MINUTES
Committee of the Whole
Monday, November 13, 2023 @ 5:00 p.m.
Tony Benavides Lansing City Council Chambers

CALL TO ORDER
Council President Wood called the meeting to order at 5:00 p.m.

PRESENT
Council Member Carol Wood
Council Member Jeremy Garza
Councilmember Adam Hussain
Councilmember Peter Spadafore
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
Emily Linden, Internal Auditor
Mark Lawrence, Mayor's Office
Jake Brower, Chief Strategy Officer
Kim Coleman, HRCS
Nick Zande
Michael Lynn
Erika Lynn
Jackson Mills, Finance
Mayor Schor – arrived at 7:19 p.m.

Minutes
MOTION BY COUNCIL MEMBER GARZA TO APPROVE THE MINUTES FROM OCTOBER 30, 2023 AS PRESENTED. MOTION CARRIED 8-0.

Public Comment
Ms. Stanaway spoke on the sole source on the agenda, and the potential conflict of interest, noting her belief that Dominic Cochran, his father and Jason Gabriel all had connections with Dymaxion.

Council Member Brown stepped away from the meeting at 5:03 p.m.

She continued by stated the public never asked for $800,000 for a warming and cooling centers from Detroit.

Council Member Brown returned to the meeting at 5:04 p.m.

Council Member Hussain stepped away from the meeting at 5:04 p.m.

Mr. Lynn briefly spoke briefly on his belief of campaign finance violations by the mayor. He then spoke on the warming center recently published in a press release for $800,000.

Council Member Brown stepped away from the meeting at 5:06 pm

Me. Zande spoke on the recent election and representation. He then spoke on the polling location proposed to be changed.

Council Member Brown returned to the meeting at 5:07 p.m.

Ms. Erika Lynn spoke about the warming shelter item on the agenda, in addition to a recent issue with a City seal and the Mayor's use of it.

Council Member Hussain returned to the meeting at 5:11 p.m.

Ms. Lynn continued speaking on details for the warming center.

Presentations

Internal Auditor Reporting on Treasury Audit

Ms. Linden went through her report in the packet. This outlined the objectives including internal controls, checks and balances, adherence and overall effectiveness. She then went through the findings in the report.

Council Member Jackson stepped away from the meeting at 5:18 p.m.

Ms. Linden was outlining key points in her report.

Council Member Jackson returned to the meeting at 5:19 p.m.

Ms. Linden completed her report with recommendations and briefly spoke to the three months she performed the audit.

Council Member Jackson asked if the report was submitted to the administration and if they have addressed the recommendations. Ms. Linden confirmed it was submitted to the Administration and City Clerk today, so there has been no discussion so far.

Council Member Spitzley asked how this audit was initiated. Ms. Linden stated the previous auditor had made findings and recommendations for certain departments to be audited and Finance was the first. Council Member Spadafore noted that in 2022 there was an Ad Hoc on Audit, and the list of departments came from there, and that was confirmed by Ms. Linden.

Council Member Brown asked if there was a percentage of improvements in the findings. Ms. Linden stated it would depend on where in tax season we are. There is priority in tax season proper, and customer service took back seat during that time. The mail item concern came from interviews she had with staff that was a big issue during tax season. Council Member Brown asked, based on the historical information, did it seem like the issues are moving towards being resolved. Ms. Linden stated she finished the audit in October, and the next tax season is beginning so she will reaudit in a year.

Council Member Kost when it was submitted to the Administration, and Ms. Linden confirmed it was sent today to be placed on file. He then asked her if she estimate how much these mistakes cost the taxpayers, and the report noted staff were “overworked”, and asked why she did not recommend hiring more staff in the department. Ms. Linden stated hiring is a budget decisions, and based on the money in the budget, that is why she made the recommendations she made.

Council Member Jackson stepped away from the meeting at 5:27 p.m.

Council Member Garza asked how many vacant positions are in the departments.

Council Member Kost stepped away from the meeting at 5:28 p.m.

Council President Wood noted that the next item on the agenda is the GF report and vacancy report, which will list those vacancies. She then noted the report would be placed on file, and the next step is for Ms. Kirkland and Ms. Frayer to look at the recommendations and move forward. She asked Ms. Linden to keep Council updated.

