



MINUTES
Committee of the Whole
Monday, June 24, 2019 @ 5:30 p.m.
Tony Benavides Lansing City Council Chambers

CALL TO ORDER

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

PRESENT

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

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Samantha Harkins, Executive Staff, Mayor's Office
Joseph Abood, Chief Deputy City Attorney
Lisa Hagen, Assistant City Attorney
Angie Bennett, Finance Director
Eric Brewer, Council Internal Auditor
Joseph Graves
Calvin Jones, LBWL
Dick Peffley, LBWL General Manager
Heather Shawa – LBWL Chief Financial Officer
Elaine Eisehnhoff
Carol Rall
Steve Rall
Nathan Jemison
Susanne Jemison
Pamela Baker
Anna Fisher
Peter Wood

Minutes

MOTION BY COUNCIL MEMBER SPADAFORÉ TO APPROVE THE MINUTES FROM JUNE 10, 2019 AS PRESENTED. MOTION CARRIED 7-0.

Public Comment on Agenda Items

Ms. Eisehöff referenced the recent budget item for Chief Strategy Officer and asked Council to reconsider spending on a sustainability manager to create a climate action plan. Council President Wood stated to the public that the budget passed and they are past the time for reconsideration, so the only consideration Council would be to do is add it to Budget Priorities in October that they present to the Mayor for creating next year's budget.

Ms. Rall spoke in support of climate action and spoke in support of applicants for future BWL Board vacancies.

Mr. Rall spoke in support of climate action.

Ms. Fisher spoke on climate action plan and provided her opinion of a need for a sustainability position and then asked Council to vote no for the reappointment of Ken Ross to the BWL position.

Mr. Wood spoke in support of a climate action plan.

The representative from the IBEW spoke in support of Joseph Graves for appointment to the BWL as a 3rd Ward Member.

Mr. Jemison spoke in support of Council considering applicants for boards who have experience with sustainability.

Ms. Jemison spoke in support of climate action.

Council Member Spitzley asked for an overview of the process for filing any board vacancy and the process the Administration uses when making the recommendation for a BWL position.

Council President Wood first stated to the public that the Council does not approve the BWL budget, but the item on the agenda is informational only from BWL to Council. Their budget is voted on by their Commissioners and approved by that independent body per the Charter. As to appointments of BWL Commissioners, she stated those applications are given to the Mayor who then makes the recommendation to Council.

Council Member Dunbar stepped away from the meeting at 5:53 p.m.

Council President Wood continued explaining that the Mayor takes the applications and vets the and interviews them before proposing them to Council and then Council can vote yes or no, but during that time they cannot make a change for a different person. Ms. Harkins was then asked to speak to the appointments on the agenda tonight, and she stated the Mayor nominates and vets them before they are referred. Ms. Harkins continued by stating they support all the nominees on the agenda tonight.

Council Member Dunbar returned to the meeting at 5:55 p.m.

Council President Wood asked if the Mayor's office goes through all the applications and Ms. Harkins confirmed. Council Member Jackson asked who in the Administration reviews them and was told by Ms. Harkins it was Ms. Plummer and the Mayor, then they are vetted through the appropriate departments such as LPD and treasury.

PRESENTATION

LBWL FY 2020 Budget and Capital Improvement Plan

Mr. Peffley greeted Council and submitted their Budget per Charter.

