



MINUTES
Committee of the Whole & BWL Commission
Thursday, October 19, 2023 @ 5:30 p.m.
Reo Depot 1201 S Washington Avenue

CALL TO ORDER

Council President Wood and Commission Member James 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 -excused
Councilmember Brian T. Jackson
Councilmember Jeffrey Brown
Councilmember Ryan Kost
Commission Member Semone James
Commission Member David Price
Commission Member Sandra Zerkle
Commission Member Tony Mullen
Commission Member Beth Graham
Commission Member DeShon Leek
Commission Member Dale Schrader
Commission Member Tracy Thomas

OTHERS PRESENT

Sherrie Boak, Council Office Manager
Jim Smiertka, OCA
Dick Peffley, BWL
LaVella Todd, BWL
Elaine Fishoff
Loretta Stanaway

Public Comment

Ms. Fishoff spoke on climate action, reduction of greenhouse emissions, acknowledged BWL retiring of their coal plants, and concerns with burning of fossil fuels.

Ms. Stanaway spoke on the rate increases planned for December from LBWL.

Discussion:

BWL Update on Return on Equity Expectations

Mr. Peffley began his presentation stating the last year budget was \$24.8 million and they paid \$26.2 million. This year they are projected to make \$26 million with the 1st quarter estimates in, so a projection of \$6.7 million for that 1st quarter. This would be \$60,000 more than

expected. They are monitoring the UAW strike but at this time do not see any issues effecting the budget amount.

BWL Update on Pleasant Grove Substation and Reopening of Pleasant Grove Road

Mr. Peffley informed everyone present that they are building four (4) new substations to replace Eckert, and one of the 4 is in this area. The road reopened October 2, 2023, and scheduled to come online September 2024 and then they disassemble the former and return to green space.

Council Member Hussain asked if they anticipated any Pleasant Grove road closures, and Mr. Peffley stated they do not.

Council Member Garza asked where the other three (3) he mentioned are going. Mr. Peffley listed the Grand River assembly plant on their property, at the old Schafer Bakery site, and an expansion on BWL property on Enterprise. He offered to follow up on those with the Council.

Council President Wood asked about the Schafer Bakery site, and when it was demolished, it went into the ground. This could question if they did any investigation of the site, and Mr. Peffley confirmed there were no deep footings, and he believes BBWL did due diligence on the property before they purchased it. Council President Wood asked if they had spoken to the neighbors, and Mr. Peffley acknowledged they had not because they are three (3) years out, but there is one across the street from this site, and that one will go away when the new one is operating.

BWL – Final Report on Storm Restoration – Reports by Ward Members

Mr. Peffley stated they do not have the ability to report storm restoration by Ward, in the City limits it was on southside of the BWL territory and the bulk of the work force was used there.

Future Changes to Response Efforts based on Lessons Learned and Financial Impact

Mr. Peffley acknowledged it was worse than 2013 ice storm with 830 downed wires, and 612 different outages. He confirmed that after 2013 they did an audit and adhere to those. This storm had restoration in 6 days, and 75% in 72 hours. Labor crews were brought in at \$1 million per day, coming from New York, New Jersey, and other areas. They lost 185 transformers and were able to address those. Crews worked after the 6-day restoration because 200 customers that lost service masts off house, with private electricians replacing then working with BWL to get power back. The storm was a total cost of \$9 million to BWL, and they are currently reaching out to see if any available funds for reimbursement. Mr. Peffley informed the Council that they are looking at what they can do better, but that report is not finalized yet, and one item they have found is that they only had 3 electricians listed on their website and so they have now added 7 private companies to the list.

Council Member Brown asked about previous conversations he has had with BWL on the vulnerable populations, and research on addressing those needs if this happens again. Mr. Peffley explained that they focus on the first fixes that will address the largest population.