Council Member Kost returned to the meeting at 5:29 p.m.

General Fund Status Report: Fiscal Year 2023-2024, 1st Quarter.
Mr. Brower and Mr. Mills presented the reports in the packet.

Council Member Spadafore stepped away from the meeting at 5:30 p.m.

Council Member Spitzley asked about the difference in the left-over funds from the ARPA and use of Fund Balance; where would those funds come from in the next year or does the Administration plan to have a rolling lose.

Council Member Spadafore returned to the meeting at 5:32 p.m.

And if they anticipate a rolling revenue loss, where will those funds come from next year. Mr. Brower stated that discussion is part of the broad discussion they are having with departments now.

Council Member Hussain stepped away from the meeting at 5:32 p.m.

He continued by explaining the Administration is moving forward with a standard budgeting process, there is a new procedure for the department directors to provide information on what they do as a whole, what services. All directors met last week with a strategy summit, outlining issues. They are to prioritize what is an objective and how to get there as a plan.

Council Member Hussain returned to the meeting at 5:34 p.m.

He continued explaining his process, which is reviewing the strategic goals. Council Member Spitzley asked if they anticipated a deficit next year and if part of the strategy is to ask departments to cut their budget to assist with the deficit. Mr. Brower stated earlier in the year they presented a 3-year forecast, looking at economic conditions improving, and a goal to balance the budget and have sustainable amount to invest in capital projects and more efficient delivery. Regarding any across the board cuts, they are not there at this time, but have told departments that without volunteering cuts, they will be asking them to do them in the end and will do whatever is necessary.

Mr. Mills continued with his general fund presentation on project taxes, income tax collections.

Council Member Jackson returned to the meeting at 5:38 p.m.

Mr. Mills did note that the EDP budget appears higher because of the cost they commissioned a code fee study which was not in the budget.

Council Member Spadafore asked where the City stands in the report on the large storm clean up and fund reimbursement. Mr. Mills did not have any costs but would get those to Council.

Mr. Jackson moved to the part of the report that spoke to the vacancy factor. It was noted there are 100 vacancies, 59 in another non-general fund this totals $1.6 million. Council Member Kost noted the report appears to reflect that the City lost employees in the first quarter, and Mr. Mills confirmed they did in a comparison to the last 1st quarter report.

Council President Wood noted the report reflected currently 5 vacancies in treasury. Mr. Mills stated there are 3 in finance and 3 in HR.

Council Member Jackson asked what happens with the funds. Mr. Brower stated for the GF portion, there is a budget vacancy factor, that is the bottom line. $1.5 million budgeted this fiscal year, and any savings above that will go to the bottom line. Council President Wood added they could pay overtime, any additional funds not utilized through budget amendment goes into reserve fund.

Council Member Spitzley noted there are a number of LFD positions vacant and asked if the $1.6 million paying for LFD overtime. Council President Wood confirmed, but noted even though there were vacancies, there are 25 in the academy.

Council Member Spadafore asked about the lower percentage of 5% for HRCS, and Mr. Mills stated that number is higher now, it was just timing during the reporting.

Ms. Linden asked if the return on equity from BWL was received yet, and Mr. Brower could not confirm it had been, but did now that they would be getting $229,698 which was an adjustment from 4th quarter last years of the $6,685,560, and the first quarter is $6,455,862. Ms. Linden asked again when the City would receive it, and Mr. Brower stated they should have already gotten it, but it is just not entered into the system.

Ms. Linden referred to the new SB 507 on City Income Tax Act Expansion and asked if Finance and Treasury have had discussions on that impact. Mr. Brower stated he is aware of the program but they would have to look more into it for details before he can answer.

Council Member Hussain stepped away from the meeting at 5:48 p.m.

Council President Wood referred to an earlier statement that they were preparing the budget and asked departments what services they are responsible for. She encouraged Mr. Brower that it is important to have that discussion with the public on what essential services they want the City to provide with their tax dollars. And also noted to Mr. Brower that if they are talking about cutting positions from the vacancy factor, that some of those positions are union positions.