Ms. Shawa went through the presentation in the packet highlighting forecast projections, operation expenses at \$331 million and \$63 million in operating. Ms. Shawa noted there is a 2.73 return on assets and this operating and forecast does project a rate increase of year 3 y of the 3 year rate increase. Council Member Jackson asked they were projecting electricity at for 2020. Ms. Shawa stated they are projecting it to stay flat, even though there is growth coming they see the demand to stay flat. Council Member Jackson then asked them what their efforts are to make it possible for a negative forecast. Mr. Peffley stated there is an energy program to save 1% annually and BWL has exceeded that expectation since the program started. In 2021 that program will be a State requirement but BWL would continue it either way. Ms. Shawa moved the presentation onto the consolidated cash flow and bond construction fund for the Delta Energy Park. The project had successful pricing and they broke ground and construction was underway as of June 3rd through June 2021. Council President Wood asked if Scott Garden was under budget or over budget. Mr. Peffley said the Central Sub-station project did exceed the budget for construction cost. That project is being closed out, the substation is supplying energy to the downtown and the remaining items are sod and sprinklers. As reported to the BWL Commission and approved by their Board, the project was over budget by \$6 million. Council Member Jackson asked if BWL was aware of recent findings that natural gas is equally as bad as coal, and if that changes anything in their future. Mr. Peffley assured Council Members that BWL has an entire department that studies the environmental issues. They have a plan that as fast as they can build renewables they can scale down, and they have been trying to be more aggressive with wind farms and solar. The BWL is on track for 30% clean energy by 2020 and 40% by 2030. Ms. Shawa moved the presentation to the cash reserve policy, capital improvement plan, capital budget and the impact of the Delta Energy Park on the FY 2020 2021 budget. Council President Wood addressed the earlier statements from the public on their concerns with climate action and suggested the BWL create a citizen board similar to what they did in 2013 after the ice storm to look over facts and continue the climate action discussion. Mr. Peffley confirmed they had already started a public input program, started with industrial customers and are gathering input from all stake holders. This will then go into a strategic plan. Council President Wood again encouraged the creation of the group and quarterly meetings. Council Member Spitzley asked for an update on "smart meters" and Ms. Shawa confirmed they are just over 50% deployed, and the pilot programs are going well.

DISCUSSION/ACTION

DISCUSSION – Tree/Stump Removal Project in Colonial Village Neighborhood

Council President Wood stated that the Administration informed Council they were working on a plan throughout the City with the City trees, but the work in Colonial Village was mentioned.

A Colonial Village Neighborhood Association representative stated they have a concern with the trees in the easement right of way area that were cut down and left as stumps, and they want the stumps ground up. Council President Wood confirmed that all Council Members have been approached by residents from all over the City, and the City does own a stump grinder, so she asked BWL to work with the City to resolve the issue at this time with Colonial Village. Mr. Peffley acknowledge the request and stated he looked forward to working with the

City on a City wide program. Council President Wood asked if they could have it resolved with Colonial Village by July 8th, and Ms. Harkins stated she was not sure if it will be done by then, but will working on, but however can provide an update. Council Member Dunbar asked what they were projecting for a cost to have each stump removed. Mr. Peffley confirmed that at this time they were not sure, because when the project started they only planned for trimming, but during that project they were asked by property owners to remove the tree instead of trimming, so they were not prepared for stump removal cost. He added that if BWL does stump removal in one area, they will have to do it City wide. The Colonial Village representative clarified that they are only requesting the need for stump removal in the right of way.

Council Member Spitzley stepped away from the meeting at 6:25 p.m.

The Administration was asked to report back in 10 days on the time line.

RESOLUTION – Appointment; Joseph Graves; Board of Water and Light; 3rd Ward Member; Term to Expire June 30, 2023

Council Member Spitzley returned to the meeting at 6:26 p.m.

Mr. Graves acknowledged Council for considering his appointment, introduced himself and provided details on his past experiences and what he believed he could bring to the BWL Board. He then stated his intention to serve on the BWL Board was to continue service to the citizens, and he was familiar with sustainability and the need to move towards that direction. Mr. Graves concluded that if he was appointed he would look at the BWL and moving quicker.

Council Member Garza stepped away from the meeting at 6:32 p.m.

Council Member Hussain spoke in support of Mr. Graves appointment. Council Member Jackson spoke on his concerns with the appointment.

Council Member Garza returned to the meeting at 6:35 p.m.

Council Member Jackson proposed to Mr. Graves that if he was appointed that he consider the citizen's concerns mentioned earlier and climate action. Council Member Dunbar asked Mr. Graves his vision moving forward with sustainability would be. Mr. Graves stated he would consider rate payers, a sustainable path, and what is ever brought to the Board. He admitted he would have to see material, talk to people, and did strongly support a community input discussion. Council President Wood asked Mr. Graves if he supported selling BWL, and was told he did not. She then asked if he would support a community citizen group, and he stated he would.