Council President Wood asked about the vulnerability of seniors, and their needs to be addressed for health reasons. In the past there was a request for a data base so people can register that they need to get power to maintain their health. She asked how they handled those situations and if there are any ideas on how to generate additional information. Mr. Peffley confirmed BWL does have a data base they try to keep up, attempt to reach out and get updates, and they think they can work on better communications to let people know when they will get power back. He acknowledged he had done a presentation to the BWL Commission and could provide that at a future meeting of Council. Council President Wood encouraged them not to include in their plan direction to point to a computer or the internet because most seniors do not feel comfortable with those sources.

Ms. Zerkle supported statements by Council President Wood, but assured the Council that she believed BWL did not have any issues with the call center taking calls during the recent outage. Mr. Peffley stated they use a 3rd party call center; off site, and the outage map took 50,000 per minute, but once the storm moved through they were able to take calls. Council President Wood asked if BWL contacted the City 311 system and provided updates so they could inform their callers. Mr. Peffley could not provide a confirmation on that. Council President Wood asked how familiar BWL is with the 911 Center Smart data base. Mr. Peffley stated he was not familiar with it but would ask his staff. Council President Wood informed them people can register with 911 Smart Center, and this allows the resident to provide 911 with location of keys, if they are on oxygen, etc. and so BWL could work with them on the critical locations. Mr. Peffley stated they are not familiar with the 911 program but do have direct communication with LPD and LFD which was enhancement on this storm.

BWL Update on Completion of the Erickson Groundwater Investigation

Mr. Peffley assured the Council this is an ongoing investigation on sampling and monitoring which will take years, but they are working diligently. The process is lengthy and they have hired an independent consultant. There is a website created for reporting and they stay in contact with EGLE and the Health Department. Currently there is no indication that BWL has added to the level in the ground water. Will continue to work through the process until ready to submit final report to EGLE.

BWL Update on Property Sales

Mr. Peffley referenced the question on the agenda, and stated this is regarding the property on Hazel, and BWL believes that the property is better for industrial and the land acquisition will take a year but this is a few years out.

BWL Update on All Source RFP for Capacity & Energy and BWL Clean Energy Projects

Mr. Peffley started by noting this is a ten (10) year, \$750 million project, and they plan for carbon neutral by 2040 and clean energy by 2030, with more information on the website. This is a 10-year plan at \$750 million with high level carbon neutral by 2040 and clean energy by 2030. This includes 160MW of battery storage, 65MW of local solar, 195MW solar outside of Lansing region, 238MW wind outside of the Lansing region and 110MW Reciprocating internal Combustion Engines (RICE). He added that just today they selected a vendor for batteries in Delta Township, and narrowed down a vendor for solar also in Delta Twp. BWL continues to look at partial solar on roof tops and parking lots. BWL has already selected a vendor for the RICA and working on those contracts. BWL supplies 6% of energy will provide more of clean energy when this gets built out. There are 2 wind farms and continue to work on getting property zoned to meet the goals.

Council Member Jacson asked about the All-Source RFP and Council was told in the past they were getting a lot of projects for clean and renewable energy; however natural gas is being used and not a clean energy. Mr. Peffley acknowledged they understand the natural gas methods. Council Member Jackson asked who is charging the batteries, and was told BWL, and they use the solar and wind when available, but if those two sources are not available, they use other methods. Council Member Jackson asked why in the bond proposal to the users the ballot language stated they intent to issue bonds for clean energy and clean energy projects, but now that includes natural gas as part of the \$750 million. Mr. Peffley stated BWL is doing the project in increments, and it is still a clean energy project. Council Member Jackson noted that the RICE is also a form of natural gas and asked if they did a study to see if RICE is dirtier than natural gas. Mr. Peffley confirmed they did look into it and believe it to be compliance with the regulations. Council Member Jackson asked again if RICE is dirtier than natural gas, and Mr. Peffley could not provide that information at this time but would have to let the Council know. Council Member Jackson noted that when the plan was released to the Commission, he stated there was 140 response for the All Source, then stated it was