City Truck Life Cycle and Rotation- Andy Kilpatrick

Mr. Kilpatrick went through a handout on city vehicles. This spoke to vehicle replacement cycles, CART truck information, and the life cycle of default 12 years. With LPD 4-5 years, ambulance 6 years and suppression 15-20 years.

Council Member Garza asked which yard waste vehicle is the oldest, which is newest and what is the oldest recycling. Mr. Kilpatrick noted he would have to further research that because some vehicles do both tasks, recycling, yard waste and trash. Regarding yard waste only, the oldest is believed to be from 2004. Council Member Garza asked if they have a purchase plan to rotate every 2-3 years. Mr. Kilpatrick confirmed in the 2023 budget they began that plan. Council Member Garza asked what the delay was on catching up to industry standards. Mr. Kilpatrick stated he cannot speak to his predecessor and priority, but since he has taken over there is a focus on priority. Prior the fleet department made all the decisions on purchasing and priority. Now each department can make the determination on when they purchase. Moving forward it is in the budget, and those two funds control when purchase vehicles.

Council Member Jackson asked about the funds for street sweepers and purchasing. Mr. Kilpatrick stated those are bought through fleet and leased with street funds. There used to be an issue with the older street sweepers, but they have reduced the age on sweepers. They have one newer one that was totaled in an accident where it was rear-ended so that is getting replaced. That leaves them down to two (2). Council Member Jackson asked if there is a fund set up to purchase sweepers. Mr. Kilpatrick stated it is a fleet fund.

Council Member Hussain returned to the meeting at 6:02 p.m.

Council Member Jackson asked if they were behind schedule on purchases, and Mr. Kilpatrick confirmed they are better than average, and purchased a number recently. They did have 4 old ones, did purchase one then one additional and purchased two new ones over the last couple years. Council Member Kost asked how many they had 10 years ago and were told 4. They have also changed their cycle from only at night but now doing during the day, based on budget and staffing. Priorities determine where the funds go, and there is a need for more money for roads, sidewalks and sewers. Council Member Kost asked if there was enough staff for the trucks listed.

Council Member Brown stepped away from the meeting at 6:05 p.m.

Mr. Kilpatrick stated they do train staff to run routes, and having more staff would be good.

Council Member Brown returned to the meeting.

Council Member Kost asked if they have had conversations on universal trash. Mr. Kilpatrick confirmed they are looking at it and long term would have benefit. Council Member Kost asked what funds were currently in the accounts, and Mr. Kilpatrick stated he could provide that after the meeting. Council Member Spadafore asked if they did purse City trash collection if the City has the vehicles and personnel to pull off. Mr. Kilpatrick stated the real questions would be what city-wide trash would be. Currently no yard space or staff. Could manager overwide city staff, city would be provided, charge fee, then have contractors assist with that. Short term need assistance, and long term look at, but to make this happen they would need a policy and ordinance. Council Member Spadafore asked if they have had any discussions with current vendors, and Mr. Kilpatrick confirmed they have approached one. Council Member Spadafore asked if they have considered incorporating electric vehicles in the fleet. Mr. Kilpatrick confirmed that trash side would need two electric trucks. Some testing shows they only get 3-4 hours in the cold. There is a limit on electric trucks ad high prices.

Council Member Kost stepped away from the meeting at 6:12 p.m.

Council Member Garza asked what vendor they spoke to and was told Granger. The City does charge less.

Council Member Kost returned to the meeting at 6:14 p.m.

Council Member Garza asked how many staffing positions would be affected if they contract it. Mr. Kilpatrick stated they would not displace employees, but not sure of exact number of refuse haulers that are city employees currently. There is recycling, yard waste and trash. If they contract out trash would do more on recycle business. Every property has to have recycling per ordinance.

Council Member Spitzley and Spadafore supported not contracting it and privatizing it.

DISCUSSION/ACTION

RESOLUTION – Polling Place Changes for Precincts 9, 36 and 38; Effective after 11/7/2023 Election

Mr. Swope explained that several polling places are not going to be available as voting locations in the future due to bad locations per feedback, buildings being decommission and one location at BWL being eliminated due to their security concerns at HACO. For each location change, emailed each registered voter if had one, and informed them of the new change.

