



**MINUTES**  
**Committee of the Whole**  
**Monday, August 9, 2021 @ 5:00 p.m.**  
**Lansing City Hall, Tony Benavides Lansing City Council Chambers**

**CALL TO ORDER**

Council President Spadafore called the meeting to order at 5:01 p.m.

**PRESENT- via audio/video**

Councilmember Peter Spadafore  
Councilmember Adam Hussain  
Councilmember Carol Wood  
Councilmember Patricia Spitzley  
Councilmember Kathie Dunbar  
Councilmember Brandon Betz  
Councilmember Jeremy Garza  
Councilmember Brian T. Jackson

**OTHERS PRESENT**

Sherrie Boak, Council Staff  
Mark Lawrence, Mayor's Office- arrived at 5:03 p.m.  
Lisa Hagen, City Attorney  
Heather Sumner, City Attorney  
Eric Brewer, Council Internal Auditor  
Jim DeLine  
Joe Abood, City Attorney  
Jim Smiertka, City Attorney – arrived at 5:04 p.m.  
Loretta Stanaway  
James Lancaster, Representative from Rank MI Vote Ballot Committee  
Max Donovan  
Matt Kooiman  
Hugh McNichol

**Minutes**

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM JULY 26, 2021 AS PRESENTED. MOTION CARRIED 8-0.

**Public Comment**

Mr. McNichol spoke in support of Rank Choice Voting and noted items in the letter from Barb Byrum.

Mr. Kooiman, spoke on the agenda item for action on the bonding hearing, outlining the required public hearing. He noted this is to refinance the school facilities through the bonds, and the hearing must be held in the municipality where the bonds will be used. Once the hearing is held and approved, the bonds will be loaned by the Authority to Campus Partners 1. There is no liability for the City, and allows funds for the schools.

Ms. Stanaway spoke in opposition to Rank Choice Voting.

Mr. Donovan spoke in support of Rank Choice Voting.

Mr. DeLine spoke in support of Rank Choice Voting.

### **Presentation**

#### **Elections – Rank Choice Voting**

Mr. Lancaster spoke briefly on his past experience, and then spoke on what he believes are the legality issues, such 321 and 323 of Michigan Election Law. He then focused on the Home Rule Cities and what the Council can determine for their elections. Lastly, Mr. Lancaster referenced an email from the City Clerk on Dominion Voting Systems.

Council Member Jackson stepped away at 5:35 p.m.

Ms. Byrum acknowledged the Council for the invite and a second consideration to hear all the facts before making their decisions.

Council Member Jackson returned to the meeting at 5:37 p.m.

Ms. Byrum referenced her letter in the packet, and noted that there is currently no State certified equipment for Rank Choice Voting, and in East Pointe the Clerk has had to purchase other equipment outside of the State approved to tabulate the elections. At this time the program they are using is a “free-ware” program and unsecured, so if that system was used in the City in Ingham County she would require hand tabulation of votes. Ms. Byrum added that if Lansing moves forward she would be forced to purchase equipment dedicated only to the City of Lansing. She could not guarantee the security, and in addition there would be a bill in excess of \$100,000. Ms. Byrum did inform the Committee that Ferndale did approve RCV years ago, however have never utilized it because of the cost and lack of technology that supports it. It was understood that if the City chose to change the Charter, it would be hard to understand their actions being that she, as the County Clerk, has advised them that it would not be an option. Ms. Byrum also made a point of fact that prior to Council getting the proposed ballot language her office was never consulted. She again stated that the voting equipment is not certified run Rank Choice Voting.

Council Member Wood asked if there has been any correspondence with the AG or Board of Elections. Ms. Byrum, asked if she was speaking about if the County Clerk has spoken to them about signing off on the ballot language, she has not spoken to them but when reaching out before they have not responded.

Council Member Jackson asked if she has any rebuttal to the earlier statement that it is legal under MCL and the Home Rules City. Ms. Byrum stated in Michigan there is de-centralized, the elections are still run through the Michigan Election State Law. She noted she works with the election manual, and all of that does not account for Rank Choice Voting. Doing changes like this at the local level is not the right way, she advised the Committee that if they want to pursue it further they should work on it at the State level so everyone in the State has it.

Council Member Jackson noted he read in materials that it is being advised to start at the local level, and so asked if the State runs the elections, or are they done through the local Charter's

and then Election Law does the local. Ms. Byrum explained that her office programs all the elections, programs the tabulators, and then disburses all the programming to the local municipalities in that County. The County Clerk prints, purchases all the materials, and the City Clerk runs the elections. At the end of the Election Day the results come to the County, and after the elections her office works with the Board of Canvassers for any disputes before they certify the election. Regarding the State involvement, they are involved on State and Federal items on the ballot. It was noted the City owns the tabulators

Council Member Betz stepped away from the meeting at 5:51 pm

Council Member Spitzley spoke about the free-ware Ms. Byrum mentioned in her presentation (freeware), and then the Dominion brand, which states there is a purchase of licensing fee. She asked for clarification on the "freeware" program. Ms. Byrum clarified that purchasing of a license would be the State Certification, but she made a point of clarifying that the email from the City Clerk on the Dominion brand was not sent to her, so she could not speak to that. She concluded by making a point that the State purchases all materials, and would prefer the State developed the system.