narrowed down and he had picked four (4) projects. He then asked where that input was on narrowing down from 140 to 4, if the Commission had any input because it appeared they found out it was narrowed to four (4) the same time as public, when the projects were already picked. He then asked BWL gain why they are moving forward with natural gas. Mr. Peffley stated they have to stay compliant with the law and they have no way to comply without the natural gas and RICE. Council Member Jackson asked if they had received any models for clean energy. Mr. Peffley confirmed they had, and Council Member Jackson asked for those to be made public and Mr. Peffley stated they could do that. He added that solar and wind are the future, but the government dropped the credit to comply with the law to 10%, so if they create 1,000, they only get credit for 100. Council Member Jackson asked Mr. Peffley to confirm the statement that BWL must build more natural gas or they will be in violation and Mr. Peffley confirmed that statement, noting the other source would be nuclear. Council Member Jackson asked if to meet the goals they are counting natural gas, because currently the website say 87% is coal and natural gas. Mr. Peffley responded that by 2040 it will all be fossil fuel. They are building the biggest battery but has a 4 hours run down. Council Member Jackson stated that if BWL builds more natural gas that it will be a loss, and in 2040 they will have stranded assets, concluding he is opposed to continuing to build natural gas. Mr. Peffley noted that they are not saying "clean" but saying "cleaner" than the goal. Council Member Jackson highlighted the process of natural gas from the ground, burning and leaks which makes it equal to coal. Mr. Peffley acknowledged that statement, but stated they have to continue to provide power to the users and comply with the law. Council Member Jackson asked how they plan to meet the 2030 50% and was told that they will count all energy towards that goal, and even energy out the service area. They will continue to build their portfolio. They believe fusion will solve that problem, but that is still 20 years out. Council Member Jackson asked for clarification on the comment that they are counting on unmade and untested technology in the future and Mr. Peffley confirmed that is their plan. **Council Member Jackson did not want to fight with the BWL Commission but believed it would only be a win win if two (2) of the RICE plants are not built.**

Commissioner Zerkle assured the Council that their first goal is the customers reliability and the second goal is sustainability and renewables then rates. That is part of the BWL strategic plan, and they continually looked at it and continually revise.

Council Member Kost asked if there is going to be more than the current sources regarding natural gas and Mr. Peffley noted in the \$750 million there is also RICE. He continued by adding that the RICE units are being used because they increase renewable portfolio, and the intermittent of the sun going behind clouds. BWL will be driven by requirements, if they can get there by renewables they will, but only if required. Council Member Kost asked if it is not just the State or Federal, but also if someone wants to build in the region is what drives it, and Mr. Peffley confirmed.

Council Member Jackson referred back to the comment about going with RICE and asked how a project of this scale can make it through the BWL Commission without input, and why at the Commission there were no minutes, projections or plans. Mr. Peffley stated that as the CFO appointed by the BWL Commission he has every right to execute. The Commission set a policy, and they knew about it. There was input and he offered to provide those dates to Council. Board was consulted on this going forward in the strategic plan. Council Member Jackson noted there was an RFP, then a rollout meeting, and that is when Mr. Peffley told everyone the four (4) projects that were chosen. He again asked when they asked for a received input. Mr. Peffley could not provide that information at this time, but stated he could provide that to Council later.

Council President Wood asked Mr. Peffley when Council can expect the information and answers to all their questions tonight. Mr. Peffley stated his office would update Council on Friday, 10/20 on the timeline.

Council Member Jackson asked the BWL to revisit the Clean Energy Projects to make sure there are no other possibilities.

Council President Wood encouraged BWL to use local labor and prevailing wages on all their projects.

Commissioner Zerkle acknowledged Council Member Wood for her time in elected office.

Other

Commissioner Thomas acknowledged Council Member Wood for her time on the Council and role with BWL.

Council member Hussain asked about the lifting of the moratorium on shut offs. Mr. Peffley stated under PA 95, there is a State of Michigan program, where BWL is encouraged to opt in, and they would be the last largest utility to opt in. This collects a fee on every meter, (\$.88) which will then open up customers to \$1.1 million reimbursement they can get through different agencies in the state. Also allows customers to opt into federal low-income housing energy assistance program, and energy assistance program, so by BWL opting in, there are two (2) pools of money customers have access to. The downside to this is that as part of the program the State requires shut off notices. There are limits on what the agencies will give them, and bills so high, they will not get the funds assistance. BWL has decided to opt in this year and will evaluate how it works. They are currently working with the community advocates to show people how to get assistance. There is a system up and running allowing the State to have access so customers will know the funds are there and how to get them. Council President Wood asked if the \$.88 collected is coming back to the City, and Mr. Peffley could not confirm but stated they will monitor it on a monthly basis and make sure BWL customers comes back to BWL.

