MINUTES
Committee on Development and Planning
Monday, April 16, 2018 @ 4:00 p.m.
Council Conference Room, City Hall 10th Floor

CALL TO ORDER
Called to order at 4:01 p.m.

PRESENT
Council Member Hussain, Chair
Council Member Spitzley, Vice-Chair
Council Member Washington, Member

OTHERS PRESENT
Sherrie Boak, Council Staff
Brian McGrain, Economic Development & Planning
Kathy Miles
Bill Rieske, Economic Development & Planning
Susan Stachowiak, Economic Development & Planning
Joe Abood, Chief Deputy City Attorney- left at 4:11 p.m.
Greg Venker, Assistant City Attorney – arrived at 4:11 p.m.
Eilab Kihaia
Sumer Bashi
Sal Kosto
Fred Schaible
Donna McMillan, MHT
Peter Tallerico, MHT
Jim Gromer, MHT
Lyndsy DeForest
Elaine Womboldt
Joslin Monahan, Attorney
Cathy Heckinen, Consumers Energy
Jeff Parker, Consumers Energy
Susan Simmons

PUBLIC COMMENT
No public comment at this time.

MINUTES

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE MINUTES FROM MARCH 19, 2018 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER SPITZLEY TO APPROVE THE MINUTES FROM APRIL 2, 2018. MOTION CARRIED 3-0.

DISCUSSION/ACTION

RESOLUTION – Appointment; Fred Schaible; Lansing Economic Development Corp/TIFA/Brownfield Authority; At Large Member; Term to Expire 2/28/23

Council Member Hussain referenced the application. Council Member Spitzley referred to his job and his work with the State of Michigan budgets, and asked if there was a conflict with his appropriations work and incentives the City gets. Mr. Schaible outlined his job which is to coordinate and schedule the appropriations, but assured the Committee he does not vote or make decisions. His work, he noted was on the policy side but not in the role of what communities receive. Mr. Schaible's opinion was that his work has afforded him with the existing laws out there and would serve as a benefit, and not a conflict. Mr. Abood was asked about any conflict and responded that he was not aware of specifics on what Mr. Schaible does, but there was no conflict on a voting position in his career. His job will have him up-to-speed on the items this board will review. Council Member Spitzley noted she had some concerns because it appears his career does influence policy, and has a potential of a conflict. Mr. Schaible admitted that one of the reasons he was interested in the EDC/TIFA was because of his working knowledge. He also wanted the Committee to know that his supervisor is term limited, and will be up at the end of this year, which in turn will mean he too will be without a job. Council Member Washington asked if he influenced his voting Board, and Mr. Schaible confirmed he does provide guidance, but his supervisor is not on the committee, but is part of legislature to vote in the end.   Council Member Washington asked if he has an interest for other boards, at which he stated he was eager to serve. Council Member Hussain encouraged Mr. Schaible to attend the Council meeting on April 23, 2018 to answer questions. Mr. Schaible also volunteered to reach out to the City Attorney office to address any questions on conflicts he might have and steps to recuse himself from those.

Council Member Hussain made a point to the Committee that he has a concern that the majority of the appointments from the Mayor have been from the 4th Ward, and not City wide.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION TO APPOINT FRED SCHAIBLE TO THE LEDC/TIFA/BROWNFIELD AUTHORITY AS AN AT-LARGE MEMBER.

Ms. Womboldt supported Council Member Hussain overview of recent appointments.

MOTION CARRIED 3-0.

Committee brief discussion on concern with all appointments coming from the 4th ward, and appearing that no representation from the City as a whole.

RESOLUTION – ACT-4-2017; Easement for Consumers Energy's North Lansing Pipeline Project

Council Member Hussain acknowledged that this resolution was before the Committee and Council with a general overview. The easement is to replace a pipeline that was previously installed in 1940 and covers four (4) BWL properties. The representatives from Consumers

Energy were present to answer questions and made note there were no changes from the original time the Committee saw the request.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION FOR ACT-4-2017 FOR THE EASEMENT FOR CONSUMERS ENERGY'S NORTH LANSING PIPELINE PROJECT. MOTION CARRIED 3-0.

<u>RESOLUTION – ACT-5-2017; 1620 Sunset Avenue; Consumers Energy North Lansing Pipeline Project</u>
Council Member Hussain informed the Committee that this item was also connected to the previous request on the same pipeline, but this was for the portion that went on the WWTP property. The funds from this ACT will stay with the City. The representatives from Consumers Energy were present to answer questions and made note there were no changes from the original time the Committee saw the request.

MOTION BY COUNCIL MEMBER SPITZLEY TO APPROVE THE RESOLUTION FOR ACT-5-2017 FOR THE EASEMENT FOR 1620 SUNSET AVENUE FOR THE CONSUMERS ENERGY NORTH LANSING PIPELINE PROJECT. MOTION CARRRIED 3-0.

