



MINUTES
Committee of the Whole
Monday, August 21, 2023 @ 5:30 p.m.
Tony Benavides Lansing City Council Chambers

CALL TO ORDER

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

PRESENT

Council Member Carol Wood
Council Member Jeremy Garza
Councilmember Adam Hussain
Councilmember Peter Spadafore- excused
Councilmember Patricia Spitzley
Councilmember Brian T. Jackson
Councilmember Jeffrey Brown
Councilmember Ryan Kost

OTHERS PRESENT

Sherrie Boak, Council Office Manager
Jim Smiertka, City Attorney
Lisa Hagen-Lawrence, City Attorney
Joseph Abood, City Attorney
Emily Linden, Internal Auditor
Mark Lawrence, Mayor's Office
Deyeya James, LPD Commissioner
Sam Brewster, LPD Commissioner
Michael Lynn
Daphne Whitfield, HRCS
Desiree Kirkland, Finance Director
Chief Sosebee, LPD
Rosalyn Williams
Libby Rice
Erika Lynn
Delvata Moses, Commission Investigator/HRCS Deputy Director

Minutes

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM AUGUST 14, 2023. MOTION CARRIED 7-0.

Public Comment

Mr. Lynn spoke on the Outside Counsel Determination agenda item, appealing that he did not believe it was a campaign finance act, but ethics violation.

Ms. Williams spoke on the Executive Directive 2023-02, and opposition to the proposed changes by the Mayor. Ms. Williams asked Council to address this for the constituents that have a voice.

Ms. Rice spoke on the City's long term debt and the chart in the packet on business type activities, asking the Internal Auditor to speak to what was occurring in the 2020 during COVID. She then spoke on the Executive Directive 2023-02 voicing her concerns which were like the Council questions in the packet.

Ms. Lynn spoke on the outside counsel on campaign finance act, clarifying her email on violations were for ethics violations. She then asked the committee to speak to an earlier email from the People's Council on funding solicitation from the Mayor, content compromise the Mayor's position for political gain, usage for the City logo or similar logo in campaigning, action of soliciting in his office for support of specific candidates, and is there a conflict and action consistent with conduct.

Discussion/Action

City Council Internal Auditor – City's Long Term Debt Analysis

Ms. Linden went through the purpose of the Long Term Debt Analysis, comparison of the 2022 CAFR to prior years for a long term debt trend. It was noted it does not include data after June 30, 2022. The presentation began with defining what a long term debt is. The City long term debt has been improving over the last five (5) years, per Ms. Linden, and a decrease reflected bonding during those times. Per Ms. Linden there is 77% of general obligation bonds, and 6% of revenue bonds, 13% installment purchase agreements, and 4% loans. Included in the packet and presentation was the slide on Long Term Debt Trend. In 2023 there was a Public Safety Bond, and Ms. Linden noted this was not in the report because the report goes to June 30, 2022. She noted her report will be updated in next year's reports reflecting the sale of the \$175 General Obligation Unlimited Tax Bonds.

Council Member Jackson asked, based on the presentation, if the City is in a good or bad position. Ms. Linden stated based on the report up to June, 30, 2022 the City is paying that off, but those numbers will be re-evaluated once the information is provided on the recent Public Service bonds. The report next year will see a decrease and incurring debt because of the recent bonds.

Council Member Brown asked Ms. Linden on who comes up with the strategy on who to pay. Ms. Linden stated it is between 10-30 years on bond payments, depending on the bond, but in terms of long term debt, it is up to the administration on when to bond, when not to, they work with the municipal advisors. For a strategy it is up to the Administration, but some bonds are up to the voters and they pass, then the administration must determine the way to pay.

Council President Wood clarified it is not the Administration to make the decision, they make the recommendation and that comes to council. Over the years, the City has refinanced the rates and reduce the debt.

Council Member Hussain stepped away at 5:59 p.m.

