF Bonding will be associated with each application and also bonding with other ineligible sources. They can use money from ACT 51 for the CSO. Council Member Spitzley asked if that was part of the consent order the City is under, at which Mr. Malvetis confirmed it was related to and tied to the duration. Council Member Spitzley asked why it was just coming to Council with a deadline in 5 days, and Mr. Malvetis apologized.

Council Member Garza asked if the projects coordinate with the other utility companies, and Mr. Malvetis was able to confirm they work with them well in advance.

<u>Discussion/Action</u>
<u>DISCUSSION/RESOLUTION – Corridor Façade Grant Area Implementation Area & Requirements</u>
Any further discussion and the draft resolution will be back before the Committee on July 9th, 2018.

<u>RESOLUTION – SRF Project Plan for Wet Weather Control Program Phase II</u>
Mr. Malvetis informed the Committee that all public hearing requirements were met by the City on June 5, 2018. It was noted those hearings are not City Council required hearings.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION FOR THE SRF PROJECT PLAN FOR WET WEATHER CONTROL PROGRAM PHASE III. MOTION CARRIED 8-0.

RESOLUTION – Revocation of Liquor License for Binni's Bar & Grill Inc., 820 W Miller
The findings of fact were distributed to the Committee.

Mr. Tate outlined the process per 830.07 of the City Ordinance, and a hearing was held on June 4, 2018, and in attendance was Sal Gani and Love Singh, who is in process of purchasing the property. There were violations of the City Ordinance, and at an earlier meeting there was a question of their cabaret license, which was determined that they did not have. Mr. Tate stated that in making the findings and recommendations, they relied on the testimony of Lt. Backus. At the hearing, it was noted, that Mr. Gani requested to respond in writing to the hearing, and Council and Mr. Tate received that document on June 22. Mr. Tate assured Council that after reading the response from Mr. Gani it did not change the findings, therefore at this time he was making a recommendation to revoke the liquor license. Council Member Jackson asked for any mitigating things that Council should consider to make their determination. Mr. Tate stated that throughout the hearing Mr. Gani stated the prior owner was in violation and the new owner would be more observant. He noted this could be considered, but did not change his recommendation. His task was to evaluate the evidence. Council Member Jackson reiterated his question from an earlier meeting, asking what if they ceased all operations while they were restricted, and if there was a discussion of this at the meeting. Mr. Tate admitted it was mentioned in the hearing, and the new owner stated through his attorney could clean it up, but never spoke to closing down but change the character. Council Member Spitzley asked that it be confirmed that the new owner is the son of the current manager. Mr. Tate confirmed he was the son of the current owner/manager. Council President Wood pointed out that as of the date of this meeting there has been no transfer of ownership, so it is still in the current owners name and the one responsible since 2002. It was also noted that they were delinquent in taxes of $20,000 to Ingham County.

The letter from Sal Gani, attorney for the owners, was referenced and noted it requested the City issue the cabaret license and not revoke.

MOTION BY COUNCIL MEMBER GARZA TO APPROVE THE RESOLUTION TO SUPPORT THE FINDINGS OF FACT REVOCATION OF THE BINNI'S BAR AND GRILL, INC. LIQUOR LICENSE. MOTION CARRIED 8-0.

Mr. Tate noted for the record that a transcript from the hearing was provided to the Council.

RESOLUTION - Set the Public Hearing for the Amended & Restated Real Estate Purchase & Development Agreement; Ferguson/Continental Lansing, LLC
Mr. Willobee acknowledged that after a second look of the project the developers decided to remove the bond of $7 million. Now that the bonding has been fully removed and other changes were made, they were present to go over the changes. Mr. Venker clarified to the Committee that the document that will be signed if approved, is the first amendment to the Amended and Restated Agreement. Any changes that are stated generalize would just go through the Mayor. The labor portion was re-worked and it will clarify terms and puts more obligation on the developer. Mr. Venker concluded his statement by stating that with the changes in a single document it will not have to be placed on file for another 30 days.