Council Member Spadafore asked if they have looked into precinct consolidations. Mr. Swope confirmed that this last election they had 85% in the primary, 75% in general in the mail, and so are looking at consolidations in advance of 2024.

MOTION BY COUNCIL MEMBER GARZA TO APPROVE THE RESOLUTION FOR THE POLLING PLACE CHANGES FOR PRECINTS 9, 36 AND 38. MOTION CARRIED 8-0.

DISCUSSION – Sole Source Purchase; Community Media Department request Dymaxion Development LLC as vendor for Owners' Representative for Ovation/Public Media Center Construction Project

Council President Wood explained the Sole Source Ordinance which outlines what qualifies as a sole source.

Council Member Jackson stepped away from the meeting at 6:22 p.m.

Mr. Cochran explained that they are using Dymaxion because initially when the project went out for a RFP, Dymaxion brought the project to the City and the City was going to have them do the project and then lease it back. But during the bond process it was determined the City had to own the property. Since Dymaxion had been involved from the initiation they chose to keep them on in this roll. Mr. Cochran believes they have specialized knowledge deemed to be the best.

Council Member Spitzley referenced and recited the sole source ordinance, noting that just an email memo to the Mayor did not justify criteria in ordinance. She also noted the memo states some work done by Dymaxion was done without compensation and asked why. Mr. Cochran stated because Dymaxion brought it to the City and some work was done before the City took it over for bonding purposes. Council Member Spitzley noted the items in the ordinance that determine a sole source, and by Mr. Cochran stating it does not make it a sole source. Council President Wood provided the timeline of a hand delivered memo to Council staff and the City Clerk by City Attorney Venker in memo form, with no RFP or purchasing documents. It was not referred at the time from the City Clerk, and Council is getting it now because of the last meeting Mr. Cochran was present he was asked to complete the process for appropriate sole source review.

Council Member Jackson returned to the meeting at 6:29 p.m.

Council Member Spadafore asked if Dymaxion was the developer of the 500 block of S Capital, and Mr. Cochran stated they were not but assisting with the developer of that site somehow. Council Member Spadafore asked who is developing Ovation and Mr. Cochran stated the City but will be hiring for their expertise with architect and contractor. Council Member Spadafore noted that Dymaxion has two license filings with LARA.

Council Member Spitzley asked if Council votes on a sole source. Council President Wood noted Council has to vote on sole source, they are referred to ways and means, but due to the gravity of this, it was referred to Committee of the Whole, and based on information the provided, Council can review to see if it meets the sole source ordinance. This ordinance guidelines were created in 2017 due to issues with departments coming to Council after spending funds, and signed contract. Council does have the option of not placing this on file. Council Member Spitzley did not support accepting this as a sole source and placing on file. Council President Wood noted that there is a section in the Ordinance that states if Council deems it is not a sole source, the contract is null and void, therefore she recommends that since there are numerous developers in the city that can do the work. It was an understanding that initially Dymaxion was going to be developer and sell to City, but that did not happen. Council Member Spitzley voiced her concern on work done without pay and the liability that is now on the City. Council President Wood noted an earlier statement by Mr. Cochran that they haven't even gone out to bid on an architect yet, so why can they not go out to bid on an administrative manager as well. Council Member Spitzley noted that the City Council was introduced to a Project Manager at the last meeting that was a project manager already, so why hire out.

Council President Wood passed the gavel to Council Member Garza. A resolution denying the sole source and asking for the contract to be null and void was distributed to Council.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION REFUSING THE SOLE SOURCE AND ASKING THE ADMINISTRATION TO NULL AND VOID THE CONTRACT.

Council Member Jackson asked if the OCA had an opinion on this and if it is a sole source. Mr. Smiertka stated they wrote a legal opinion for Council Member Spitzley on the ordinance a sole source procurement, and that supported this sole source as following the criteria. One or two have been addressed in the list so OCA believes it was done correctly. He added that Council does not have the ability to veto a contract but only make a determination. The question is if the criteria was followed and they believe it was.