Council Member Betz returned to the meeting at 5:52 p.m.

Mr. Smiertka introduced Ms. Hagen

Council Member Spadafore passed the gavel and stepped away from the meeting at 5:54 p.m.

He outlined the issues that were raised including implementation, the provisions, and if it is legal.

Ms. Hagen briefly gave an overview on the request by Council for an opinion on Rank Choice, Voting. She stated to the Committee that while constitutional, based on Home Rules City, Charter and Election, it cannot be legally implemented until the law is changed. The Home Rule does speak to time, place and manner on the elections. And the City Charter has a provision that provides guidance that they lean on State law. Where there are gaps in the Charter, the OCA looks at State law.

Council Member Spadafore returned to the meeting at 5:57 p.m. and Council Member Hussain passed the gavel.

Ms. Hagen continued by clarifying that Michigan Election Law needs to be amended for this to be implemented in the City of Lansing. In regards to the recent Ann Arbor decisions, they are putting in their ballot language specifically stating before it is implemented it will require a State law. If the City of Lansing pursues this, they would be in the same position.

Council President Spadafore asked when Charter Amendments can appear on the ballot, and Ms. Hagen responded by stating on the next General Election or a special election within 50 days of the proposal being approved. If Council were to pass the language tonight it would be on the next General. If Council wants to do more research, it can be proposed at a future election. Council President Spadafore informed the Committee that the State could be working on law changes so the City could propose their changes as part of the action.

Council Member Dunbar referred Ms. Hagen to the Ann Arbor language and the proposed WHEREAS in that document that spoke to the timing of the State law, and asked if there was a reason the City couldn't add the same language. Ms. Hagen read the language from the Ann Arbor ballot language; "Whereas, it would be beneficial to have the enabling Charter language in place should the legislation pass...." Council Member Dunbar then asked if the City made a change now and put that same language in their ballot language, would it have to

go back to the AG for review and approval. Ms. Hagen stated that when it passed in the first meeting the Clerk already sent it onto the AG. Council Member Dunbar then asked if the AG had approved the Ann Arbor ballot language, and Ms. Hagen could not speak to that.

Council Member Spitzley asked for more details on the equipment aspect. Ms. Byrum stated that when using the proposed Dominion Equipment, the County Clerk will make the determination with input from the local Clerks. In this case, she stated there will be different system needed solely for the City of Lansing. It would still fall under the County Clerk because they do the programming.

Council Member Jackson asked if a document is approved tonight would it go to the AG. Ms. Hagen stated that the Home Rules City Act covers it and the AG approves to compliance, and approve to form. The AG would not provide a legal opinion on the legality of it. Council Member Jackson asked if there is any harm in having the AG review it and if it is not legal that determination is made through that office. Ms. Hagen deferred to the OCA, but noted there is not dispute it is legal. According to the Charter, there is not a legal way for it to be implemented, and regarding the AG approval, it would be like Ferndale; in the Charter but not able to be implemented. Council Member Jackson asked why it wouldn't be able to be implemented. Ms. Hagen explained there are technicalities per the Clerk, some election law that deal with that would need to be amended. Council Member Jackson asked if the AG determination of it not being legal could then allow for the State Election Law to be changed. Ms. Hagen clarified for Council Member Jackson she could not speak for the AG. Mr. Smiertka interrupted to state the discussion was getting into advisory.

Council Member Betz asked if the AG would approve compliance with law if the City put in the same language as Ann Arbor. Again Ms. Hagen stated she could not speak for the AG.

Council Member Hussain spoke in opposition to acting on language now, when he believed it would be more constructive to pass a resolution in support of changes in the State law to make this more admissible.

Council Member Wood asked if both ballot proposals (one for Rank Choice Voting and one to remove the Primary Election) would have to pass, and if so, if Rank Choice Voting does not pass, but the removal of the Primary Election passes, what would the City do then. Ms. Hagen confirmed they are tied together so until Rank Choice Voting is implemented, the Primary Election would not be eliminated.

Council Member Jackson spoke again on what guidance the AG can provide. Council Member Betz concurred with Council Member Jackson, however made a point that if the AG gives their opinion the City can still be sued, and therefore things should be thoroughly thought out before action. Council Member Dunbar added that if the AG says it is not correct language then it will never make it to the ballot. She also added that the City Clerk in the past has stated the City could save funds in the amount of 6 figures if there is no primary.

## **DISCUSSION/ACTION**

### **RESOLUTION – Setting a Public Hearing; Consideration of Tax Equity and Fiscal Responsibilities Act (TEFRA) Bond for the Lansing Charter Academy**

Mr. Smiertka explained to the Committee that there is no financial obligation on the City. There is a bonding issues that is being proposed for the construction of a charter school, and the financing requirement is that there be approval by the local public body after that public body holds their public hearing; that public body being the City of Lansing where the school would be built.