Council Member Kost asked Mr. Peffley to define their understanding of "low income". Mr. Peffley could not speak to what the program guidelines define it as. Council Member Kost explained that there are people who work and are still the "working poor" and so are not considered to meet the state guidelines. He asked what is going to happen to the "working poor" who can't pay and get shut off. Mr. Peffley stated the \$1.1 million programs can assist anyone in the service area. Mr. Serkanian added that the agencies offering assistance make the determination not BWL, and they manage it also. Council Member Kost asked again was BWL is doing to do for the "working poor" who would not qualify with those agencies. Mr. Serkanian stated this program involves a utility plan that is intended to come back to the customers. They will monitor it monthly in terms of coming back to the customers, and it is a PILOT program so they are active in the monitoring. Council Member Kost again noted that the "working poor" will show they have a job and on paper make money. Mr. Peffley stated BWL will look in the agency programs and get an exact response on how every customer will be affected and qualify. Council Member Kost asked for an exact date on when that would be provided to Council, and Mr. Peffley stated he would provide a date. Commissioner Zerkle informed Council Member Kost that the "working poor" would fall into the group, and if by April they have a large bill and qualify, BWL has the policies in place to address on a monthly basis to assist with their household budget and based on their income.

Council Member Brown expanded on Council Member Kost's concerns noting that most programs have requirements for income, and there is a concern that there could be 10,000 customers shut off, but only 2,000 of those 10,000 will qualify. He asked if BWL will have a program to assist those 8,000 that do not qualify for those state and federal programs. Mr. Peffley did not have a response to that question at this time. He again noted that since the BWL opted in, they have to do the shutoffs. He would have his staff look into the requirements and get the information to Council.

Council Member Hussain support the concern for the shut offs during the winter for those that in the end will not qualify for assistance. He asked why BWL chose to do this PILOT in the winter. Mr. Peffley stated that they cannot change the plan now because they have opted in for one year. They will reach out to other utility agencies in the program and see what they have done.

Council President Wood asked if the senior discount was eliminated, and Mr. Peffley confirmed that utility companies have gotten away from that.

Council President Wood asked Mr. Peffley to speak to the rate increases proposed. Mr. Peffley stated they will go up November, 2023. The rates did go up in November 2022 and the only change is the variable rate with the fuel cost. The BWL will send over the new rate increases to City Council on 10/20/2023. Council Member Kost asked how much the commercial rate was going up, and Mr. Peffley stated there are six (6) different rate classes, all based on cost of service. That will be part of the information they will send over 10/20/2023. There is no peak change, just a time of use, if moving their use from day to night it will save the user money. Council Member Kost asked if this similar to what Consumers Energy is doing and Mr. Peffley said it is not.

Council President Wood about the recent firing and hiring of the BWL Commission Internal Auditor. She noted it is Council's understanding that before Mr. Macciocca was let go he was offered an agreement and refused to sign it then was let go. Also it is Council's understanding that even though the funds were used inappropriately per the BWL policy, BWL has determined they will not pursue recouping the funds. In the past BWL was provided a credit card policy from the City to be used for BWL employees and Commissioners, and asked if that was signed by Mr. Macciocca. Also if that policy is used with new hires. She asked for an explanation on why the BWL Commission is not seeking to recoup the lost funds, and based on the findings from the investigation what changes has the BWL Commission made to ensure this does not happen again. Mr. Peffley stated he can only answer one of the questions; all employees including Commissioners have training, they sign the policy and adhere to it. Commission Chair James stated that Commissioners do not have credit cards, and the policy on credit cards, in this particular instance with what transpired, the Commission cannot discuss it because it is a personnel issue, so she is taking the stance she cannot comment. The Commission has adopted a fraud policy, credit card policy to make sure it does not happen again. Council President Wood asked again for BWL to recoup the funds. Commission Chair James stated that legal counsel has advised them they are not to talk about it.