Council Member Spitzley clarified she got an email memo from Mr. Venker when she asked if the contract was valid, but it was not a "legal opinion". She noted the ordinance states "are" not one or the other. In addition it never came to Council for valid review and it appears the administration circumvented the Council process.

Council Member Hussain asked for verification that the resolution in front of Council now is a position, but nothing else, and it was confirmed.

Council Member Jackson asked what the resolution status would be, and Council President Wood stated it would be no accepting the sole source and not placing it on file.

MOTION CARRIED 6-2.

<u>DISCUSSION – Outstanding Questions on Requested Reports in the Budget Policies from the Adopted FY 2023/2024 Budget Resolution</u>
<u>Cost of Warming and Cooling Centers</u>
Ms. Coleman stated they were on previous Committee agendas, but due to timing the item was pushed to future meetings, but since the initial meeting they have prepared an RFP, and since that time it was filled with Detroit Mission and they plan to open at the LETTS Center 11/27.

Council President Wood asked if the contract was in the budget or they plan to incorporate $800,000 from the State. Ms. Coleman stated the money is this year from the $151,000 Council took from the Mayor's budget, but there is an intent to by funded by the State but those funds are not available. Council President Wood asked if they have signed the contract for $800,000 and Ms. Coleman confirmed they had not.

Council Member Spitzley asked OCA if the City is opening up a legal impact with only accepting certain residents into the center. Mr. Smiertka stated nothing has been brought to their attention. Council Member Spitzley pointed out that this is a City building, and it appears they will only accept families, seniors and people with disability, so again she asked if the City is opening itself up for legal issues. Mr. Smiertka stated that anyone can challenge that.

Ms. Coleman explained that the facility will be a “warming center”, not a “shelter”.

Council Member Garza stated he heard there was no fire suppression. Ms. Coleman stated that Parks is currently handling that. Council Member Garza if there was an RFP for that and if the funds will come from the $800,000. Mr. Lawrence did not have a response but stated he would get the answer.

Council Member Hussain noted it appeared that OCA was not engaged in the process with Detroit Mission, but how did the City enter into contract if the OCA was not aware. Mr. Smiertka stated they reviewed a reviewed as service contract but would be willing to look at the contract. Council Member Hussain asked if the OCA should look at all contracts. He then asked Ms. Coleman how many bids they got and she stated 2, one was Lansing based however they wanted more money than $150,000. Council Member Hussain asked if they reached out to other entities that could have responded and why they didn’t. Ms. Coleman said no one supported the proposed warming center.

Council Member Spitzley asked if the Detroit Rescue Mission is faith based and have any restrictions on gender. Ms. Coleman stated that there are a significant number of shelters that are based on Christian based/ faith-based organizations. Council Member Spitzley referenced the press release from the Administration where it was called a “shelter”. She reiterated the concern on lack of fire suppression, no cots and liability. Council Member Spadafore noted that even if the contract does not state the intentions, it should be in the oversite. He then referred to the Detroit Mission website which undermines their intentions. Council Member Kost asked since it states exceptions will be made for trans-gender what those are. Ms. Coleman stated that they will make accommodations, and she mis spoke if she said exceptions. When she spoke to them on human rights, they said if accommodations are needed, they will make those available.

Council Member Kost and Spitzley stepped away from the meeting at 7:03 p.m. .

Council Member Jackson asked why the press release said “shelter” and if they knew there were issues with fire suppression why those weren’t addressed earlier, and also why they did not follow up with them on their policies.

Council Member Spitzley returned to the meeting at 7:04 p.m.

Council Member Jackson asked if the OCA should have created the contract or document to outline the issues.

Council Member Brown asked why the press release was pointing out only certain groups would be served.

Council Member Spadafore stepped away from the meeting at 7:04 p.m.

Ms. Coleman appealed they are opening up for families with children; single or transgender and will be servicing all families with children.

Council Member Kost returned to the meeting at 7:05 p.m.

Ms. Coleman and Council Members discussions the definition of family, how that applies towards male, female and trans-gender.

Council Member Spadafore returned to the meeting at 7:05 p.m.

