City of Lansing Charter Commission
Regular Meeting Agenda

Tony Benavides Lansing City Council Chambers
Lansing City Hall, 10th floor
124 W. Michigan Avenue

November 12, 2024 at 6:30 PM

1. Call to Order
2. Roll Call
3. Adopt the Agenda
4. Approval of Minutes
A. October 22, 2024 Minutes
5. Public Comment
A. People wishing to share public comment virtually may do so. The deadline to register to comment this way is 6PM, 30 minutes before the start of the meeting. Sign up at this link: https://events.gcc.teams.microsoft.com/event/e1817be8-4915-4f70-bb5f-f0200791bb55@87509dee-095b-4ff8-ba5a-0035cdfc715d
6. Officer Reports
A. Chair
B. Vice-Chair
C. Clerk
7. Presentations
A. Board of Water and Light
8. Old Business
A. City Council Structure
   i. Legal Opinion
   ii. Discussion
9. New Business
A. January - June 2025 Meeting Schedule
B. Article 1-302: Non-Discrimination and Civil Rights
C. Article 2-103: Ineligibility for Office
10. Public Comment
11. Commissioner Remarks
12. Adjournment

Persons with disabilities who need an accommodation to fully participate in this meeting should contact the City Clerk's Office at (517) 483-4131 (TTY 711). 24 hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodation request.

Minutes for the City of Lansing Charter Commission

Regular Meeting | Tuesday, October 22, 2024, 6:30 PM
Tony Benavides City Council Chambers,
Lansing City Hall, 10th floor, 124 W. Michigan Ave.

Present: Commissioners Adams Simon, Anderson, Bauer, Boyd, Dowd, Jeffries, Lopez, Qawwee, Washington
Absent: none
Staff Present: City Clerk Swope, Chief Deputy Clerk Jackson, Deputy Clerk Drever

Call to Order

The meeting was called to order by Chair Jeffries at 6:30 PM.

Roll Call

Clerk Swope called the roll of the Commission. A quorum was present.

Adopt the Agenda

A. Moved by Commissioner Qawwee to adopt the agenda as presented.

   Motion Carried.

Approval of Minutes

A. Moved by Commissioner Dowd to approve the October 8, 2024, minutes as presented.

Motion Carried.

Public Comment

No comments were made.

Officer Reports

Chair

No report.

Vice-Chair

No report.

Clerk

Clerk Swope provided an update on the budget: $137,098.96 has been spent, with a remaining balance of $362,901.04.

Presentations

A. Mark Skidmore

Professor Mark Skidmore and Pei-Jyun Lu of Michigan State University gave a presentation on municipal government structures.

They then answered questions from commissioners about capital cities, costs, voter turnout, a mayor's chief administrative officer, and distributions of ward and at-large representation.

Old Business

A. Form of Government Discussion and Action

Vice-Chair Adams Simon: I too think we need to strengthen the language of the role of chief administrative officer, but for purposes of discussion,

I move to maintain the current form of government, which is mayor-council.

Commissioner Washington: I would prefer to go to the hybrid for the purposes of, and I think that's what you were saying, I think we take away the language of executive assistant, and make it specific for chief administrative officer, because the executive assistant terminology is just way too big.

Commissioner Qawwee: Point of clarification, are you making a motion to amend her motion?

Commissioner Washington: no

Commissioner Lopez: To clarify the motion so we can understand it I would ask if the motion maker would accept an amendment to the motion to say hybrid form of government

Chair Jeffries: If the motion is to continue with our current form of government which is the strong mayor which includes the language in the charter, which if you want to amend, we can do that, but I think the motion does cover all of that.

Vice-Chair Adams Simon: Because we can change the language of chief administrative officer, we can change the role.

Lopez- just to be clear.

Motion carried.

New Business

A. City Council Structure – Discussion

The commissioners discussed proposed maps with different numbers of wards; whether the size of wards needs to be adjusted; the influence of money in elections, especially for at-large seats; diversity among members of City Council; the cost to run a local campaign; the purpose of at-large seats; local engagement and education about elections; how to increase community wide representation.

Commissioner Boyd raised a question regarding Commissioners Lopez and Washington recusing themselves due to having relatives on the current City Council.

Public Comment

Fred McLaughlin spoke on the importance of planning – planning and community development, with an emphasis on community, not economy.

Commissioner Remarks

Commissioner Boyd thanked Commissioner Bauer for her past service on City Council.

Adjournment

The meeting was adjourned by Chair Jeffries at 7:47 PM.

Drever, Emery

From: Scott Hughes <contactscotthughes@gmail.com>
Sent: Friday, October 25, 2024 7:51 PM
To: Chartercommission
Subject: [EXTERNAL] Sexual orientation and gender identity - Please include in proposed charter

Lansing's next charter should protect sexual orientation and gender identity, so that these rights are included in the charter, and not just by ordinance.

Unfortunately the extremism of the far right has entered the mainstream of American politics. In recent days we have been inundated with millions of dollars in advertising mocking LGBT persons with cruel hate speech. Those who spread this garbage assume - wrongly, I believe - that the American people share their hate.

Lansing has made great strides in protecting sexual orientation and gender identity and as I believe you are aware, in 2006 the Lansing City Council passed its human rights ordinance and at that time, Commissioner Jeffries was a member of city council, Clerk Swope was in office at that time, so that the Chair and Clerk of this board were not only active in the passage of the ordinance, but were leaders in that initiative.

I believe the voters of Lansing would support equality and human rights by adding sexual orientation and gender identity protections to the charter, if given the chance to do so by this commission.

Thank you for your time and attention. I greatly appreciate the work done by the Commission members, and wish you all the best in your continued service.

Scott Hughes
228 Leslie St.
Lansing, MI 48912

Lansing City Charter Commission Comment Submission Form

Purpose

Use this form to submit your comment to the Lansing Charter Commission about the Lansing City Charter.

Context

The Lansing Charter Commission is reviewing our city's charter, the document that outlines how our local government works.

After revisions are made to the charter, the proposed charter, will go back to the voters of Lansing, who will then determine whether to accept or reject the new charter.

The Charter Commission will have a duration of up to 3 years and may present a new charter to the electorate up to 3 times. If no new charter is accepted by the voters during that time, the charter will remain unchanged.

Citizen Involvement

In addition to speaking during the public comment sections of Charter Commission Meetings and Hearings, you can submit comments through this form. The commissioners want to hear from you!

Links

[Charter Commission Web Page]

[Current City of Lansing Charter]

Lansing City Charter Commission Comment Submission Form

First Name	Amarah
Last Name	Tiller
(Optional) Contact information is optional, but providing it will make it easier for potential follow up.	
Email	amarahtiller@icloud.com
Phone	5174897381
Street Address	2655 edgebrook Dr

City	Lansing
State	MI
Zip Code	48819

Lansing City Charter Commission Comment Submission Form

Topic	Request for reevaluation of water fluoridation
Comment	Dear Members of the Lansing City Charter Commission, I hope this message finds you well. I am writing to express my concern regarding the addition of fluoride to our community's water supply. In light of the recent federal ruling (FAN v. EPA case) and growing discussions around this issue, I believe it is crucial for us to re-evaluate the presence of fluoride in our drinking water. While fluoride has been traditionally added to prevent dental cavities, there is ongoing debate about potential health risks and the ethics of mass medication without individual consent. Many communities around the country are rethinking their approach to fluoride, and I believe it is time for us in Lansing to do the same. I urge the commission to consider the latest scientific findings, public opinions, and alternative ways to ensure dental health without relying on water fluoridation. Public health should be our top priority, and ensuring transparency and informed choice in such matters is an integral part of that responsibility. Thank you for your attention to this important issue. I look forward to seeing how Lansing leads the way in safeguarding the health and well-being of its residents. Amarah Tiller Naturopathic Student

Drever, Emery

From: Dustin Howard <dustin@local333.com>
Sent: Wednesday, November 6, 2024 11:53 AM
To: Chartercommission
Subject: [EXTERNAL] LBWL support letter
Attachments: LWBL Lansing Charter Commission .pdf

Please accept this letter as support for the Lansing Board of Water and Light.