Council President Wood asked what percentage the city is at currently, since there was a statement made of 10%. Ms. Linden did not have the information and would provide later. Council President Wood asked about the Public Safety Bond status, and Ms. Linden stated it is a general obligation bond. Council President Wood noted some bonds would be paid off by the sewer rate, if there is a problem, the city will still have to pick up the difference. Ms. Linden stated it is a possibility, but extremely rare.

Council Member Hussain returned to the meeting at 6:00 p.m.

Ms. Linden stated she would have an update once the Public Service bond information.

DISCUSSION – Executive Directive 2023-02; Citizen Complaint Oversight Committee (CCOC) and Commission Investigator (CI)

Council President Wood noted that Council has the authority to look at the directive and make recommendations and ask questions. There were questions raised by Council and OCA responded in their letter of August 9, 2023. The chair and vice chair of the LPD Commission were invited to the table, this included Mr. Brewster and Mr. James. Mr. Lawrence informed the Committee that Ms. Coleman with HRCS and others that were involved in the order were present. Council President Wood explained to Mr. Lawrence that the Committee was not talking about that at this time. She then asked Mr. Brewster for his understanding of the recommended changes in the Directive 2023-02. This included taking the 3-person committee to a 4-person committee. Mr. Brewster stated he was not involved in the discussion on these changes until just now.

Council Member Spitzley asked Mr. James and Mr. Brewster, if their understanding is that this committee will be members of the current Police Commission, not members of the public; therefore, no new citizens appointed to an oversight committee. Mr. James and Mr. Brewster confirmed it is an expansion of the existing oversight committee made up of Commission members. Council Member Spitzley stated that this is not made up of outside citizens committee and was concerned with that. Mr. James stated the thought process behind this is that they must have a sworn member of the Police Commission on it. Council President Wood stated the Police Commission is appointed by Council and are citizens, and Council Member Spitzley confirmed but the intent was to have a separate citizen committee not an expansion of the Police Commission subcommittee. She then referenced the Charter 5-301.4 – The Board in their rules shall establish rules and complaints, and asked if that includes police officers, and Mr. James stated yes. The investigator is already in place he added, and this is to change it so the investigator gets the complaints first. Council Member Spitzley asked if the Commission has veto power over the investigator. Council President Wood stated the investigator serves for the Police Commissioners and answers to them and is only “housed” in the HRCS department. Council Member Spitzley asked what the process is after the investigator’s determination. Mr. James stated if the complaint meets the matrix, it then has overview from the Chief and Commission. Council Member Spitzley asked where the oversight committee comes in. Mr. James stated the investigator reports comes in, the Police Commissioner subcommittee reviews. Chief Sosebee explained the process; complaint is reviewed by the investigator, turns over to the subcommittee, reviews their review, the investigator reviews again at the end, then a recommendation is made to the Chief. Council Member Spitzley explained her issue being that if they are adding another member to the oversight committee, what does that committee have to do with any complaint that comes to the investigator. How is adding another person to the oversight committee assisting the investigator and assisting the residents. The concern was that the Commission operates behind closed doors, there was no 3rd party eyes oversight, with the process explained there is no 4th party in the process to address the citizens concerns. Chief Sosebee stated the LPD Police Commission is the oversight of the LPD, and what the plan was to strengthen the investigator position and authority to the Police Commission. Council Member Spitzley disagreed with the proposed, noting that the citizens wanted an outside oversight commission.

Council Member Hussain referenced the list of questions in the packet, specific to the 4th bullet point, which is the concern that this is a perceived action. Chief Sosebee stated that there are State laws, that there are certain entities to view a complaint. A citizen oversight committee could not get all the information, and so would not be efficient and effective.

Council Member Jackson spoke in support of transparency, and asked why the proposed change in the directive is supposed to be better, because in earlier Council Committee meetings the Committee accomplished working with LPD on a producing a complaint card for the citizens. The reality to him was that those cards are not being used, and in turn one should ask where have those complaints gone. He concluded by asking how many complaints the investigator has seen and asked for Randy

Watkins to come in and speak to what transparency they want to see, and what the MRJEA asked for in their research. Council President Wood asked the Chief how many complaints they have received. Council Member Spitzley asked if Council has been getting the numbers in the annual report, and it was confirmed they should be in the LPD annual report. Ms. Hagen-Lawrence was asked to locate the most recent LPD annual report for those numbers, and she stated she could only find 2021 on the LPD webpage. Council President Wood asked the Chief to provide and publish the 2022 report.

