



MINUTES
Committee of the Whole
Monday, December 14, 2020 @ 5:00 p.m.

<https://us02web.zoom.us/j/85070395122>; ID: 850 7039 5122; or Dial in: (646) 876 9923

Held virtually in an effort to protect the health and safety of the public & to mitigate the spread of COVID 19

CALL TO ORDER

Council President Spadafore called the meeting to order at 5:00 p.m.

PRESENT- via audio/video

Councilmember Peter Spadafore remotely from Lansing, Michigan
Councilmember Adam Hussain remotely from Lansing, Michigan
Councilmember Carol Wood remotely from Lansing, Michigan
Councilmember Patricia Spitzley remotely from Lansing, Michigan
Councilmember Kathie Dunbar remotely from Lansing, Michigan
Councilmember Brandon Betz remotely from Lansing, Michigan
Councilmember Jeremy Garza remotely from Lansing, Michigan
Councilmember Brian T. Jackson remotely from Lansing, Michigan

MEMBERS PRESENT- via audio/video

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Lisa Hagen, OCA
DeVone Boggan
Samantha Harkins
Mayor Schor
Nick Tate, Deputy Mayor
Judy Kehler, Chief Strategy Officer
Elizabeth West
Brian McGrain, EDP Director
Brett Kaschinske, Parks and Recreation Director
Jessica Yorko
Carol Sieman, Ingham County
Lisa & Jack (no last name noted)
Sue Onufer
Tom Wendt
Colleen Baldwin
Stan Schuck
Doug Rubley
Mark Parker
Susan Rouse

Tim (no last name given)
Mary Hemstreet
Sam Colegrove
Debbie Balan
Amy Kraus
Cris Morrison
Paul Wiegman
Kristi
Sara
Eric Eichenberg
Penny Betcher
Marie Rosicky
Sue Dyer
Cole Riedel
Julia Hillery
Kim Lawrence
Steve Early
Denise
Dave Berridge
Joel Mires
Derrell Slaughter
Carol Walton
Michael Lynn
Renold JeanLouis
Mayor Schor – arrived at 6:40 p.m.
Dr. Paul Elam
Kim Coleman, HRCS Director
Henry Clark
John Vance
Kimberly Julas

Minutes

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM NOVEMBER 30, 2020 AS PRESENTED. ROLL CALL VOTE, MOTION CARRIED 8-0.

Public Comment

Lisa spoke about the retiree healthcare and the new retiree healthcare consultants.

Ms. Onufer spoke regarding retiree health care changes and in opposition to those.

Mr. Wendt spoke in opposition to the retiree healthcare changes and asked for information on the hardship program.

Ms. Baldwin acknowledged Council for their efforts and asked where the funds went when employees left and those positions were not filled.

Ms. Siemon informed the Committee she was present for the DeVone Boggan presentation, and Council Member Spitzley asked she hold her comments of support for the presentation spot on the agenda, and she confirmed she had no problem waiting.

Mr. Schuck spoke in opposition to the retiree health care changes, stating his belief that there is information that the Mayor has done that is illegal and punishable.

Mr. Rubley spoke on the retiree healthcare documents in the packet and opposition to the changes. He then asked Council to ask the Administration to see the other options other than Marquen Vance and the savings differences.

Mr. Parker acknowledged Council and spoke in opposition to retiree changes.

Ms. Rouse spoke in opposition to the proposed retiree healthcare changes.

Ms. Hemstreet spoke in opposition to the proposed retiree health care changes and asked Council to consider Charter changes to stop these changes in the future.

Mr. Colgrove spoke on his concerns with the presented secrecy in administration.

Ms. Balan spoke in opposition to the retiree health care changes.

Ms. Kraus spoke in opposition to the retiree health care changes.

Mr. Wiegman spoke in opposition to the changes to retiree healthcare.

Kristi (no last name changes) spoke in opposition to the retiree healthcare.

Mr. Morrison spoke in opposition to the retiree healthcare changes.

Ms. Morrison spoke in opposition to the retiree healthcare changes.