Thank you,
Dustin Howard

Business Manager/Financial Secretary-Treasurer
UA Local 333
Mobile: 517.490.4848
Email: dustin@local333.com
Office: 517.393.5480
Web: UA333.org
5405 S. Martin Luther King Blvd. Lansing, MI 48911

U. A. of Plumbers & Pipefitters
Local 333
5405 S. Martin Luther King, Jr. Blvd.
Lansing, MI 48911
Phone: (517) 393-5480
Fax: (517) 393-0798
Toll Free: (888) 258-8333

Lansing Charter Commission,

Plumbers and Pipefitters Local 333 Stands with the Lansing Board of Water and Light. The Lansing Board of Water and Light has been a staple in the Lansing community for many years. Making countless investments in the community, including jobs and infrastructure, and keeping its consumer rates lower than the national rate. The LBWL selling to private equity would be detrimental to Lansing area power sourcing. Lansing has a voice at the table with the LBWL; all board members are appointed by the Mayor of Lansing and confirmed by the City Council, who are voted on by the people of Lansing, keeping LBWL accountable for its actions here in Lansing.

Thank you,

Dustin Howard
Business Manager U.A. Local 333

November 7, 2024

Lansing City Charter Commission
City Hall
124 W. Michigan Avenue
Lansing, MI 48933
chartercommission@lansingmi.gov

Sent via Email and U.S. Mail

Lansing City Charter Commission,

This letter presents two proposals the Lansing Board of Water & Light (BWL) would like the Charter Commission to consider as it deliberates whether amendments to the Lansing City Charter provisions related to the BWL are needed. First, the BWL has a long and prosperous history under the leadership of the existing system of an independent, appointed board of commissioners and there is no sound rationale for altering this very successful method of governance. Secondly, the BWL proposes some simple Charter amendments designed to align current and updated practices with the Charter's provisions pertaining to the BWL.

I. Governance by an Independent Board is a Best Practice for Municipal Utilities and Has Served the BWL and the City Well Since the BWL's Inception

A. Fast Facts

Originally formed as the Water Board of the City of Lansing in March of 1885 to provide water for safe drinking and fire protection, in 1892 the BWL took control of a local power plant and began to provide street lighting. Steam service was added in 1919 with the acquisition of Michigan Heat and Power Company. The BWL further diversified revenues in 2001 when it began the sale of chilled water.

From modest beginnings the BWL grew to become Michigan's largest municipally owned utility, and every day the BWL safely and reliably delivers all four utility services to about 100,000 discrete residential, commercial and industrial customers in the Lansing region. Much like other successful businesses in the community the BWL plays a significant role in the local economy with: operating revenues for the last three fiscal years of $397,149,164; $448,876,759; and $417,434,840, respectively; gross capital spend totaling $424 Million over the past three years; assets totaling $2 Billion; retirement plans valued at $300 Million with both plans fully funded; bond ratings of AA-(S&P), Aa3 (Moody's); 830 budgeted employees and 755 retirees.

B. Governance

The BWL is governed by an eight-member Board of Commissioners. The Mayor appoints the Commissioners for staggered terms of four years and appointments require confirmation by Lansing's City Council. A 2014 amendment to the Charter added three additional non-voting commissioners who represent the utility customer communities outside Lansing's city limits, one member each from the City of East Lansing and Delta Township, each serving four-year terms, and one member representing the Townships of Meridian, Delhi, Dewitt, and Lansing serving annually on a rotating basis.

This governance structure of an administrative board of appointed commissioners with exclusive authority over the operation of the utility has been in place from the beginning. Though ultimately responsible to the Mayor and City Council, the BWL has consistently been independent from direct oversight or management by the City. For example, one hundred fourteen years ago the 1912 version of the Charter became effective and included a comprehensive statement of the exclusive authority of the Board over the utility:

> Said board [of water-works and electric lighting] shall have *full, complete and entire charge, management, maintenance, repair, and control of the planning, constructing, operating, maintaining and repairing, all works of every kind already built, and hereafter to be built*, and used for the purpose of supplying the city, and the inhabitants thereof, with water, heat, electric lighting and electric power; said board shall purchase all materials and supplies therefor, including the right of way for water pipes, electric light poles, grounds for location for all necessary buildings, including wells to supply water, and make all contracts pertaining thereto. [Emphasis added. Lansing Charter § 298 (1912)]

The 1912 Charter also expressly prohibited members of the City Council from serving on the utility's board:

> The water-works and electric light commissioners shall receive no compensation for their services as members of said board, and they shall not be subject to removal from office except as prescribed in this charter. Any vacancy in the board of commissioners shall be filled for the unexpired term by the mayor. No *member of the board shall, during his term of office, be a member of the city council* . . . [Emphasis added. Lansing Charter § 298 (1912)]

This governance by an autonomous Board carries through to the present Charter using a more modern economy of words that still sets forth the same independent governance:

> The Board of Water and Light[1], hereinafter known as the Board, shall have the *full and exclusive management* of the water, heat, steam and electric services and such additional utility services of the City of Lansing as may be agreed upon by the Board and City Council. . . . [Emphasis added. Lansing Charter, § 5-201 (1978)]

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[11] The name change to "Lansing Board of Water and Light" first appears in the 1955 edition of the Charter.

Governance by an Independent Board is a Best Practice for Municipal Utilities Like the BWL. Like most municipally owned electric utilities the BWL is a member of the American Public Power Association (APPA) which describes itself on its website as:

> The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 54 million people that public power utilities serve, and the 96,000 people they employ. We advocate and advise on electricity policy, technology, trends, training, and operations.

Over the years members of BWL management and many commissioners have attended APPA governance training courses and made use of APPA publications which are widely considered to be best-in-class. One such APPA publication is the "Model City Charter Provisions" which, after acknowledging that some municipalities do not have an independent governing body, nonetheless presents the independent commission form of governance as the model:

> There is hereby created the Board of Public Utilities Commissioners of the city (the "Board"), which shall have *exclusive jurisdiction,* control, and policymaking responsibility of the Authority and all its operations and facilities. The Board shall have *all powers and duties possessed by the city* to construct, acquire, expand and operate municipal utility services, and to do any and all acts or things that are necessary, convenient, or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, reliable, economic and prudent administration and provision of such utility services.
>
> The Authority, under the supervision and control of the Board, shall operate as a separate unit of city government, except as otherwise provided in this charter. Both the Board and the Authority *shall be free from the jurisdiction, direction, and control of other city officers and of the city council, except as otherwise provided herein*. [Emphasis added. Model City Charter Provisions for a Public Utilities Authority, p 1 (2018)]

A copy of the Model City Charter Provisions is attached and though the Lansing Charter is not identical it is very much consistent with the tenants of the Model. See Attachment A. Neither the Charter nor the APPA expound on the rationale for independent governance of the municipal utility, but the practical effect is the creation of an entity that, though ultimately beholden to the City, is nonetheless free to operate like the business it is without direct or day-to-day decision making and direction from elected officials. Rate making may illustrate this point in that increasing rates to maintain and improve the utility is never a popular program and it is made all the more difficult when the persons who are responsible for that decision do not have a degree of separation from the electorate who will bear the cost of that decision. Ultimately of course, a board with the authority to raise rates must answer to the elected officials, but one level of separation allows them to make an unbiased business decision free from electoral pressures.