MOTION BY COUNCIL MEMBER SPADAFORÉ TO APPROVE THE RESOLUTION FOR THE APPOINTMENT OF JOSEPH GRAVES TO THE BOARD OF WATER AND LIGHT AS THE 3RD WARD MEMBER WITH A TERM TO EXPIRE JUNE 30, 2023. MOTION CARRIED 7-0.

RESOLUTION – Reappointments:

Ken Ross, At Large Member; LBWL; Term to Expire June 30, 2023

Wyatt Ludman; At Large Member; Fire Board; Term to Expire June 30, 2023

Sandra Thompson-Kowalk; 3rd Ward Member; Board of Police Commissioners; Term to Expire June 30, 2023

MOTION BY COUNCIL MEMBER SPADAFORÉ TO APPROVE THE RESOLUTION FOR THE REAPPOINTMENTS OF KEN ROSS, WYATT LUDMAN, SANDRA THOMPSON-KOWALK ON DESIGNATED BOARD WITH TERMS TO EXPIRE JUNE 30, 2023.

MOTION BY COUNCIL MEMBER JACKSON TO DIVIDE THE QUESTION.

Council Member Dunbar asked if when applications come in if the BWL is a more popular Board and Ms. Harkins confirmed. She then was asked if they look at the diversity of the skill sets, and was also told they do. Council Member Dunbar then asked if any applications are considered for a sustainability background. Ms. Harkins admitted that the applications are usually done by Ms. Plummer and then she reviews with the Mayor, and if someone does have the experience it would be a consideration. Council Member Spitzley also spoke on the need for the appointment process to consider all backgrounds and in this case any background with sustainability. Council Member Spadafore encouraged the Administration to review all backgrounds, but in this case he noted, that the reappointment itself has important credentials for serving again. Council Member Jackson spoke in opposition stating he wants someone on the BWL Board with background in emissions and sustainability, and will continue to speak in the future on appointments.

MOTION ON THE REAPPOINTMENT OF KEN ROSS TO THE LANSING BOARD OF WATER AND LIGHT. MOTION CARRIED 5-2

MOTION ON THE REAPPOINTMENT OF WYATT LUDMAN TO FIRE BOARD AND SANDRA THOMPSON-KOWALK TO THE BOARD OF POLICE COMMISSIONERS. MOTION CARRIED 7-0.

RESOLUTION – Approval of Payment in Proposed Settlement as Full and Final Settlement in the case of Deanna Ray and all others similarly situated, a Certified Class v. City of Lansing, Ingham County Circuit Court Case NO. 13-1242-NZ.

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE RESOLUTION FOR THE SETTLEMENT IN THE INGHAM COUNTY CIRCUIT COURT CASE NO 13-1242-NZ; DEANNA RAY V. CITY OF LANSING.

Mr. Smiertka summarized that the resolution before the Committee was to approve a settlement on a six (6) year circuit court case, of a Class of 400 contingent on procedures set up by the court and how the claims are filed. Mr. Smiertka then went through the resolution which highlighted the breakdown of the payments, and concluded by recommending a settlement. It was noted that there is still pending litigation against the indemnity carrier, which is on hold pending this case, and lastly there has been a lawsuit filed against the 3rd party, Gallagher Bassett. Council Member Jackson asked if the settlement now all on the City of Lansing budget. Mr. Abood confirmed the insurance company denied, so the City filed litigation against them, but his settlement will be from the City. Council President Wood asked where the funds for the settlement would come from and was told by Ms. Bennett it would be Public Service with \$16,000 from general claims related to storm water and \$1,234,000 from the sewer fund. Council President Wood pointed out that the sewer funds are for paying for bonds for the sewer separation and if they are now paying for the settlement out of that the residents will get an increase. Ms. Bennett stated that there is already a 3% increase planned, and since this was a sewer sanitary related claim that is the funding source for the settlement. Council President Wood asked why the Administration was not looking at the funds still available from the sale of the Townsend Ramp. Ms. Bennett acknowledge they are not looking at that at this time. Council Member Spitzley asked why this was not something the City was insured for. Mr. Abood confirmed that the City did have insurance at the time. The insurance company, which is not unusual, denied the claim. They have offered a reason to deny, so now case is in stay, pending the outcome of this case and will become active if Council approves this settlement and the court approves the settlement for the Class. Then in the active litigation the City will pursue why their denial of coverage was inappropriate. Council Member Spitzley asked what would happen if the Council did not approve the