Mr. Eichenberg spoke in opposition to the retiree healthcare changes.

Ms. Betcher spoke in opposition to the retiree healthcare changes.

Ms. Walton asked if the Council had power to stop the Mayor's proposed retiree healthcare changes. Ms. Walton also asked when things are happening, and where the "rainy-day" fund is.

Ms. Rosicky spoke in opposition to the retiree healthcare changes.

Ms. Dyer spoke in opposition to the retiree healthcare changes.

Mr. Riedel spoke in opposition to proposed retiree healthcare changes.

Ms. Hillery spoke in opposition to retiree healthcare changes.

Mr. Lawrence spoke in opposition to what he believes is a lack of transparency.

Mr. Lynn spoke on his personal experience with the City, asking for a vote of no-confidence.

Presentation

Advance Peace Initiative – DeVone Boggan

Mr. JeanLouis presented on Violence Prevention and Public Health in Ingham County, and a list of groups engaging in exploring and information potential new violence prevention strategies in Ingham County. Mr. Slaughter spoke briefly on his support of the model being presented by Mr. Boggan. Ms. Siemon spoke in support of the plan from Mr. Boggan on the Advance Peace model. Mr. Boggan began his presentation outlining his organization and purpose of ending cyclical and retaliatory gun violence in urban neighborhoods. The slides

outlined the goals and objectives they will work on with engaging the participants. Mr. Boggan provided statistics since it was launched in June, 2010 in California, then outlined their hiring practice on who will be working with the participants. Lastly, Mr. Boggan proposed a budget for the cost of the program over three (3) years at \$1,954,240. This included the local program administration and evaluation, then strategy implementation technical support and training.

Council Member Spitzley acknowledged Mr. Boggan and encouraged an intergovernmental collaboration to work together to find a way to contribute to the funding of this program.

Council President Spadafore supported the suggestion for a County wide discussion. Council Member Spitzley asked about the next steps from Mr. Boggan. Mr. Boggan stated the first steps would be to find the local community based organization that would support the delivery of the strategy. After that it would be to identify the local personnel, where to start the local focus efforts, and work with the local and county law enforcement. Council Member Jackson asked how the fellows are identified. Mr. Boggan explained that the first way is with the strategic planning laid out, identify the local messengers, and then deploy them into the impacted neighborhoods providing a visible presence. Then the community themselves gets involved speaking with the "local messengers", then once the fellows are identified then they themselves will speak to the group. Council Member Spadafore asked what the age demographic. Mr. Boggan stated if they are active fire arm offenders that have avoided the reach of law enforcement, they are the right age for a "fellow". Council President Spadafore asked how many, and Mr. Boggan stated up to 50 fellow count over the time frame. Council President Spadafore confirmed that the next steps would a further discussion at the Intergovernmental Relations Committee, and then the budget aspect. Dr. Elam supported the model and supported youth violence reduction for years. Ms. Yorko briefly added to the presentation, that in addition to the cost allocations, and potential funding sources, and was able with partners to submit a grant application, and are holding discussions with other funding sources so the cost is not falling on one organization. Ms. Siemon spoke again in support of the program and researching the funding to make the commitment. Council Member Spitzley asked Ms. Yorko if there is something Council can do with a resolution or letter to strengthen the grant application. Ms. Yorko stated there application did not ask for any letters of support, but if there are larger grant applications letters of support would be important.

Discussion/Action

RESOLUTION – Appointment; Elizabeth West; At Large Member Board of Review; Term to Expire June 30, 2023

Ms. West spoke briefly about herself and her interest in this Board. Worked for the City of Lansing as a law clerk in the courts, and since then with the Friend of the Court attorney, currently with law students preparing for the law exam. During law school, herself her strongest suit was property law. Council Member Wood referenced her application and if she was interested in this Board or the Income Tax Board, and Ms. West stated that was an error, her intention is the Board of Review. Council Member Wood then asked if she has the time for the Board of Review, Ms. West stated she has already informed her boss of the time she will need.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION FOR THE APPOINTMENT OF ELIZABETH WEST TO THE BOARD OF REVIEW. ROLL CALL VOTE, MOTION CARRIED 8-0.