The independent governance model has served the City of Lansing and the BWL well for many years and it should not be altered.

II. The BWL Recommends Several Amendments to Article 5, Chapter 2 - Board of Water and Light, to Align the Charter with Contemporary Practices

The BWL proposes the following amendments to five sections of Article 5, Chapter 2 of the Charter which are intended to update the provisions pertaining to the BWL without departing from the overall construct and substance of the current Chapter.

1. Section 5-201 General Responsibility

Two amendments to Section 5-201 are proposed for the purpose of:

(a) adding “Chilled Water” to the list of utility services consistent with prior approval by the BWL and City Council in 1989 and 1999, respectively (Attachment B – Chilled Water Resolutions), and

(b) adding the term” thermal energy” to encompass the current references to “heat” and “steam” as well as expressly including “hot water” as a thermal energy resource. The BWL’s aging steam system is likely to be replaced over the years by a much more efficient heat or hot water system.

> The Board of Water and Light, hereinafter known as the Board, shall have the full and exclusive management of the water, chilled water, thermal energy, including heat, hot water and steam, and electric services and such additional utility services of the City of Lansing as may be agreed upon by the Board and City Council. The Board shall be responsible to the Mayor and the City Council for the provision of these services in a manner consistent with the best practices.

2. Section 5-202 Director, Internal Auditor, Secretary.

"General Manager" is the title commonly used by municipal utilities for the Chief Executive Officer of the utility. For example, the APPA’s Model City Charter Provisions uses General Manager, Attachment A, p 3. Therefore, replacing the title “Director” with “General Manager” is recommended.

> .1 The Board shall appoint a General Manager ~~Director~~ who shall be responsible to the Board for carrying out the duties assigned by the Board and shall serve at its pleasure.

3. Section 5-203 Powers of the Board

The City and the BWL have for many years completed their own separate audits at their own expense and this section should reflect this contemporary practice.

> .9 The Board may conduct whatever audits of the Board of Water and Light activities it deems appropriate and shall be responsible for the cost of such audits ~~compensate the City for the cost of that portion of the annual audit of the City which covers the Board of Water and Light~~.

4. 5-204 Withdrawal of funds.

The BWL manages its funds separately from the City. If there was ever a time when the BWL deposited its funds with the City no records or memories of such a practice have been found. Although this lack of evidence as to whether the practice set forth in the Charter was ever put into practice or some explanation as to why the practice came to an end is not ideal, on a positive note what can be said is that the actual practice of the BWL managing its own funds has worked well and after many separate independent audits of both City and BWL finances, there has never been an adverse finding related to the practices of separate funding and banking practices. On the contrary, each year, as part of the external financial audit, the external auditors are required to consider the BWL's internal control over financial reporting for the purpose of expressing opinions on BWL's financial statements. This annual audit, in which cash and investments are a key area of focus, is consistently completed without any finding of deficiencies in BWL's internal control that would constitute a material weaknesses.

Moreover, the complicated Withdrawal of Funds protocols as currently set forth are at best cumbersome and at worst unworkable. Given the lack of any trouble with the current system of separate accounting, it is appropriate to amend the Section to comport with current practices that are working well. The BWL therefore recommends that this section be amended to expressly authorize the BWL to maintain and manage its own funds consistent with current practices.

> .1 The funds and revenues of the Board of Water and Light shall be deposited in the ~~City Treasury and shall be credited only to the funds and~~ accounts of the Board of Water and Light. ~~They shall not be withdrawn or used for any other purpose whatsoever.~~ The Board shall have and exercise full control over all of the funds of the Board of Water and Light. ~~in the City Treasury~~.
>
> .2 All warrants drawn for the payment of money under the authority of the Board shall be signed by the General Manager and countersigned by the Secretary of the Board. ~~and countersigned by the City Controller~~.
>
> .3 Whenever warrants are issued and there is no money for the payment of the warrant, the Board ~~City Treasurer~~ shall, upon presentation of the warrant, stamp the date of presentation on the face of the warrant, together with a statement that the warrant will bear interest thereafter at the rate of six (6) percent per year. The interest shall cease after notice has been

given to the holder, in the manner determined by the Board, that there is sufficient money of the Board of Water and Light on hand to pay the warrant with interest. Warrants of the Board of Water and Light are not general obligations of the City.

.~~4 The Council may provide, by ordinance, procedures for the disbursement of moneys of the Board of Water and Light by check issued by the Secretary of the Board in accordance with the ordinance.~~

5. 5-206 Collection and Hearing Procedure

The BWL has a procedure for the resolution of billing or service disputes that comports with the City Charter. A copy of Rule 8 – Disputes and Hearing Procedure, for electric services is attached but the rules is the same across all four utilities. See Attachment C. It is rarely necessary to invoke the dispute resolution process because such disputes are resolved without resort to the relatively complex protocol of Rule 8.

Lansing Ordinances, 8-304.3, however, takes a much simpler approach to dispute resolution requiring that "The City shall establish a procedure for the resolution of disputes between the City and any of its customers concerning public utility services other than electric, water, and steam services." The following amendment is proposed to align the BWL's dispute resolution process with that of the City Ordinance:

> The Board shall establish a procedure for the resolution of disputes between the Board of Water and Light and any of its customers concerning services or billing for services furnished in accordance with filed rates, rules and regulations, and established Board policies and procedures. ~~The procedure shall incorporate the designation of an independent hearing officer. The hearing officer shall report to the Board and the Mayor the results of each hearing conducted and shall make recommendations to the Board on any hearing which has not been resolved. The Mayor may make recommendations to the Board on each unresolved hearing. The Board shall report its final action on any unresolved dispute, together with the hearing officer's report and recommendations to the Mayor and the City Council~~.

A redline and clean version of these amendments to Article 5, Chapter 2 are attached, Attachment D.

In conclusion, thank you for considering the BWL's point of view and please let me know if you have any questions.

Sincerely,

Richard R. Peffley

Richard R. Peffley

Attachment A

Model City Charter Provisions

Model City Charter Provisions

For a Public Utilities Authority

AMERICAN PUBLIC POWER ASSOCIATION
Powering Strong Communities

Foreword

These Model City Charter Provisions are designed to assure an adequate legal and organizational basis for efficient, reliable, and financially sound performance by municipally owned utilities. Model provisions can serve as useful guides, but city officials (including the Law Director or City Attorney) and citizens concerned with a charter revision will need to review and adapt these suggestions to the situation in their particular city, and to applicable state laws. Provisions such as those calling for appointment of utility commissioners by the mayor may not meet local conditions, since in many communities utility commissioners are elected. In some cities, there is no utility commission; the city council oversees the operations of the municipal utility(ies). The term “city” in this document also refers to any other type of local government organization or political subdivision, such as towns or villages.