Council President Wood stated the first goal in this discussion was for a deep dive into what the Police Commissioners were informed of on this Executive Directive and what steps have been taken. The Police Commission is the group that will be fulfilling the mayor's directive.

Ms. Moses came to the table and stated she has investigations compared to the internal affairs. Council Member Jackson asked how many complaints came in and what went to internal affairs. Council President Wood added that Committee was just told she sees all complaints before internal affairs. Ms. Moses stated she is in receipt of all complaints, then makes the determination which ones go to internal affairs. She stated she saw more than 20 complaints in the last year but under 100, but again did not have the exact number. Council President Wood noted that the former investigator was encouraged to be at neighborhood meetings to talk about the process and asked if Ms. Moses if she has done that since she took the role. Ms. Moses stated she has done that, and in the Executive Directive it speaks to it also.

Council Member Spitzley noted this is a discussion on the directive which speaks to a result of citizen review, and in reviewing the language of the directive, and responses from the OCA. In the OCA memo it speaks to 5-301.4 of the Charter on authority. In comparison to the Directive, the process was already in place before this, and so the directive does nothing but repeat what is already in place for policy and procedure. The Mayor's Directive does what the Police Commissioner already had the authority to do and adding a 4th person to the sub committee does not do anything different than what they already had the authority had to do. Chief Sosebee acknowledged the authority has not changed, but it adds more oversight. Ms. Moses stated if there is a complaint, she cannot get information on, she would forward to internal affairs because they have more access. Council President Wood asked if once they do their review if she reviews again. Ms. Moses confirmed and said if there is some information she cannot see, it will be redacted.

Council Member Brown asked if they have a status of review of the complaints and if they have gone up or down. Chief Sosebee confirmed they do have the data and can provide. Council Member Brown asked about the recent status of the posting for an investigator, and if that meant Ms. Moses was getting assistance. Ms. Moses stated she was promoted to the HRCS Deputy Director, so the investigator position was just posted.

Council Member Jackson noted that no one is present at this meeting that drafted the directive, but everyone present has something to do with it. But now Council is finding out Ms. Moses has moved on to another position and therefore asked Mr. Lawrence to provide how this directive will do good. He also asked who creates the manual of procedures in the LPD, and the manual could have been changed to reflect this. Chief Sosebee stated that it would be the Police Commissioners to amend that manual. He again asked that Randy Watkins be presented to talk about the MRJEA goals, the work they did, their research, their report of 2021.

Council President Wood asked if there is a current hiring process for a new Citizen Investigator since Ms. Moses is now the HRCS Deputy Director. Mr. James confirmed they are. She then asked Chief Sosebee how long it took last time. Mr. James stated they do not have a timeline to fill the position, and Council President Wood asked for them to follow up.

Council Member Kost asked Chief Sosebee if the LPD Commission has oversight over the Chief, and the Chief confirmed. He then referenced the OCA memo on if the mayor has the power to do this, and Mr. Smiertka stated the Police Commission is an advisory board, and final authority imposing discipline on the LPD with the contracts, and rules. The Police Chief is in the executive branch and reports to the mayor, but the Commission does discipline rules and complaints. Council Member Kost asked if the manual of LPD has oversight by the Commission. Chief confirmed they have input as do the department oversight. Council Member Kost referenced the OCA memo stating the Commission has no authority, and Mr. Smiertka stated that they have oversight. Council Member Kost asked who is hiring the new investigator, and Ms. Moses stated the HRCS department and input from the Police Commission. Mr. Smiertka clarified that the collective bargaining agreement is part of this. Council President Wood stated the citizen investigator is the responsibility of the Police Commissioner. The only thing the HRCS is supposed to be the day-to-day activities; has an office, comes to work, and has tools to do their job.