RESOLUTION – Recertification; Redevelopment Ready Communities Program

Mr. McGrain highlighted the program, which allows the City to partner with LEDC on developments utilizing dollars through this program.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION FOR THE RECERTIFICATION, REDEVELOPMENT READY COMMUNITIES PROGRAM. ROLL CALL VOTE, MOTION CARRIED 8-0.

DISCUSSION/RESOLUTION – Set Public Hearing; Parks and Recreation Draft Master Plan 2020-2025

Mr. Kaschinske first made the Council aware that the document needs to be to the State of Michigan by February 1, 2021, and then acknowledged this plan was done internally and acknowledged the Staff and Park Board on their work. Mr. Kaschinske went through a presentation on the plan and the goals the Master Plan will address. Council President Spadafore asked who the plan is submitted to. Mr. Kaschinske stated the State of Michigan Department of Natural Resources. Council Member Wood asked Council President Spadafore if there will be an additional public meeting besides the public hearing, and encouraged him to consider a special Committee of the Whole meeting just for an overview for the public. Council President Spadafore acknowledged that option and asked Mr. Kaschinske asked how many days are needed for the public hearing. Mr. Smiertka stated his office looked at the time line and a hearing could be held January 11, 2021.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION TO SET THE PUBLIC HEARING ON THE PARKS AND RECREATION MASTER PLAN FOR 2020-2025 FOR JANUARY 11, 2021. ROLL CALL VOTE, MOTION CARRIED 8-0.

The Committee took a brief recess at 7:45 p.m.

The Committee was called back to order at 7:57 p.m.

DISCUSSION - Housing Urban Development (HUD) Audit Penalty Communication

Ms. Coleman acknowledge receipt of the letter from HUD in October and they are working with the Administration to complete the requests in January. Council Member Wood asked if any payments were made, and what that total was. Ms. Coleman confirmed no payments have been made and Council Member Spadafore noted the total was \$233,710.28.

Council Member Wood asked if there has been any reduction in Block Grant or Care funding, and Ms. Coleman stated they have not reduced anything. Council Member Wood asked Mr. Smiertka for the materials she requested earlier from Shelbi Frayer and anyone else who had responded to HUD. Mr. Smiertka stated Ms. Bowen in his office is compiling that information and he should have it within the next 2 weeks. Council Member Wood referenced the investigation, and the findings. She asked someone to speak to the findings, and Ms. Coleman deferred to Mr. Smiertka. Mr. Smiertka stated the Plante Moran study addressed the fact there were ESG funds unaccounted for, and the other finding was the conflict of interest of the HUD grants where there were relatives on the Boards that got the funding, with no release of conflict of interest. Council Member Wood asked about the ESG funds and if they were HUD funds or City funds, and Mr. Smiertka was not able to provide information and state he would provide that answer in the future. Council Member Spitzley asked how much has been spent on Plante Moran on their response to HUD and other costs. Mr. Smiertka stated the Plante Moran study was \$60,000-\$65,000; the work with the Attorney General office Mr. Abood addressed. Mr. Abood stated there were 6 properties that were under receivership and once those findings are submitted to the Judge, the court will make the decision. Council Member Spitzley asked if the City was paying any receiver costs, and Mr. Abood stated he cannot project what the Court will decide. Council Member Wood asked if there are residents in the nine housing units and if have to be sold, where would they go. Mr. Abood the last communication from the receiver was that those units will remain occupied, but he was not able to provide an answer on what happens if the court rules to vacate. Council Member Spitzley asked if the receiver fee comes from the organizations they are monitoring, and if the City was looking to recoup the costs from the organizations where there was a conflict of

interest, or collect the cost of the penalties. Mr. Abood, as to where any costs can be recovered, will be based on the recommendation of the receiver and any discretion of the court, noting the City always acts to attempt to recoup any funds. Mr. Smiertka asked if the City will be in court, and Mr. Abood confirmed they will be present at every step.