The purpose of this document is to provide a general guideline, based on the experience of a number of municipal electric utility systems in the United States. It is imperative that bond counsel and local counsel review these model provisions for their applicability and suitability to local conditions.

These Model City Charter Provisions for a Public Utilities Authority were first prepared in 1952. Revisions were made in 1962, 1977, 1986, 1996, 2012 and 2018.

The 2018 review and revisions were made by the associates and partners of Duncan & Allen, Washington, D.C. and American Public Power Association staff Ursula Schryver, Vice President of Education & Customer Programs and LeAnne Sinclair, Director of Customer Programs.

Published by the American Public Power Association
2451 Crystal Drive
Arlington, Virginia 22202

Authority

Public Utilities Authority

There is hereby created a Public Utilities Authority for the City of _______________ (the “Authority”), which shall be responsible for the planning, development, production, purchase, transmission, and distribution of all electricity, gas, water, telecommunications, cable television, and other utility-related services by the city.

Board, Its Organization & General Provisions

Board of Public Utilities Commissioners

There is hereby created the Board of Public Utilities Commissioners of the city (the “Board”), which shall have exclusive jurisdiction, control, and policymaking responsibility of the Authority and all its operations and facilities. The Board shall have all powers and duties possessed by the city to construct, acquire, expand and operate municipal utility services, and to do any and all acts or things that are necessary, convenient, or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, reliable, economic and prudent administration and provision of such utility services.

The Authority, under the supervision and control of the Board, shall operate as a separate unit of city government, except as otherwise provided in this charter. Both the Board and the Authority shall be free from the jurisdiction, direction, and control of other city officers and of the city council, except as otherwise provided herein. The Authority may sue or be sued in its own name. All damage claims arising from the operations of the Board and the Authority shall be paid by the Board, acting on behalf of the Authority, from the appropriate funds of the respective utility systems of the Authority. The Board may, from time to time, make, establish, alter, or amend bylaws, rules and regulations not in conflict with law or this charter for the transaction of its business.

Organization of the Board

(a) Number of commissioners.

The Board shall consist of five commissioners, to whom may be added, at the discretion of the city council, either the mayor, or the city manager, or a representative of the council, as an ex officio member without vote.

(b) Appointment and tenure.

The commissioners shall be nominated by the mayor and confirmed by the council. The first commissioners shall be appointed to serve initial terms of one, two, three, or four years, from the first Monday of the month following the effective date of this charter. The initial term of each commissioner will be designated by the mayor, provided that no more than two commissioners may serve a coterminous term. Subsequent appointments shall be for terms of four years, unless the commissioners shall be removed from office as provided in subsection (d) of this section. No commissioner shall serve for more than two consecutive terms. Members shall continue to hold office after the expiration of their respective terms until such time as the nominated replacement is confirmed by the council.

(c) Vacancies.

Vacancies shall be filled by the mayor, with the approval of the council, for the balance of any unexpired term. No vacancy on the Board shall impair the right of the remaining commissioners to exercise all the powers of the Board.

(d) Qualifications.

All commissioners must be residents of the municipality and customers of the Authority at the time of their appointment and during their terms of office. No voting commissioner may hold any city office or be an employee of the city government or conduct any business with the Authority. A commissioner convicted of a felony shall be removed from office. In addition, commissioners may be suspended or removed from office by the mayor, for cause and with the approval of the council. The council will review any suspension or removal within 30 days.

(e) Compensation.

Commissioners serve on a volunteer basis and shall not be compensated for their services. Commissioners may be reimbursed for expenses (including any training expenses) incurred in carrying out their official duties, to the extent reasonably related thereto.

(f) Officers.

The Board by majority vote shall elect from among its members a chairman who shall preside over the meetings of the Board, and a vice-chairman who shall act for the chairman during absences. The general manager or other staff member(s) of the utility shall be responsible for maintenance of records. Election of officers shall be held at the first regular meeting at which all members are present following the appointment of a new commissioner for a full term, but not later than the second meeting following the appointment.

(g) Meetings.

(i) The Board shall establish a schedule of meetings. Special meetings can be held as required following appropriate notice. The Board shall adopt rules for the conduct of its meetings. No action shall be taken by the Board except by the affirmative vote of at least three commissioners, who shall constitute a quorum.

(ii) Meetings and documents of the Board are open and available to the public, as required by and subject to open meetings and open records laws of the State. Subject to the foregoing, where materials and/or discussions pertain to such issues as utility personnel, property acquisition or disposal, potential or actual litigation, or to power supply proposals, negotiations, trade secrets, competitive confidential business information, or contracts, executive sessions or privacy exclusions may be employed.

(iii) The regular meeting of the Board shall be the _______ day(s) of each month at _____ p.m. All meetings of the Board shall be held in (name of room) of the City Hall, unless otherwise announced. The agenda for each meeting of the Board, and the announcement of an alternate meeting location, shall be posted in a public place, at least 72 hours in advance of the proposed meeting.

(h) Errors and omissions.

The Authority shall hold harmless and indemnify its commissioners, general manager, agents, and employees to the full extent permitted by law, including, but not limited to, all liabilities, expenses, and losses incurred by such persons in connection with acts or failures to act, other than those constituting gross negligence or willful violations of laws (as determined by a final decision of a court of competent jurisdiction), committed within the scope of their duties, and shall defend, at the Authority's expense (including by advancing legal expenses where necessary and appropriate), all related claims and suits.

Organization of the Authority

(a) Divisions.

Within the Authority there shall be separate divisions for the electricity, gas, water, telecommunications, cable television, and any other utility operations. Separate funds and accounts shall be kept for each division as required by the uniform systems of accounts for each such utility, as promulgated by the Public Utilities Commission of the state or the Federal Energy Regulatory Commission. Each division shall be operated independently of the others, except insofar as the Board determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated among the divisions of the Authority.

(b) Policy.

The Board shall establish an annual budget and written policies governing utility operations to cover such areas as employees' duties, customer rates, service rules and termination procedures, expenditures of funds, long-range planning, and other appropriate activities.

(c) General manager.

The Board shall appoint and employ a general manager who shall be qualified by training and experience for the overall management of the Authority. The general manager shall serve at the pleasure of the Board, which shall determine his/her salary, and shall have such authority as delegated by the Board. The general manager shall determine the number of employees and, if appropriate, contractors, necessary for the operation of the utility, and establish their duties and compensation. The general manager shall have control of all actual construction and repairs, the immediate management and operation of the Authority, and the enforcement and execution of all rules and regulations, programs, plans, policies and decisions made or adopted by the Board. The general manager shall maintain suitable permanent records regarding actions taken. The general manager shall prepare (or oversee the preparation of) plans and specifications, take bids, and execute contracts, subject to the direction and approval of the Board. The general manager shall prepare and submit to the Board periodic reports on the Authority's financial condition, reliability of service and compliance with local, state, and federal laws.

(d) Other employees.

There shall be such other officers and employees of the Authority as may be provided by the Board. The officers and employees shall be appointed and removed by the general manager subject to the provisions of applicable local, state and federal laws or binding contracts entered into between employees and the Authority.

(e) Surety bonds.

The Board may require surety bonds for any of the officers and employees of the Authority in such amounts as the Board deems necessary. The premiums for the bonds shall be paid by the Authority in the same manner as any other operating expense.

Powers and Duties of the Board

(a) Real estate and contracts.