Council Member Brown confirmed sometimes it has taken over a year, and asked who the investigator is. Mr. James stated Ms. Moses is in a dual role, and Council President Wood clearly stated this was a violation of the ordinance. Mr. James stated she is advising. Council Member Brown asked what is happening with complaints, and Mr. James stated those are all going to internal affairs. Council Member Brown stated that is a concern because this was not relayed to the public or Council.

Council Member Spitzley asked how long the investigator position has been vacant, and Ms. Moses stated it has been since July. Council Member Spitzley asked where the DEI officer is involved in this hiring process. Ms. Moses stated she would have to defer that to the HRCS Director.

Council Member Jackson recapped the statement by the OCA which he stated that a lot of this is directed by the collective bargaining agreement, and how does this stand up to the Charter. Mr. Smiertka stated collective bargaining agreements pre-empts. This would include processes, notices, etc.

Council Member Kost stepped away at 6:57 p.m.

Chief Sosebee stated the collective agreements do speak to that. Council Member Jackson asked where the CBA version of accountability is done. It was stated it is done with labor negotiations.

Council Member Kost returned to the meeting at 6:58 p.m.

Council Member Brown asked Mr. Lawrence if there is a DEI officer with the city, and Mr. Lawrence stated that position is vacant and he would need to find out if there is an interim.

Council President Wood asked for any other members of the MRJEA were present since Mr. Lawrence stated they were present earlier in the meeting. Ms. Coleman was the only person present. Council President Wood stated more members would be needed and would be at a future Committee meeting.

DISCUSSION – Outside Counsel Determination for Campaign Finance Act Investigation

Council President Wood referred to the items in the packet, OCA opinions that Council cannot hire outside counsel, and an opinion that Council cannot enter a contract. In the earlier years, the Council looked at the outside counsel list and asked for those outside counsel to address questions Council had.

Council Member Spitzley confirmed an earlier request for outside counsel. She clarified the original questions stated when there was subsequently an ethics complaint for a council member and that was sent to the Ethics Board and in turn outside counsel. She was asking for the same process to be

done for this complaint. It appears now that there needs to be the amended signed complaint to the Ethics Board, and the next step should follow the same process of outside counsel. The outside counsel should look at this and provided a recommendation. She acknowledged Council does not have the authority to hire, but the Council does have the authority to ask the Ethics Board review it.

Mr. Lawrence left the meeting at 7:05 p.m.

Council Member Spitzley asked for consistency with the complaints.

Council Member Jackson asked for an explanation on the order of operations when a complaint is filed. It was clarified this letter was a complaint presented to Council, not a complaint from Council. Council cannot review it but refer to the Ethics Board. Council Member Jackson stated he supports outside counsel reviewing it and would want to know those results before determining if it is a violation. Council Member Spitzley stated when Council receiving a complaint from the public, they can decide to put on a shelf or refer, and since Council does not have the authority to hire outside counsel, then should refer to Ethics Board so they can follow the same process and send to outside counsel.

Council President Wood clarified that Council received a complaint from the Lynn's and it was referred to the Ethics board. OCA staffed the Ethics Board, and OCA decided there that it was a complaint against the campaign finance act. When that OCA determination came back to Council, Council was not happy with that determination because when there was a complaint on a councilmember it went to outside counsel, not the City Attorney to make the determination. So, this Council is now asking that the OCA opinion on campaign finance act be reviewed by outside counsel and that was voted 7-1. In that process, Council President Wood pulled historical information on what has been done in the past, which is included in the packet. In the past the Council chose a firm, asked questions, set a deadline and what they would pay. She noted that because of that, the mayor at the time was advised not to pay the bill because the OCA at the time stated Council could not enter a contract, and therefore the mayor chose not to pay the bill. The question to Council now is as a body is if they want to move forward with the motion for outside counsel, and if so, then look at the list of outside firms and bring in 2-3 to interview with questions. She noted Council needs to understand the OCA will continue to say Council does not have authority to do this. Based on what has been done in the past, Council has moved forward anyways.