settlement, and Mr. Abood confirmed the City would then go to trial. Council Member Spitzley concluded by stating to the Administration that the Council was aware of the forth coming rate increase, but it is not supposed to be used for a settlement cost. Council Member Jackson and Dunbar both spoke on their concerns with the settlement and bringing the cost back on the citizens. Mr. Smiertka noted to the Council that the City did file actions against the insurance company and the third party, and the OCA was hoping for a good solution from the third party. He referred to the resolution and the part of the settlement that will be going towards the residents who can provide proof of their claim in the class action. Council President Wood noted that amount was \$300,000 from the sewer fund that residents have already paid into, which is a fund that will allow them to get relief from. Mr. Abood added that the balance of \$950,000 will go to the class action and the \$300,000 will go into the sewer fund. The Court determined the City is not responsible for the footing drains that is the property owner's responsibility. Council President Wood then asked what the time line was on the settlement, and confirmed by Mr. Smiertka and Mr. Abood that it is a court order but there is no trial date set, but there is a court order and a class to see if the City will ratify. If not, then the court will bring in further litigation strategy. There still needs to be discovery done on the damages, so they could be looking at a year out before a jury trial. Council President Wood asked Ms. Bennett and Ms. Harkins if there are other sources of funds to be used. Ms. Bennett stated there are no other sources related to the sanitary sewer system. The 3% rate increase in the 2020 budget is for operations, and in a long term rate modeling, this can be absorbed by future. Council Member Dunbar acknowledged that the 3% will generate more than the settlement amount, but Ms. Bennett stated that the 3% is a long term strategy. Through the long term rate structure, this will be replenished, and in their opinion either option would affect the tax payers. Council President Wood again referred the Administration back to the funds available from the Townsend Ramp sale. Council Member Spadafore questioned why the resolution did not note the source for the payment, even though it appears it is a sewer issue and those funds will be used.

MOTION CARRIED 5-2.

RESOLUTION – FY2019 Budget Amendment

Ms. Bennett went through the amendment due to the vacancy factor, additional needs in LPD for front loading, additional expenses in the Clerk's office and an earlier in the year change due to the contract with Ignite and field conversions.

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE RESOLUTION FOR THE FY2019 BUDGET AMENDMENTS.

Council President Wood asked Ms. Bennett why she was not proposing the appropriation of the balance of the vacancy factor, and Ms. Bennett stated there is no need for an additional budget amendment. Council President Wood referred to the funds going into the "rain-day" fund, and when that would occur. Ms. Bennett informed the Committee those numbers will be in the fall, mid October. Council President Wood pointed out that they just got the carry forwards from last FY in June 2019. Ms. Bennett disagreed and stated those were done in February. Mr. Brewer noted that they were approved earlier in the year, however the funds themselves were never applied to the appropriate accounts until June, 2019.

MOTION CARRIED 7-0.

DISCUSSION – Proposed Ordinance Amendments in Committees:

Ordinance to amend the Lansing Codified Ordinances by Amending Chapter 606, Section 606.03 to require signs or advertisements on sales and auctions to include contact information

No discussion, was stated that an overview will be provided at the Council meeting later on this date.

Ordinance Amendments to Chapter 664, Section 664.01: Conduct Breach of Peace; Municipal Infraction

No discussion, was stated that an overview will be provided at the Council meeting later on this date.

Ordinance Amendments to Chapter 658, Section 658.04: Clarification on Blocking, Crowding or Obstructing Passage

No discussion, was stated that an overview will be provided at the Council meeting later on this date.

Ordinance Amendments to Chapter 658, Section 658.05: Regulating Conduct of Telecommunications

No discussion, was stated that an overview will be provided at the Council meeting later on this date.

Other

No other topics were discussed.

ADJOURN

The meeting was adjourned at 7:33 p.m.

Respectfully Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee on July 8, 2019