The Board, in the efficient and economical operation of the Authority, both inside and outside city limits as state law permits, may: (1) sell the Authority's products and services to public and private corporations and to other consumers; (2) construct, operate and maintain generating plants, distribution systems, transmission lines, and other facilities, including analogous facilities to produce, distribute and transmit other utility services; (3) purchase real estate and franchises; and (4) enter into all contracts, leases, and agreements in furtherance thereof.

(b) Extensions of services.

The Board may adopt regulations governing extensions of service of the Authority both inside and outside city limits in accordance with state law. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the city whether on public or private property. The Board may provide for refunds where advances by the person benefited are necessary to make extensions compensatory.

(c) Joint operations with others.

Subject to applicable state law, the Board may, on behalf of the Authority, enter into contracts and agreements with any public or private corporation(s) or any person(s) or individual(s), both inside and outside the boundaries of the city and state: (1) for the joint use of property belonging either to the Authority or to the other contracting party(ies) or jointly to both/all parties; and (2) for the joint acquisition of real and personal property, rights and franchises, and the joint financing, construction, and operation of plants, buildings, transmission lines, and other utility-related facilities.

(d) Eminent domain.

The Authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain in like manner as the city, and to the same extent as the city, when the Board determines that public necessity or convenience requires such action.

(e) Use of thoroughfares for utility installations.

The Authority may use the ground or space over, under, or along any public way (including any road, railway, highway, street, sidewalk, thoroughfare, alley, or waterway) in its operations, but shall in all cases, and subject to the applicable general regulations of the city and state, cause the surface of the public way to be restored to its usual and prior condition.

(f) Rates.

The Board shall determine rates to be charged for gas, electricity, water, communications, and other utility services rendered by the Authority. Rates shall be just, reasonable, compensatory, and with no undue preference or discrimination, provided that the Board may set special rates, by contract or by rate schedule, if reasonably justified by economic development or other community and municipal goals, provided that such special rates shall not place undue hardships or jeopardize reliable service to other customers or customer classes. The Board may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of the deposits when satisfactory consumer credit has been established or upon the cessation of utility service after payment of all amounts oweing, at the discretion of the Board.

(g) Authorization for expenditures.

No money shall be drawn from the funds of the Authority nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the Board. Without prejudice to the generality of the foregoing, payments in the general course of business shall be made to the extent evidenced by documentation approved by the general manager or by some other employee to be designated by the general manager.

(h) Use of utility funds.

All utility revenues shall be directed to the provision of utility services and not applied to the general fund of the city, unless the transfer of revenues constitutes a payment in lieu of taxes. A formula shall be established for these transfers to the general fund of the city that does not place an unreasonable financial burden on the electric utility or its consumers. Any shared utility/city funds or services (e.g., support of such city departments as human resources, legal, information technology or others) or services supplied gratis or at a discount to the city (e.g., streetlighting, holiday lighting, lighting for municipal buildings) shall be accounted for directly and explicitly to assure that the totality of value transferred from the utility to the city is consensual, appropriate, transparent and recognized.

(i) Bond issues and other indebtedness.

Subject to applicable state laws, the Board may authorize the issuance and sale of revenue bonds or other types of indebtedness necessary to finance the acquisition, construction, improvement, and extension of the utility facilities owned by the city or Authority, including facilities owned or operated jointly with others. Use or issuance of general obligation bonds may entail approval by the city council.

(j) Short-term indebtedness.

The Board may borrow money up to and not exceeding $_______ for periods not to exceed ____ years and may issue negotiable notes, payable from the revenues of the Authority or a division thereof, as evidence of the indebtedness. The action of the Board may be by resolution, which may be adopted at the same meeting at which the resolution is introduced and shall take effect immediately upon adoption. The Board will limit short-term borrowing to capital expenditures that have a measurable life/schedule of depreciation. The Board will not engage in short-term borrowing to fund utility operational expenses, except to address very brief and minor cash flow considerations.

(k) Public information expenditures.

The Board may authorize reasonable expenditures to acquaint the public with the policies, operations, programs, and plans of the Authority, or to protect the integrity, reliability, public ownership, competitiveness and ability to extend service of the utility(ies).

(l) Investment of surplus funds.

The Board may invest surplus funds of the Authority in securities that are safe and authorized by bond resolution, by state investment regulations, or other specific action by the Board.

(m) Accounting, finance, budget and planning reports.

The Board, in addition to the reports and accounting it may otherwise be required by law to make, shall furnish to the city council its annual financial report, which shall include a balance sheet and a statement of operations showing the financial condition of the Authority and each separate division, prepared according to the uniform system of accounts or generally accepted public utility accounting principles required by the Public Utilities Commission of the state or the Federal Energy Regulatory Commission. The funds and accounts of the Authority shall be audited annually by a certified public accountant, and shall be open to public inspection. The Board shall also annually prepare a budget forecast for the ensuing year and furnish a copy to the mayor and the city council. If the budget requires payments to or from the general fund of the city, it shall be submitted to the mayor and the council in a manner prescribed by the charter for the use of such funds. The Board may also submit to the city council information concerning long-term power supply arrangements, capital improvement projects, and other programs that may have an impact on the city.

(n) Delegation of powers.

While the Board must retain certain powers to itself, i.e., budget approval, rate-setting, and issuance of long-term indebtedness, it may from time to time delegate in writing other powers to officers or employees responsible to it, as necessary.

General Provisions

(a) Disposition of public utilities.

The city shall have no authority to cease to operate, or to sell, lease, abandon, or in any other way dispose of any public utility owned by it, without first holding a public hearing during which the city's financial advisor shall present a report to the city council concerning all relevant revenues and savings associated with the Authority throughout the city's ownership, and an analysis of all revenues, benefits (such as, but not limited to, reduced rates for municipal services, economic development, employment, local control, etc.) and savings to be lost by the city through the proposed sale of the Authority.

There shall be two council votes of at least four out of five Board members, with such two votes at least 12 months apart, to call a referendum election concerning sale of the Authority. The city will hold a referendum election, which must be passed by a supermajority of two-thirds (66 2/3 percent) of the voters, voting at the election, to approve such sale.

(b) Existing obligations.

Contracts and obligations relating to the utility systems of the city entered into or incurred prior to the effective date of this charter shall not be impaired and shall be binding upon the Board and the Authority, insofar as they apply to the Authority.

(c) Repeal of prior statutes.

All statutes and parts of statutes inconsistent with any provision of this charter are hereby repealed.

(d) Separability of provisions.

The sections and subsections of this charter are declared to be separable, and in the event any one or more sections, subsections, or parts thereof be declared unconstitutional, illegal or unenforceable, such determination shall not affect the validity of other provisions of this charter.

(e) Effective date of charter.

This charter shall take effect ____ days from and after its adoption by ordinance passed by the city council.