Council Member Brown again voiced his concern it appears that they are not being able to meet need of all residents, how does that not open the City up for liability. Mr. Smiertka stated the question is whether the program has rationale need. If they have in their records, there is a group with the biggest need. There is always the potential for litigation.

Council Member Brown spoke in opposition.

Council Member Hussain asked if the City Council has any authority to intervene or change programming. Mr. Smiertka stated it is the Administration. Council Member Hussain noted for the record that this is not want Council wanted when they appropriated the funds.

Council Member Kost spoke in opposition, noting that there are 10 in Grand Rapids that do not specify specific groups that will be assisted.

Council Member Jackson did not support not allowing everyone.

Council Member Brown asked where people go when they get turned away, and Ms. Coleman stated that if it is a CODE BLUE, the Fire Marshall will lighten the standards to allow more people to enter. It will be open from 7 pm to 7 am from November 27, to April.

Council President Wood asked for the contract that was signed with Detroit Rescue Mission, and made Ms. Coleman aware of events that occur at LETTS after 7, asking for accommodations to be made.

DISCUSSION/ORDINANCE - Amendment to Chapter 240, Section 240.02, 240.03, 240.04; Clarify role of Human Relations and Community Services (HRCS) Advisory Board
Council President referred to the changes on page 2 and page 4 since the last meeting. These changes stipulate that the Advisory Board shall make recommendations and shall come to council.

MOTION BY COUNCIL MEMBER GARZA TO APPROVE THE ORDINANCE.

Council Member Jackson asked what the language was before, and Council President Wood recapped it said “may” instead of “shall”.
MOTION FAILED. 4-4

MOTION BY COUNCIL MEMBER SPITZLEY TO PLACE ON FILE. MOTION CARRIED 8-0

DISCUSSION/ORDINANCE -Amendment to Chapter 273, Section 273.01 and 273.04; Clarify Role of Human Relations and Community Services (HRCS) Advisory Board
MOTION BY COUNCIL MEMBER SPTIZLEY TO PLACE ON FILE. MOTION CARRIED 8-0.

OTHER
DOCUMENT - OCA overview on Procedure for Charter Revision on what next steps are.
The document provided by the OCA went over the question before the voters, what creates the Commission, and if the Commission member currently sits on a board, once they are elected they must resign. Mr. Swope stated that under Michigan Election Law there are only three dates a general election can be held. They are proposing May, 2024. Council Member Spitzley asked if the process to be on the ballot is the same as Council member, and Mr. Swope state it is the same process as and At-Large position. The payment for the Commission will be set up by City Council, per diem limit to 90 days for entire term. Council Member Spitzley asked if they are subject to campaign finance law, and was told yes by Mr. Swope.

Council Member Jackson asked for an explanation on why the May election, and Mr. Swope acknowledged there is a conflict between Home Rules Cities Act, which says it has to happen in 60 days, and the Michigan Election Law. The next available date is the May date. Council Member Jackson noted the May election will have the lowest turnout, so why not wait until August. Mr. Swope stated he had discussions with OCA on this, and the May date was necessary because they did not want to push it back. Council Member Jackson asked Mr. Smiertka if there is anything in those two laws that state they cannot move it to the 2nd election of the year in August. Mr. Smiertka stated he was not involved in the discussion. Mr. Swope stated that the Home Rules Act calls for the quickest election as possible, and Ms. Hagen-Lawrence stated that Act also indicates 60 days from when the question is asked of the voting public.

Council Member Spitzley stepped away from the meeting at 7:30 p.m.

Council Member Hussain spoke in support of moving the process along not moving to a later election.

Council Member Spitzley returned to the meeting at 7:31 p.m.

Council Member Hussain expanded that some communities actually have the candidates for the Commission on the same ballot as the question.

Council Member Spadafore asked if the “3 years” time frame starts at the time the question was approved by the voters. Ms. Hagen-Lawrence stated it will start once the Commission is sworn in.

Adjourn
The meeting adjourned at 7:33 p.m.
Respectfully Submitted by,
Sherrie Boak, Recording Secretary, Lansing City Council
Approved by the Committee November 27, 2023