Office of the City Attorney Legal Opinion and Analysis on current State of Law on Eliminating and Modifying Retiree Healthcare Benefits

Mayor Schor began by stating there is roughly \$736,000,000 in legacy costs of pension and health care, and 30% from the Budget, and the costs will continue to rise, effect public resources and will put retiree pension at risk. Mayor Schor noted that when he was elected he saw the 2017 Segal report, Council approved the correction action plans, and Council initiated the creation of a Chief Strategy Officer. It was noted there were many recommendations from the FHT, they were cost out and a savings was projected. Some of other community options that were proposed were far extreme so the Administration rejected them. Instead they mirrored retiree healthcare to what current employees get, and then created a hardship fund. Mr. Smiertka first clarified that regarding the documents in the packet, the City did not pay for a legal opinion, and therefore did not engage Mr. Clark to write the opinion in the packet. The opinion was written for another client of Mr. Clark, not a City internal client. When the Administration heard about the option, they asked Mr. Clark to share with the City his opinion. This was a work product, under Attorney-Client, so it could be discussed with Council. Mr. Smiertka added that it was intended to be discussed under closed session, however the closed session did not carry enough votes. He stated again that his was not intended to be a document in the public. Mr. Smiertka reiterated that Mr. Clark was not representing the City. Council Member Spitzley asked if the "client" for Mr. Clark was the "City". Mr. Smiertka confirmed it was a client outside of the organizational structure of the City, but dealt with the City of Lansing. Council Member Spitzley asked if the document was appropriately privileged and Mr. Smiertka stated it was addressed to him as "work product", at which Council Member Spitzley asked if it wasn't a "work product" that he commissioned, and Mr. Smiertka agreed, it was given as Attorney-Client Privilege "work product". Council Member Spitzley asked if Mr. Clark was commissioned to do legal work. Mr. Smiertka stated there is an hourly rate for arbitration and litigation, and he asked for his opinion, that that contract is outside privy of Council and covered for flexibility under the OCA.

Mr. Clark confirmed that his opinion was written for another client, and that client waived the privilege so he provided to Mr. Smiertka so there could be Attorney Client discussions at his office. They have a legal relationship, and he is not representing the City or taken any stance with unions. He then briefly outlined his experience in legal careers.

A presentation was done on the documents in the packet including the Marquen Vance document from the original proposed closed session. The presentation was different then the packet.

Council Member Wood asked Mr. Clark if his client was the FHT and Mr. Clark stated he would not provide that information. Council Member Wood asked Mr. Clark about Exhibit A, which listed the collective bargaining contracts, and asked he knew about the CCLP (Capital City Labor) contract non-supervisory, which was ratified 4/22/2019 for 7/1/2019 to 6/30/2022. Mr. Clark stated he was not familiar with that contract, however he was aware that all bargaining groups have contracts other than Fire. Council Member Wood asked why not all contracts were listed in Exhibit A. Mr. Clark admitted he was not aware at the time of his report of all the contracts, but is aware now. He also added that since that time he has had discussions with HR and there is no language in those contacts for under duration language. Mr. Clark added that in this opinion, it does not cover every retiree under every circumstance. Council Member Wood asked if he read the UAW contract, at Mr. Clark confirmed he had, and Council Member Wood then asked if he was aware there are provision that do not qualify. Mr. Clark responded to that question that he was not in a position to speak, but confirmed he has

been provided the contracts and will update his opinion. Mr. Smiertka acknowledged a pending grievance on that issue, and the City is in communication with the UAW and does not believe this is the right time for a discussion. Mr. Abood confirmed they have been contacted by UAW, are aware the grievance was filed and aware there are different viewpoints. The status is ongoing and as it relates to a discussion in open session, this is close to bridging on difficult areas on the City legal position. Mr. Smiertka then informed the Committee that he has had to recuse himself from discussions because he is close to collecting retiree healthcare himself and therefore has filed this statement with the Ethics Board. Mr. Abood will handle discussions in the future until the Ethics Board makes its determination.