AMERICAN PUBLIC POWER ASSOCIATION
Powering Strong Communities

2451 Crystal Drive
Suite 1000
Arlington, VA 22202-4804
PublicPower.org

Attachment B

Chilled Water Resolutions

BOARD OF WATER AND LIGHT 4170
Chilled Water Service and
Central Utilities Complex
5/24/99

Record ID	4170
Category ID	
Contract Type ID	
Contractor Name	Board of Water and Light
Committee List ID	
Description	Chilled Water Service & Central Utilities Complex. Council Res #247 approving CUC to provide General Motors (GM) total utility services and District Cooling System. Council Res #438 approving Special Land Use at 327 S Walnut for BWL Chiller Facility
Date	05/24/1999
Roll	
Frame	

FUNDS WITH NO ADDITIONAL OUTLAY OF CITY OF LANSING FUNDS NECESSARY AS MATCH; AND

WHEREAS, THE LANSING BROWNFIELD REDEVELOPMENT AUTHORITY AND THE DEPARTMENT OF PLANNING AND NEIGHBORHOOD DEVELOPMENT, ARE WORKING TO REDEVELOP BROWNFIELD SITES IN THE CITY OF LANSING; AND

WHEREAS, THE GENERAL MOTORS CORPORATION PROPERTY NEAR TOWNSEND STREET HAS BEEN IDENTIFIED AS A BROWNFIELD SITE FOR REDEVELOPMENT, AND THE PROPOSED REDEVELOPMENT PROJECT IS CONSISTENT WITH THE CURRENT ZONING OF THE PROPERTY AND THE CITY'S MASTER PLAN; AND

WHEREAS, ENVIRONMENTAL ASSESSMENT AND RESPONSE ACTIVITIES ARE NECESSARY PRIOR TO ANY REDEVELOPMENT,

NOW THEREFORE BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF LANSING, MICHIGAN HEREBY AUTHORIZES THE DEPARTMENT OF PLANNING AND NEIGHBORHOOD DEVELOPMENT TO SUBMIT AN APPLICATION TO THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE PURPOSE OF REQUESTING SITE RECLAMATION FUND MONEY, AND THAT THE DEPARTMENT DIRECTOR, DENNIS ;J. SYKES, IS DESIGNATED AS THE PROJECT REPRESENTATIVE, AND

BE IT FURTHER RESOLVED, THAT UPON THE GRANT BEING OFFERED TO THE CITY, THE MAYOR IS AUTHORIZED TO ENTER INTO THE GRANT AGREEMENT AND TO DIRECT, ASSIGN AND CONTRACT FOR THE ADMINISTRATION AND MONITORING OF THE GRANT, INCLUDING THE ESTABLISHMENT OF APPROPRIATE GRANT ACCOUNTS AND TRANSFERS.

BE IT FINALLY RESOLVED, THE PROPOSED BROWNFIELD REDEVELOPMENT PROJECT WILL BE UNDERTAKEN IF THE GRANT IS AWARDED.

BY COUNCILMEMBER MEYER

CARRIED UNANIMOUSLY

Aproval of Distrist Cooling System

RESOLUTION #247
RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LANSING
CENTRAL UTILITIES COMPLEX
AND DISTRICT COOLING SYSTEM
PROPOSED CITY COUNCIL RESOLUTION

WHEREAS, SECTION 5-201 OF THE LANSING CITY CHARTER GRANTS THE BOARD OF WATER AND LIGHT FULL AND EXCLUSIVE MANAGEMENT OF THE WATER, HEAT, STEAM AND ELECTRIC SERVICES, AND SUCH OTHER ADDITIONAL UTILITY SERVICES OF THE CITY OF LANSING AS MAY BE AGREED UPON BY THE BOARD AND CITY COUNCIL; AND

WHEREAS, THE BOARD WISHES TO CONSTRUCT AND OPERATE A DISTRICT COOLING SYSTEM IN THE CITY OF LANSING TO PROVIDE CHILLED WATER FOR SPACE CONDITIONING, AND TO CONSTRUCT AND OPERATE A CENTRAL UTILITIES COMPLEX FOR GENERAL MOTORS; AND

WHEREAS, PROVIDING CHILLED WATER AND CENTRAL UTILITIES WILL ALLOW THE BOARD TO SPREAD ITS COSTS OVER A LARGER VOLUME OF SALES, THUS KEEPING COSTS LOWER FOR ALL BWL CUSTOMERS; AND

WHEREAS, DISTRICT COOLING AND CENTRAL UTILITIES WILL ENABLE THE BOARD TO UTILIZE ITS EXISTING FACILITIES MORE EFFICIENTLY BY MANAGING DEMAND ON BOTH THE STEAM AND ELECTRIC SYSTEMS; AND

WHEREAS, A DISTRICT COOLING SYSTEM AND CENTRAL UTILITIES COMPLEX PROVIDE AN ECONOMIC DEVELOPMENT INCENTIVE TO STIMULATE GROWTH IN THE CITY OF LANSING; AND

WHEREAS A NUMBER OF BUILDING OWNERS AND CUSTOMERS IN THE CITY OF LANSING HAVE EXPRESSED INTEREST IN CONNECTING TO THE BOARD'S PROPOSED DISTRICT COOLING SYSTEM, AND GENERAL MOTORS HAS EXPRESSED INTEREST IN RECEIVING SERVICES FROM THE CENTRAL UTILITIES COMPLEX;

NOW THEREFORE BE IT RESOLVED THAT THE LANSING CITY COUNCIL HEREBY AGREES THAT THE BOARD OF WATER AND LIGHT, CONSISTENT WITH STATE LAW AND THE LANSING CITY CHARTER, MAY CONSTRUCT, OWN, AND OPERATE A DISTRICT COOLING SYSTEM AND A CENTRAL UTILITIES COMPLEX AND MAY SELL AND PROVIDE ALL OF THE ANCILLARY UTILITY SERVICES TO CUSTOMERS, INCLUDING COMPRESSED AIR, PROCESS CHILLED WATER, CHILLED WATER FOR HEATING/VENTILATION/AIR CONDITIONING (HVAC), PROCESS HOT WATER, BUILDING HOT WATER FOR HVAC, PROCESS COOLING WATER, DEIONIZED WATER, DISTRIBUTED ELECTRIC SUPPLY, INDUSTRIAL PRE-TREATMENT AND OUTDOOR LIGHT.

BY COUNCILMEMBER ALLEN

CARRIED UNANIMOUSLY

ORDINANCES FOR INTRODUCTION

THERE WERE NO ORDINANCES FOR INTRODUCTION

ORDINANCES FOR PASSAGE

BY COUNCILMEMBER ADADO

THAT WE MOVE TO THE PASSAGE OF ORDINANCES

CARRIED UNANIMOUSLY

BY COUNCILMEMBER ADADO

THAT THE ORDINANCE WHEN READ BY IT'S TITLE FOR A SECOND TIME, BE CONSIDERED AS READ IN FULL

CARRIED UNANIMOUSLY

BY THE COMMITTEE ON DEVELOPMENT AND PLANNING

LANSING, MICHIGAN

OFFICIAL PROCEEDINGS OF THE CITY COUNCIL CITY OF LANSING PROCEEDINGS OF SEPTEMBER 27, 1999

CITY COUNCIL CHAMBERS
LANSING, MICHIGAN

THE CITY COUNCIL OF THE CITY OF LANSING MET IN REGULAR SESSION AND WAS CALLED TO ORDER AT 7:00 P.M. BY PRESIDENT BENAVIDES.