<u>RESOLUTION – Introduction and Set Public Hearing; Z-1-2017; 4215 N Grand River; Rezone from "D-1" Professional Office to "F" Commercial District</u>
Ms. Stachowiak referenced the property and zoning maps, noting the Master Plan itself calls for suburban commercial in the location, and the staff and Planning Board recommend approval.

Ms. Monahan, on behalf of the owners, noted to the Committee the property had been vacant for thirteen (13) years prior to them moving in, the property in its current zoning is hard to be put to use. The commercial zoning she noted will help the area and the neighborhood is happy with an active business.

Council Member Spitzley asked if the business was a medical marihuana provisioning center and currently in operation. The owner stated it was operating pre-moratorium, and since the passage of the laws have applied to the City and State, however their license is pending. He clarified that the State license with LARA is pending, the City application was denied and they have appealed that decision. According to the denial it was not zoned properly. The applicants confirmed they had originally applied for a rezoning in 2016 and then withdrew it during the medical marihuana ordinance process. Once it was complete they applied to rezone again. Council Member Washington asked if they continued operating during the moratorium, and they confirmed they had, but they were open before the moratorium was in place.

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE RESOLUTION TO INTRODUCE AND SET PUBLIC HEARING FOR MAY 14, 2018, FOR Z-1-2017; 4215 N GRAND RIVER; REZONE FROM D-1 PROFESSIONAL OFFICE TO F COMMERCIAL DISTRICT.

Council Member Hussain voiced his concerns with the rezoning, noting the Master Plan does designate for suburban commercial, however that designation should also benefit the people in the area. Ms. Stachowiak disputed that the rezoning does not meet the legal definition of spot zoning, and in her opinion the whole corridor in this area should all be commercial. It is a major throughway, and the properties to the rear are multi-family, where they are stepping down to lower density to the south. The proposed rezoning would meet the definition of commercial she added, and gave the example of a similar area in South Lansing, Edgewood Blvd. Council

Member Spitzley agreed with the definition given, but noted her opinion is that she does not want to rezone someone just so they will come into compliance with the ordinance, therefore rezoning them to make them compliant. Council Member Hussain agreed, and asked Mr. Venker to explain to the Committee why they have to move it forward out of Committee now. Mr. Venker stated it must go out for public hearing and must go to the full Council for the hearing which is consistent and compliant with the Zoning Enabling Act.

Ms. Womboldt asked for information on when the business opened and closed and voiced her opposition that these businesses are coming to the City for a rezoning after they were denied for a medical marihuana license.

Ms. Miles spoke in opposition to the rezoning and the concern that anyone who is denied a license, can apply for a rezoning.

Ms. DeForest, the manager of Skyline apartments, which she noted sits adjacent to the property in question, supports the rezoning. She informed the Committee that prior to this tenant occupying the property there were a lot of issues to the neighbors and since they moved in the criminal element has been eliminated.

Ms. Monahan noted it is inappropriate for an applicant to applying for rezoning, without the process. She added that the challenge is that it does not say that you are not permitted to the rezone their property. Council Member Spitzley clarified to Ms. Monahan that the issue is not the fact he cannot apply, but the ordinance requires theses uses to be zoned first to get a license. In this case, she added they do not have the correct zoning so they cannot have the license. She concluded that no one has ever said they cannot apply for rezoning. The issue of concern is that they have been an operating medical marihuana provisioning center and then applied for rezoning. Ms. Monahan asked if the owner could have applied for the rezoning before, and Council Member Hussain confirmed they could have asked before.

Ms. Simmons spoke in support of the rezoning and admitted she was a former employee when they were open.

MOTION CARRIED 3-0.

<u>ORDINANCE – PILOT; 601 Sadie Court, Camelot Hills</u>
Council Member Hussain stated to the all present to recap that the application was before this Committee on April 2 and tabled at that time. The request is for a PILOT to commence 2019 and run until 2054 at 4%. There is currently a 4% PILOT, but the applicants are requesting an extension for 35 years with $1.8 million invested into it and putting $1.2 million in reserves. Council Member Spitzley, who chaired the April 2, 2018 meeting, stated that at the meeting it was clear to everyone that with only two members present, it would not be voted out of Committee, and therefore she felt she needed to step back and wait for the Committee Chairperson to attend and have input. Her opinion on the renewal of a 4% PILOT, she continued was to vote it out so the full Council can consider it and act on it.

Mr. Gromer first acknowledged the Committee and noted his appreciation on the time and discussions they have had. He went on appealing his opinion that Camelot Hills is different because they are non-profit, and he went on to address earlier questions on if 10% is feasible and he had a determination from MSHDA. Council Member Hussain reiterated that at earlier meetings it was stated by the applicant that they would be more competitive with a 4% PILOT, but the Committee knows they could get a 10% without Council approval. Mr. Gromer clarified that his statement on competitive at earlier meetings was to be competitive to receive HOME funds, and they have to meet certain economic requirements. Mr. McGrain assured the Committee that his department is working on new PILOT's coming forward but did feel sympathetic with this application because its current PILOT was structured under previous MSHDA guidelines, which is no fault of their own, but now causes the need to restructure. His office supports the PILOT.