Council President Spadafore asked how many days are needed for the public notice, and the OCA responded it needs to be published 7 days before the hearing.

Council Member Wood asked the OCA if this is required of the City, noting she supports the public school system. Mr. Smiertka stated it is a requirement that the public body hold the hearing as part of the process to follow by the State Bond Act.

Council Member Spitzley asked Mr. Smiertka what happens with the application if the Council chooses not to approve. Mr. Smiertka clarified the City is holding the hearing, not approving the bonds. Council Member Spitzley then asked what would happen if the Council chose not to hold the hearing, and Mr. Smiertka stated then the applicant would not comply with IRS code and not be eligible for the bonds.

**MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION TO SET THE PUBLIC HEARING FOR AUGUST 23, 2021. MOTION FAILED 4-4.**

#### Other

Council Member Dunbar asked for the status of the Rank Choice Voting resolution vote. Council President Spadafore explained it was reconsidered at the last Council meeting, and sent back to Committee (Committee of the Whole). There were votes on reconsideration at that meeting and votes on referring back to Committee.

Council President Spadafore passed the gavel to Council Member Hussain.

**MOTION BY COUNCIL MEMBER SPADAFORE TO RECONSIDER THE PREVIOUS VOTE. MOTION CARRIED 1-7.**

#### **CLOSED SESSION**

**MOTION BY COUNCIL MEMBER HUSSAIN AT 6:24 PM:** Pursuant to MCL 15.268(e) Closed session in connection with specific pending litigation. An open meeting will have a detrimental financial effect on the litigation or settlement position of the Lansing City Council concerning these cases:

|                                                         |
|---------------------------------------------------------|
| <b>Arnold v. Fielder and City of Lansing</b>            |
| <b>Atkinson et al. v. City of Lansing, et al.</b>       |
| <b>Burwell v. City of Lansing, et al.</b>               |
| <b>Calkins-Darling v. City of Lansing, et al.</b>       |
| <b>Chen v. City of Lansing, et al.</b>                  |
| <b>City of Lansing v. Angavine Holdings LLC</b>         |
| <b>City of Lansing v. OCOF Nonprofit Housing Corp</b>   |
| <b>City of Lansing, et al. v. Purdue Pharma, et al.</b> |
| <b>Doe, Jane v. City of Lansing, et al. (1)</b>         |
| <b>Doe, Jane v. City of Lansing, et al. (2)</b>         |
| <b>Fire Farm, LLC v. City of Lansing</b>                |

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|-----------------------------------------------------------------|
| <b>Funk v. City of Lansing, et al.</b>                          |
| <b>Hill v. Whitford and City of Lansing</b>                     |
| <b>Hardy v. City of Lansing, et al.</b>                         |
| <b>Hulon v. City of Lansing, et al.</b>                         |
| <b>Lynn v. City of Lansing</b>                                  |
| <b>Lynn v. Mayor Schor, et al.</b>                              |
| <b>OPV Partners, LLC and RESSCO, LLC v. City of Lansing</b>     |
| <b>Overstrom v. City of Lansing</b>                             |
| <b>Reed v. City of Lansing, et al.</b>                          |
| <b>Spalding v. City of Lansing, et al.</b>                      |
| <b>Stafford v. Klein and City of Lansing</b>                    |
| <b>Taylor v. City of Lansing, et al.</b>                        |
| <b>Trevino and HydroWorld v. City of Lansing, et al.</b>        |
| <b>Wagner v. O'Boyle</b>                                        |
| <b>Kyle Shaw Residential Properties, LLC v. City of Lansing</b> |
| <b>McLaren v. City of Lansing</b>                               |
| <b>Petition to Strike from Tax Rolls</b>                        |

ROLL CALL VOTE. MOTION CARRIED 7-1.

### **RECONVENE**

Council President Spadafore reconvened the meeting at 7:02 p.m.

Council Member Jackson asked for clarification on the reconsideration action earlier. Council President Spadafore state it was for the reconsideration on the previous vote of the action item on the agenda tonight that failed 4-4.

MOTION BY COUNCIL MEMBER JACKSON TO APPROVE THE RESOLUTION ON RANK CHOICE VOTING, 202.19.

Council Member Dunbar asked for the amended language to be added to move it forward. Council President Spadafore stated it needs to be in writing because it is the official ballot language. Council Member Jackson asked for five (5) minutes to write the language and Council President Spadafore reiterated it is not up for action at this time, noting the agenda and packet went out Thursday, August 5<sup>th</sup>, so there was plenty of time for any Council Member to amend the resolutions prior to the meeting for the Committee to review. Council Member Spitzley addressed the Committee stating her opposition to supporting anything that is flawed.

MOTION FAILED 1-7.

**Adjourn**

The meeting adjourned at 7:06 pm

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

Approved by the Committee September 13, 2021