PRESENT: COUNCILMEMBERS ADADO, ALLEN, BAUER, BEAL, BENAVIDES, LEEMAN, MEYER, MURPHY

ABSENT: NONE

THE INVOCATION AND PLEDGE OF ALLEGIANCE WERE LED BY COUNCILMEMBER ALLEN

APPROVAL OF MINUTES

BY COUNCILMEMBER ALLEN

TO APPROVE THE PRINTED COUNCIL PROCEEDINGS OF SEPTEMBER 20, 1999

CARRIED UNANIMOUSLY

CONSIDERATION OF LATE ITEMS

BY COUNCILMEMBER ADADO

TO ACCEPT THE FOLLOWING UNDER SUSPENSION OF THE RULES:

1. FROM COUNCILMEMBER ADADO; A RESOLUTION AUTHORIZING ACT-05-99; 327 S. WALNUT SPECIAL LAND USE FOR THE BOARD OF WATER & LIGHT CHILLER FACILITY

2. FROM COUNCILMEMBER ADADO; REZONING ORDINANCE FOR PASSAGE, Z-10-99; 327 S. WALNUT REZONING ORDINANCE

3. FROM COUNCILMEMBER ADADO; A COMMITTEE REPORT FROM THE DEVELOPMENT AND PLANNING COMMITTEE RECOMMENDING ADOPTION OF Z-10-99; 327 S. WALNUT

3. FROM COUNCILMEMBER MURPHY; A LETTER FROM SHEREE WATSON OF 1412 W. ALLEGAN REGARDING AN ODOR NEAR THE PARKING LOT AT SEXTON HIGH SCHOOL DURING A FOOTBALL GAME

4. FROM COUNCILMEMBER MURPHY; A LETTER FROM MARY HAUSER, NO ADDRESS GIVEN, REGARDING PROBLEMS WITH RENTAL PROPERTY LOCATED AT 801 N. CHESTNUT

CARRIED UNANIMOUSLY

(LATE ITEMS WILL BE CONSIDERED DURING THAT PART OF THE REGULAR MEETING TO WHICH THEY RELATE)

SPECIAL CEREMONIES &

ANNOUNCEMENT OF CITY EVENTS

▸ ANNOUNCEMENT OF CITY EVENTS:

MAYOR HOLLISTER ANNOUNCED THAT, IN OBSERVANCE OF OCTOBER AS "BREAST CANCER AWARENESS MONTH" THERE WILL BE A "BREAST CANCER AWARENESS TELETHON" HELD IN THE LOBBY OF CITY HALL ON TUESDAY, OCTOBER 5, 1999 FROM 9:00 A.M. TO 12:00 P.M. A PHONE BANK WILL BE SET UP AND CITY EMPLOYEES AND REPRESENTATIVES WILL CALL THEIR FRIENDS AND RELATIVES TO REMIND THEM TO HAVE THEIR MAMOGRAM. HE URGED COUNCILMEMBERS TO PARTICIPATE. HE ANNOUNCED THAT OCTOBER 16TH IS THE THIRD ANNUAL POLICE AND COMMUNITY RELATIONS CONFERENCE. THIS EVENT IS SPONSORED BY THE POLICE DEPARTMENT IN AN EFFORT TO WORK COLLABORATIVELY WITH THE COMMUNITY. THIS YEAR'S CONFERENCE WILL BE HELD AT THE LANSING CENTER FROM 8:00 A.M. TO 3:00 P.M. LUNCH WILL BE SERVED. PLEASE PARTICIPATE. THE LANSING AREA JAYCEES WILL HOLD A COMMUNITY FORUM ON Y2K COMPLIANCE ON TUESDAY, OCTOBER 5, 1999 FROM 7:00 TO 8:00 P.M. AT THE BEST WESTERN HOTEL ON W. SAGINAW. THERE WILL BE A PANEL DISCUSSION ON Y2K PREPAREDNESS. THIS FORUM IS FREE AND OPEN TO THE PUBLIC.

COUNCILMEMBER MURPHY CONGRATULATED THE WALNUT NEIGHBORHOOD ASSOCIATION ON BEING SELECTED AS THE 1999 COMMUNITY BUILDERS AND COMMUNITY ASSET AWARD WINNERS. ON THURSDAY, SEPTEMBER 30, 1999, HE WILL BE MEETING WITH THE RESIDENTS OF OLIVER TOWERS SENIOR APARTMENT COMPLEX. THEY WILL BE TALKING ABOUT CRIME AND PUBLIC SAFETY ISSUES. CAPTAIN RICK COOK FROM THE NORTH SIDE POLICE PRECINCT WILL BE PRESENT FOR THEIR DISCUSSION, WHICH WILL TAKE PLACE FROM 8:00 TO 11:00 A.M.

COUNCILMEMBER MEYER ANNOUNCED THAT HIS WIFE WORKS AT THE COMPREHENSIVE BREAST HEALTH CLINIC AT MSU. THEY WILL HOLD A "BREAST CANCER AWARENESS WALK" FROM THE CAPITOL. THIS IS AN ALL-AREA EVENT TO RAISE MONEY FOR BREAST CANCER RESEARCH.

COUNCILMEMBER ALLEN CONGRATULATED MRS. FENNER FROM FENNER ARBORETUM, WHO WILL BE CELEBRATING HER 100TH BIRTHDAY ON OCTOBER 1ST, AND WISHED HER A HAPPY BIRTHDAY.

COUNCILMEMBER BENAVIDES ACKNOWLEDGED AND WELCOMED THE LANSING COMMUNITY COLLEGE POLITICAL SCIENCE CLASS THAT IS PRESENT TONIGHT TO OBSERVE THE CITY COUNCIL PROCEEDINGS.

▸ SPECIAL CEREMONIES

A. MAYOR HOLLISTER INTRODUCED JERRY DUNN OF THE FIRE MARSHALL'S OFFICE. MR. DUNN ANNOUNCED THEIR "GREAT ESCAPE CELEBRATION" IN RECOGNITION OF FIRE

PREVENTION WEEK. THEY WILL HOST AN OPEN HOUSE, SATURDAY, OCTOBER 9, 1999 AT FIRE STATION #8 LOCATED AT 815 MARSHALL STREET FROM 10:00 A.M. TO 1:00 P.M. THEY HAVE A NUMBER OF ACTIVITIES PLANNED. THIS EVENT IS OPEN TO THE PUBLIC. THERE WILL BE A DISPLAY OF FIRE FIGHTING APPARATUS, A DISPLAY OF EXTRACTION EQUIPMENT AND TECHNIQUES. BARRY GAUKEL AND HIS SEARCH AND RESCUE DOG "RANGER" WILL BE ON HAND TO MEET PEOPLE, AND THERE WILL BE A NUMBER OF OTHER FIRE SAFETY TIPS AND INFORMATION.

B. MAYOR HOLLISTER PRESENTED A CHECK IN THE AMOUNT OF $500.00 TO STEVE MERCER, THE WINNER OF THE PRINCIPAL SHOPPING DISTRICT "SWING AROUND DOWNTOWN" CAMPAIGN. MR. MERCER THANKED MAYOR HOLLISTER AND THE PRINCIPAL SHOPPING DISTRICT, AND SAID THAT HE HAS BEEN WORKING ON CONSTRUCTION OF THE LOFT APARTMENTS IN DOWNTOWN AND WON THE CONTEST THROUGH HIS PATRONAGE AT "BLIMPIES."