Council Member Hussain voiced his frustration with the situation since BWL is a public utility responsible to the rate payers, and at some point, they need to expose why they chose no effort to recoup costs, and why they are not pursuing criminal charges. As public utility he believes they need to be held accountable, because they appear to be aggressive on shut offs for their customers, but when their employee overcharges \$30,000 they are choosing not to be aggressive.

Council Member Brown asked what policy is in place on spending and a monthly review. Commission Member James stated the credit card spending goes through their operations, there is a policy in place and it has been corrected, along with the procedures used by management that all will be following. She went on to acknowledge there was something that was not being followed, and assured the Council it is now being followed. There are two BWL Commission sub committees that review credit card reports monthly. If it cannot be signed off on then it cannot go to the full Board for review. Council Member Brown asked for confirmation there is a new policy in place and Commissioner James confirmed. When the

misuse was found the individual was released from employment with BWL. She confirmed that now everyone's use is reviewed.

Council Member Kost asked if the BWL Commission has forwarded the spending violations to the Ingham County Prosecutor or the State Attorney General. Ms. James stated she could not comment at this time. Mr. Smiertka stated the OCA has reviewed the matter since its inception, they have gained the facts and found issues to address with BWL. The OCA can share the City policy on hiring with the BWL Commission, but regarding this situation, it is ongoing so there is no public comment.

Council Member Kost made comments on the future rate increases to users, and his concerns on the Commission practices since Mr. Macciocca left with \$30,000 and another \$29,000 of funds spent on an investigation. He asked the Commission why they have not addressed this as a felony since they hired someone with limited education, lied on expenses and it appears they are not transparent. Commission Chair James assured Council that they have been transparent because they responded to the FOIA which included logs, emails spending and information from the prior Chair of the Finance Committee. She then spoke briefly on her personal experience with the media.

Council Member Jakson noted that the 2020 Integrated Resource Plan had thirteen (13) different scenarios, nothing with natural gas, and therefore asked for any update on what happened to that 2020 Plan. Mr. Peffley stated that since that 2020 Plan there has been major industry changes in the area, which changed that plan. Council Member Jackson asked if that is true, then did the 2030 and 2040 goals have changed, and Mr. Peffley confirmed they have incorporated those new employers into those goals.

Council Member Kost asked if the BWL had insurance to cover the money that was taken by the former employee. Mr. Peffley stated their deductible is higher than that, but he would look into that again and send Council a corrected statement if that is wrong.

Council President Wood acknowledged the discussion that has been held tonight by the Council and Commission, supported Council Member Hussains earlier statements, and noted to the BWL Commission that they understand they is information currently not privy to Council at this time, however as soon as the ability to provide additional information is available it should be provided to City Council.

Council Member Hussain asked the BWL Commission about the agreement with Mr. Macciocca when he was hired which included moving costs, and ongoing education. He noted his concerns with that considering the Commission only has three (3) employees and there should have been a discussion on lack of experience and not qualified. He then asked if the vote at Committee and then at the Commission, was unanimous. Commission Chair James stated to her recollection it was unanimous and they all believed the person was qualified. To the knowledge of the Commission, Mr. Macciocca had the education, was a CPA and he was brushing up on his skills.

Council Member Hussain asked for the BWL Committee and Commission minutes when HR interviewed, made their recommendation for hiring and when the full BWL Commission hired Mr. Macciocca.

Council Member Brown asked if the issue with Mr. Macciocca was and experience issue or an integrity issue. Commission Chair James stated she could not comment. Mr. Smiertka stated that Ms. James cannot speak as the full Committee because it calls for conclusion.

Council President Wood acknowledged the BWL for hosting the event.

Adjourn

The meeting adjourned at 7:09 p.m.

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

Approved by the Committee of the Whole on October 30, 2023 as amended.