Mr. Smiertka stated there is no signed ethics complaint, and that needs to be done and sent to the City Clerk. The OCA opinions have been uniform, and Council does not have the authority.

Council Member Spitzley asked if Council needs to sign the complaint that Council received via email prior to this meeting. She then asked where the disconnect was at the Ethics Board with the first complaint if all they needed to do was sign it. Council President Wood stated the individual must file the signed ethics complaint, then the recommendation by the ethics board. Council Member Spitzley stated her request still stands.

Council Member Hussain asked why on the first complaint the OCA focus on Campaign Finance Act when that was not what the Council asked the OCA to do when it was referred to the Ethics Board. Mr. Smiertka stated a council member asked for a review under the campaign finance act. He reiterated a formal complaint must be signed by the complainant and filed with the City Clerk. In the case of the item that was referred on the ethics for a councilmember, the Ethics Board brought in OCA and they chose outside counsel.

Council Member Hussain reiterated the process with how the complaint was filed. Mr. Abood was brought to the table and reiterated that the initial OCA opinion was requested by a council member before it went to the Ethics Board. That opinion was a result of a member of council requesting it and that opinion was not disseminated to all of Council until a complaint was filed by the citizens in

response to the fund-raising letter. The complaint by the citizens was provided to Council and referred by Council to the Ethics Board. It was then placed on file at the Ethics Boards because it was not signed. Mr. Abood stated that if the Ethics Board gets a signed complaint, filed with the clerk then they have a process.

Council Member Spitzley asked if there is ever a mechanism at the Ethics Board where when it is received and placed on file until it is signed and then taken off the table for discussion. Council President Wood noted that based on what OCA just said, that until there is a signed complaint the ethics board will not take it up. Council Member Spitzley stated she would sign it.

Council Member Jackson stated he did not appreciate the technicality of the Ethics Board or whomever decided not to talk about it until signed and that not relayed.

Council President Wood stated the consensus appears that there will not be any action by Council on outside counsel until they hear back from the Ethics Board.

Council Member Spitzley stated the Ethics Board should report to Council why they did what they did, and what process they will take on a signed or unsigned document. She again stated she would sign the complaint.

Council President Wood stated that there is an assumption, that the Ethics Board minutes on file so they should not have to report back to Council.

Mr. Smiertka stated at the Ethics Board the complainant told the Board there would be an amended complaint filed, and so the Board placed it on file until an amended complaint was filed.

Council Member Spitzley asked for Ms. Lynn to speak on the complaint that was filed.

Ms. Lynn clarified that at the Ethics meeting she attended, it was her understanding that Council took the step unofficially to pursue this, since it came as a referral from Council, so she didn't resubmit. It was decided that the ethics complaint at Council, it was addressed to City Clerk, and Council referred directly to ethics board. At the time there were no questions, and so understood it moved on. It was on public record; the OCA made the decision on the complaint. Council then disagreed with the opinion. It was stated by Council they disagreed with opinion, and the OCA opinion was done on campaign finance.

Council Member Spitzley acknowledged that there are two opinions, one on ethics. A referral from City Council to Ethics Board, City Clerk received it, did City Council have to sign the complaint at that time and did the referral mean nothing.

Council President Wood stated the only way the ethics board will look at it is if it is signed. Mr. Abood stated it is the City Clerk rules, and at the Ethics Board the complainant stated they would resubmit an amended complaint, and therefore the Ethics Board placed it on file. Council President Wood asked if the amended complaint was sent today and Ms. Lynn confirmed.

Council President Wood noted the amended complaint was sent today via email after 5 pm, and if Council members chose to sign it, it will be returned to Ms. Lynn to file.

Council Member Hussain stated that it should follow the same process that was done with the ethics complaint with the Council Member Brown at the Ethics Board.

Ms. Boak provided printed the email complaint and attachments provided by Ms. Lynn to City Council.

OTHER

No other topics.

Adjourn

The meeting adjourned at 7:33 p.m.

Respectfully Submitted by,

Sherrie Boak, Recording Secretary, Lansing City Council

Approved by the Committee August 28, 2023