Council Member Wood referenced statements made by the Mayor that on the collective action plan, there is nothing there that the City would be changing in the retiree healthcare benefits, but there are talks about working with the unions to come up with a resolution. She noted that there have been allegations that Council was aware of the changes, and she wanted to again make the public know that even though Council was aware of collective action plans, these changes were not in it. She then asked Mr. Vance when he applied with the RFP, and was told fall 2019, adding the RFP was issued 10/22/2019 with a due date of 11/2019 with the interviews in December. Council Member Wood asked when the contract was awarded and Mr. Vance was able to confirm January 1, 2020. Council Member Wood recapped that it appeared presentations were done in March to the Administration on their recommendations and asked for confirmation on that. Mr. Vance confirmed they presented the results, the options, but no recommendations. Their firm is a consulting firm so they provide options. Council Member Wood asked if they presented to the FHT in April and Mr. Vance confirmed. She then asked if they ever felt it was important to come and present to Council. Mr. Vance stated they were under the understanding that a presentation was given to Council in March, and when asked who told them that information, Mr. Vance stated the previous Chief Strategy Officer. Council Member Wood then asked if they had an actuarial firm to look at the numbers they projected. Mr. Vance stated they trust their savings estimate, and the unfunded amount is between the City and actuarial that does the OPEB. As for their savings reports, majority are fixed, and the project savings are fixed. Council Member Wood asked them if when they looked at projections, would there be savings in healthcare, but those on duty disability will move from healthcare to workers comp. Ms. Julas affirmed that someone on duty disability, will still have healthcare under the new arrangements and they can handle that with each person. Council Member Wood then read an email she received from a family member of a retiree, and spoke briefly on the difficulty retirees had accessing the online webinar's and information meetings.

Council Member Garza referenced the documents noted that 2/3 of the cost is being spent on retirees, and asked if that was because of current employees decreasing their contributions because there are vacancies or non-contributing employees. He then asked if the City hired more employees to build the base would that help the solution. Mr. Vance acknowledged that could be a piece of it, but that statement is like all municipality clients and retiree healthcare is expense for everyone. Council Member Spitzley asked for clarification on how a retiree is supposed to know who to call because Council is hearing from retirees they are struggling with the communication. Ms. Julas stated to Council that communications were sent to retirees and in that document were numbers to the call centers. As for Medicare participants, the contact Amwins has been set up for years. Council Member Spitzley asked if those communications included the links to the webinars because that would have been helpful. She then asked Mr. Clark who he was representing at this meeting. Mr. Clark stated he issued a legal opinion at the request of the City Attorney. Mr. Smiertka agreed that he had asked Mr. Clark to be present, and this was what was going to be done in closed session. Council Member Spitzley asked Mr. Vance on the waivers, noting it was stated the waivers depended on the income level, and she wanted to know what that income level was. Mr. Vance stated \$25,520. He was then asked how they were getting that information, and Mr. Vance answered it was coming from Finance, then the City will request a redacted copy of their tax return with

the household income on it. Council Member Spitzley then began the discussion on the question of the Resolution on Approved Outside Counsel, and Mr. Clark not being listed, noting that Teresa Bingman is also listed on it and does not represent the City. Mr. Smiertka stated that the list is done for the flexibility of outside counsel. The reason Mr. Clark was not on it was because the City did not engage him for this opinion, it was done under Attorney Client privilege. Council Member Spitzley acknowledged that statement, but noted there are other attorneys on the list who do not represent the City, so why would he not be on it. Lastly, she stated to the OCA, that regarding the document itself, if Mr. Clark wrote it for someone else why could it not be public as stated by Mr. Smiertka earlier. Mr. Smiertka stated it was supposed to be Attorney Client Privilege, this is not his legal opinion but the resource that will be used for the legal opinion. Council Member Wood asked when that legal opinion would be presented, and Mr. Smiertka stated within two (2) weeks.

Adjourn

The meeting adjourned at 9:26 pm

Respectfully Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee January 4, 2021