Mr. Willobee went through the documents noting some of the changes.
Page 1 – typo spelling correction
Page 4 – change in date to align with the transition with the approval process. This extended the timeline to November 30th, and most dates were discussed with the developer as well.
Page 8 – change in the date from May to September 1st
Page 10 - article 5 also includes exhibit C-2. Changes that were discussed were provided in an exhibit and incorporated, so this matches in a term and language perspective.
Council President Wood asked what the definition of retail was, and Mr. Willobee stated "first floor retail", Mr. Venker noted it was in the exhibit.
Page 10- (d) transition with active senior component. 298 total senior and market rate on property. The "village" had a reduction of 40 ft. to 2 story structure on Michigan Avenue. Exhibit C-2 states 2-4 stories, so they went with a minimum of 2. Council Member Jackson pointed out a typo on the table in C-2.
Page 13- removal of the general obligation bond to a tax obligation bond. The City is responsible for the activities for public infrastructure. This changes means the City is exempt from the Federal standpoint through the IRS. Council Member Jackson asked with the removal of the bonds, if the City loses control over what happens in the agreement. Mr. Willobee assured him that this is the mechanism of what the structure will be, but the use of the funds and repayment will be determined in the Brownfield plan. He assured Council that this does not tie the City's hands. Mr. Smiertka noted there will be a TIF that will come back to the City, and the infrastructure will be done in intent standards.
Mr. Venker went through 5.9 which spoke to the "local labor' focus on the requirement for the developer on the prevailing wage, then they added a paragraph that describes the local labor preference. He noted that Exhibit E is that local labor agreement. The content and intent of the document will control over the exhibit, and in this case there is no conflict, the local labor exhibit will control. The definition does not weaken, but creates clarity.
Page 16 - 7.3.a bonds backed by the developer and the City has no obligation to the repayment thereof.
Page 17 – stricken the reference to bonds and stricken the waterfall reference.
Page 18 – similar changes to page 17. It was noted any changes in the waterfall fund were the changes to the bonding.
Page 21- reference to the indemnification agreement, and replaced with "tax exempt bond obligations".
Page 22 – typo correction
Page 25 – correction to the Section number.
Mr. Venker outlined that with the "waterfall" in place, they affect the tax exempt bonds first, then the Brownfield, then the private bonding. The priority of payment still exists to protect the public moneys, which include tax increment financing (TIF).

Council Member Spitzley reiterated that at the June 4th meeting there was a question on how the purchase price of $2.2 million was determined, and at that time it was noted there were incidental items that lowered the property assessed value from $7 million to $2.2 million, but those were still not available. It was also noted at that meeting there was language that said the purchase price was not going to be used for the park land on that site, but other City of Lansing parks. Mr. Venker stated that Council can do a resolution outlining specifically how the funds would be allocated. Council Member Spitzley stated her opinion was that it would be in the sale agreement. Council President Wood stated that Mr. Brewer was working on something regarding that. Mr. Brewer confirmed he had worked with LEAP and provided Committee information he received from them. Council Member Spitzley again asked for information on why it went from $7 million to $2.2 million, and Council needs to know where the dollars were reduced to take it from $7 million to $2 million. Mr. Willobee tried to explain that when you look at the overall structure there are eligible activities. Council Member Spitzley asked for a list. Council Member Washington added that there is a need for a cost analysis also to make sure the $2.2 million goes into parks. Mr. Smiertka stated his office would work with LEAP, reach out to the appraiser and get back to Council. Council Member Spadafore pointed out the appraiser himself stated multiple times it did not factor in everything.

Council Member Spadafore stepped away from the meeting at 6:40 p.m.

Council Member Spitzley inquired into who came up with the $2.2 million price tag. Mr. Willobee stated he will be in a position at the next meeting to discuss that.

Council Member Spadafore returned to the meeting at 6:41 p.m.
Council Member Garza stepped away from the meeting at 6:41 p.m.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION TO SET THE PUBLIC HEARING FOR THE AMENDED AND RESTATED REAL ESTATE PURCHASE AND DEVELOPMENT AGREEMENT FOR FERGUSON/CONTINENTAL LLC FOR JULY 9, 2018. MOTION CARRIED 7-0.

Council President Wood asked that the document be placed on the website, and the Clerk make it part of the public hearing process.

Council Member Garza returned to the meeting at 6:43 p.m.

RESOLUTION - FY2018 Budget Amendment

Ms. Bennett went through the recent version of the resolution and budget amendments. This began with the introduction of the Revenues coming at $910,000.00 from Income Tax and Revenue Sharing. This would then cover the expenditures of personnel costs in the Mayor's office, Clerk and Human Resources. The Economic Development department will also get $25,000 for housing inspections overtime; $50,000 to the CIP for sidewalk repairs; $100,000 for park equipment; $150,000 for fleet and lastly $500,000 to benefit the ERS Pension System. Council President Wood asked what happens to the funds in the Clerk's office that are reflected by the Medical Marihuana funds and Mr. Smiertka confirmed per the ordinance if the application is denied 50% of the funds are returned.

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE RESOLUTION FOR THE FY2018 BUDGET AMENDMENT. MOTION CARRIED 8-0.

RESOLUTION – Introduction & Set the Public Hearing; Amend Chapter 245; Repeal Section 245.01 Eliminate the permanent location of the Lansing City Market

Council President Wood clarified for the Committee the action would be for the elimination of the permanent location of the market South of Shiawassee, North of Michigan on the River. Mr. Smiertka added it does not affect the status of the current market. Council Member Jackson asked if the fate of the current City Market has not been determined in its current location, if it was necessary to make the changes now before any negotiations on that site are made. Mr. Smiertka explained that there is a lot of activity in the development, but his amendment is a simple restriction that would deal with a multitude of projects.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION TO SET THE PUBLIC HEARING FOR JULY 9, 2018 FOR THE ORDINANCE TO AMEND CHAPTER 245; REPEAL SECTION 245.01 ELIMINIATE THE PERMANENT LCOATION OF THE LANSING CITY MARKET. MOTION CARRIED 8-0