Council Member Washington spoke in opposition to the PILOT stating that a 4% PILOT at 35 years is too much, and her job is to look at the City budget.

Council Member Hussain spoke in opposition to 4% PILOTS, and a decision that will impact the City for 35 years. When the State Statue was written they created the standard that anything under 10% has to have local approval, so they knew the local municipalities would need to consider. His concerns included the fact that the City cannot currently afford to provide public service and public safety that is needed to the residents.

Ms. Miles spoke in opposition and her belief the Financial Health Team does not support PILOTS.

Ms. Womboldt spoke in opposition to the PILOT.

Council Member Hussain encouraged the applicants to consider 10% with some replanning and recalculations.

Ms. McMillan stated to the Committee that the program is set up by the Federal government and this is the process that the City has to access. This PILOT is 20% of the low housing, where there are 550 families on Section 8. If this is not approved it will affect 20% of those. This is PILOT is an opportunity for the City to access Federal dollars. Council Member Hussain stated his opinion was that a 4% PILOT is a detriment to the people who live there.

Council Member Spitzley said she wanted the full Council to have an opportunity to comment on it, and because it is a controversial topic, the Committee should pass along to Council.

MOTION BY COUNCIL MEMBER SPITZLEY TO APPROVE THE ORDINANCE FOR THE PILOT FOR CAMELOT HILLS, 609 SADIE COURT.

Council Member Hussain went through the process that has been followed so far, which included earlier meetings at the Committee and the required public hearing at the Council meeting where all Council Members had an opportunity to weigh in. He noted that this Committee is tasked to vet the agenda item and determine if there is a bad policy or application and make the determination if they do not feel it is appropriate to put before the full Council for a vote.

MOTION FAILED 1-2. COUNCIL MEMBER HUSSAIN PLACED IT ON FILE.

Mr. Venker asked for pause because there needed to be a discussion on the disclaimer, rules in the Council Rules for action and the opinion on further action reporting to Council. Council Member Spitzley asked why the legal concern or opinion was not raised before the vote. The Committee then asked why it has to come out of Committee since it failed. Mr. Venker cited the Council Rules which he read that Committee duties are to investigate in a timely manner and he needed time to clarify it. Council Member Hussain asked, now that they have voted, and Law now say it has to has to come out and go to Council. Mr. Venker said if Law reviews the process and clarifies that it does need to go to the full Council, it will be a no-recommendation from the Committee. Council Member Washington asked if that was an option or not a mandate. Mr. Venker did not have the answer and would have to check. Mr. McGrain asked if the action from the Committee will be at Council Monday, April 23rd because the applicant has MSHDA deadlines to meet. Council Member Hussain stated it would not go to Council until the opinion from Law. Based on today's meeting, the application is "dead", unless the legal opinion states it has to go to the full Council. Council Member Spitzley stated again to Mr. Venker that the need for clarification by Law should have been conveyed before the vote. Council Member Washington remembered the same discussion on this process before the Committee before, and Council Member Hussain noted in the past was if it "died" at Committee it never came out to the full Council. Mr. Venker stated he would speak to the Council Members outside of this meeting.

Ms. Womboldt asked for consistency.

Council Member Spitzley assured the Committee she did not disagree with the decision to move to the full Council, but the clarification on the rules should have been done before the vote on the agenda item it would affect. The Committee needs to make informed decisions, good bad or indifferent. Council Member Hussain had concerns with clarification outside of the meeting, and Council Member Spitzley agreed asking for a formal City Attorney opinion as soon as possible.

Council Member Hussain called a Special Committee on Development and Planning meeting for Monday, April 23, 2018 at 5:00 p.m. for clarification from law.

Ms. Womboldt asked for a copy of a court case that addressed a recent BZA case.

Council Member Hussain instructed the Committee that they will meet on April 23rd and as it currently stands the request for a PILOT for Camelot Hills is denied. If the City Attorney's office at that meeting determines the decision has to come out to the full Council, it will be added that night at Council as a "Late Item".

Ms. McMillan asked if they could seek reconsideration, which was stated at the last meeting. Mr. Venker was not able to provide an answer, and the Committee agreed to meet on April 23rd at 5:00 p.m. to review his determination on the action and next steps.

DISCUSSION – Economic Development & Planning Update on a PILOT process
Council Member Hussain moved this discussion to the next regularly scheduled meeting.

Other
No other topics.

Adjourn
Adjourned at 5:16 p.m.
Submitted by, Sherrie Boak,
Recording Secretary,
Lansing City Council
Approved by the Committee on May 7, 2018