RESOLUTION – Introduction & Set the Public Hearing; Amend Chapter 1034; Eliminate Section 1034.01—1034.09 Eliminate the Memorial Review Board

Council President Wood outlined the change which would eliminate the Memorial Review Board its duties and functions to name or rename public memorials. The change will now allow streets and public right of ways to be renamed by the City Council, and the Mayor name or rename public amenities. Council Member Hussain asked what the rationale was for not having Council name or rename parks. Mr. Smiertka admitted his office recently found a 2007 City Attorney Opinion that clarifies that the Charter provides that the Mayor is the Manager of Real Property to the City. He then added that there is nothing in the Charter that states who names what in general law, but as manager of real property that is in trust of the public the Mayor is listed in the Charter. So in conclusion, the 2007 opinion confirms the Mayor has the ability as the head of the Parks Department and Real Property. The written opinion will be provided to Council before the hearing. Council Member Hussain asked if Council could ask for the approval process. Mr. Smiertka stated his opinion was that if it were to be brought back to Council it would be a question of a violation of the Charter, but he would get an opinion to Council. Council President Wood reminded Mr. Smiertka that recently in 2017 the City renamed two (2) parks, and no one at that time told them it was a violation of the Charter. Mr. Smiertka answered that statement by noting it wasn't until recently that the issue of dissolving the Memorial Review Board came up and therefore was found during that research. Council Member Jackson stated he would support what is legal, but asked the Administration what the motivation was at this time. Ms. Harkins reiterated what Mr. Smiertka stated, that the finding was found when looking to eliminate the Memorial Review Board. Council Member Washington voiced her concern with the final decision at the Mayor's office because there needed to be checks and balances, and in her opinion renaming of parks have been and could be used for political gain. Council Member Spitzley asked Ms. Harkins why the Administration was looking at removing it. Ms. Harkins stated that there are a number of vacancies currently on it and their review of it was that the board was duplicative. Council Member Dunbar noted to the Committee that the process will still allow referrals to the citizen boards of Parks and Public Service, so it would not be solely in the Mayor's office. But added that Law is always advising Council they cannot do things that violate the Charter, so they should consider changing the Charter.

MOTION BY COUNCIL MEMBER SPITZLEY TO APPROVE THE RESOLUTION TO SET THE PUBLIC HEARING FOR JULY 9, 2018 FOR THE ORDINANCE TO AMEND CHAPTER 1034 ELIMINATE THE MEMORIAL REVIEW BOARD. MOTION CARRIED 8-0.

Council President asked for the legal opinion to be provided to Council before the hearing.

Closed Session at 7:07
MOTION BY COUNCIL MEMBER WASHINGTON TO GO INTO CLOSED SESSION PURSUANT TO MCL 15.268 (E) TO CONSULATE WITH THE CITY ATTORNEY ON ACTIVE LITIGATION REGARDING TRAIL OR SETTLMENT STRATEGY FOR LET LANSING VOTE V CHRIS SWOPE. ROLL CALL VOTE 8-0.
Reconvene at 7:43 p.m.

Closed Session at 7:44 p.m.
MOTION BY COUNCIL MEMBER WASHINGTON TO GO INTO CLOSED SESSION PURSUANT TO MCL 15.268 (H) TO CONSIDER MATERIAL EXEMPT FROM DISCUSSION OR DISCLOSURE BY STATE OR FEDERAL STATUTE TO REVIEW WRITTEN PRIVILEGED AND CONFIDENTIAL LEGAL OPNION RELATIVE TO THE LANSING HOUSING COMMISSION. ROLL CALL VOTE 8-0.
Reconvene AT 8:32 p.m.

<u>RESOLUTION –Relative to the Lansing Housing Commission</u>
Council Member Washington read the proposed resolution:

BY THE COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING
WHEREAS, the City Council has been informed that as of this date the Lansing Housing Commission has failed to file with the City Clerk a required annual report of its activities, including financial data, for the year ending June 30, 2017.
NOW, THEREFORE, BE IT RESOLVED that the Lansing City Council expresses and states that it has no confidence in the current composition of the Board of the Lansing Housing Commission; and
BE IT FINALLY RESOLVED that the City Clerk shall forward this resolution of no confidence to the Mayor of the City of Lansing.

MOTION BY COUNCIL MEMBER SPITZLEY MADE A MOTION TO APPROVE THE RESOLUTION.

The Committee discussed amendments to the resolution including the change to the first WHEREAS to state:
WHEREAS, the Lansing Housing Commission Board of Commissioners has demonstrated a lack of transparency, a lack of cooperation and lack of communication to the Lansing City Council.

MOTION BY COUNCIL MEMBER SPADAFORE TO TABLE ACTION ON A RESOLUTION UNTIL JULY 9TH, 2018 FOR FURTHER REVIEW AND DISCUSSION BY THE COMMITTEE. MOTION CARRIED 7-1.

ADJOURN
The meeting was adjourned 8:42 p.m.
Respectfully Submitted by,
Sherrie Boak, Recording Secretary
Lansing City Council
Approved by the Committee on July 9, 2018