C. MAYOR HOLLISTER, ALONG WITH COUNCILMEMBER MURPHY, MICHAEL ALEXANIIAN AND LPD OFFICER CRAIG BAYLISS, PRESENTED A RESOLUTION OF TRIBUTE TO SGT. YOSHIJI NOKANO, A POLICE EXCHANGE OFFICER FROM SHIGA PREFECTURE, JAPAN. MR. NOKANO THANKED THE MAYOR, THE SISTER CITIES COMMISSION AND CITY COUNCIL, AS WELL AS THE POLICE DEPARTMENT FOR INVITING HIM TO COME TO LANSING. HE HOPES THAT HE HAS MADE GOOD FRIENDSHIPS DURING HIS STAY WITH US. HE HAD A VERY GOOD TIME AND ENJOYED THIS EXPERIENCE VERY MUCH.

PUBLIC'S AND MAYOR'S COMMENT ON LEGISLATIVE MATTERS

▸ PUBLIC COMMENT ON SCHEDULED PUBLIC HEARINGS:

1. IN CONSIDERATION OF SLU-10-99; 231-237 S. WASHINGTON SQUARE, SPECIAL LAND USE PETITION TO ALLOW FOR CONSTRUCTION OF A 13 SPACE SURFACE PARKING LOT ON PROPERTY THAT CURRENTLY CONTAINS A LANDSCAPED PARK AREA

LES LIHSEMIER OF 2105 CHELTINGHAM BLVD. REPRESENTING DR. MALLORY, THE OWNER OF THIS PROPERTY, SAID THAT THEY HAVE REQUESTED THIS CHANGE TO ALLOW FOR PARKING FOR A DENTISTS OFFICE AT 107 WASHTENAW AND FOR THE ATTORNEY OFFICE ON WASHINGTON. IT WOULD BE AVAILABLE FOR USE BY CUSTOMERS OF ADJACENT BUSINESSES DURING THE NIGHT TIME HOURS. THEY HAVE PLANS FOR RELOCATING THE PLANTS THAT ARE CURRENTLY ON THIS LOT, IN ORDER TO BUFFER AND SCREEN THE PARKING AREA.

COUNCILMEMBER BEAL ASKED A FORMAL QUESTION OF THE CITY ATTORNEY. IF THE COUNCIL APPROVES THE SPECIAL LAND USE TO ALLOW FOR A SURFACE PARKING LOT ON WASHINGTON AVE. FOR DR. MALLORY, WHAT WOULD THEIR POSITION BE IF OTHER PROPERTY OWNERS MAKE THE SAME REQUEST BY TRYING TO TEAR DOWN OLD STRUCTURES AND REPLACE IT WITH PARKING ON A SURFACE LOT? SHE ASKED MR. SMIERTKA TO PRESENT COUNCILMEMBERS WITH A WRITTEN LEGAL OPINION ON THIS QUESTION.

COUNCILMEMBER MURPHY ASKED IF MR. MALLORY HAS PURCHASED THIS PROPERTY, OR IS THE SALE PENDING CONTINGENT ON THE SPECIAL LAND USE PERMIT BEING APPROVED?

MR. LIHSEMER ANSWERED THAT THE SALE IS CONTINGENT ON THE APPROVAL OF THE PERMIT.

COUNCILMEMBER MURPHY ASKED IF THE PURCHASER WILL GO THROUGH WITH THE PURCHASE IF THE PERMIT IS NOT APPROVED.

DR. MALLORY SAID THAT HE HAS NOT DECIDED ON HIS NEXT STEP AT THIS POINT.

COUNCILMEMBER ALLEN ASKED WHERE THE INGRESS/EGRESS TO THE PARKING LOT WOULD BE LOCATED.

MR. LIHSEMER ANSWERED THAT THERE WILL BE ONE ENTRANCE AND EXIT ONLY, AND IT WILL BE ON WASTHENAW.

COUNCILMEMBER BAUER SAID THAT SHE WANTS TO HEAR FROM THE PLANNING AND NEIGHBORHOOD DEVELOPMENT DEPARTMENT AS TO HOW THIS PROPOSAL FITS IN TO THE COMPREHENSIVE PLAN FOR THE DOWNTOWN AREA AND IN TO THE CITY'S MASTER PLAN.

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

▸ PUBLIC COMMENT ON LEGISLATIVE MATTERS:

EUGENE BUCKLEY OF N. HAYFORD ST. STATED A LIST OF CONCERNS HE HAS OVER TRAFFIC LIGHTS THAT ARE OBSCURED BY BUSINESS SIGNS.

RON BLOOMBERG OF 2126 MOORES RIVER DR., SPEAKING ON BEHALF OF THE STATE BAR OF MICHIGAN, STATED THEIR OPPOSITION TO THE BW&L CHILLER FACILITY. THEY HAVE MANY OBJECTIONS TO THIS PROJECT, BUT THE PROCESS HAS BEEN CONTINUED DESPITE THEIR CONCERNS. THIS HAS UPSET THE ADJACENT PROPERTY OWNERS AND IT IS NOT CONSISTENT WITH THE RIVER ISLAND MASTER PLAN, NOR IS IT CONSISTENT WITH THE LANSING CENTRAL PLAN. OTHER BUSINESSES IN THE AREA HAVE SIGNIFICANT SETBACKS, YET THIS BUSINESS WOULD ONLY HAVE A SEVEN FOOT SETBACK. THE PLANNING BOARD REPORT WAS NOT COMPREHENSIVE. THERE ARE OTHER SITES IN LANSING THAT ARE MORE SUITABLE FOR THIS PROJECT. THE DEVELOPMENT AND PLANNING COMMITTEE MADE CONDITIONS FOR THE APPROVAL OF THIS SPECIAL LAND USE, BUT THEY ARE NOT ADEQUATE. THE NOISE BUFFER IS NOT ENOUGH. THE BOARD'S PROPOSAL FOR A NOISE LIMIT IS 65-75 DECIBELS. THIS RANGE IS A MARGINALLY COMPATIBLE USE, AND IT IS NOT BEING A GOOD NEIGHBOR TO THE REMAINING PROPERTY OWNERS IN THIS AREA. THE DESIGN AND REVIEW COMMITTEE SHOULD HAVE THEIR ANALYSIS DONE BEFORE THIS PERMIT IS GRANTED. THIS SHOULD NOT BE APPROVED UNTIL THERE HAS BEEN A PROPOSAL AND AGREEMENT ON ADEQUATE DESIGN STANDARDS.

PAUL HARVEY OF LOWTHER RD., SHEFFIELD, ENGLAND, ON BEHALF OF JET ENGINEERING, SAID THAT THIS IS ONE OF THEIR PRIMARY BUSINESSES. THEY HAVE INVESTED AROUND $400,000,000 IN THEIR PLANTS AND EQUIPMENT IN THE

LAST FOUR YEARS. HE IS THE CFO FOR THIS GROUP, AND THIS IDD IS OF PARTICULAR INTEREST TO HIM. THEY ARE PLANNING ON CONTINUED INVESTMENTS IN THIS AREA, AND THIS IDD WOULD SIGNIFICANTLY HELP THEIR CAUSE. THEY MANUFACTURE ORTHOPEDIC COMPONENTS LIKE KNEES AND HIPS. HE ASKED FOR COUNCIL'S SUPPORT OF THEIR TAX ABATEMENT.

WILLY WILLIAMS OF 505 W. LENAWEE SAID THAT HE LIVES ONE BLOCK FROM THE PROPOSED SITE OF THE BW&L CHILLER FACILITY. THREE HUNDRED PEOPLE LIVE WITHIN A FEW BLOCKS OF THIS SITE. RESIDENTS IN THIS AREA ARE THERE 172 HOURS PER WEEK. THIS PROJECT IS MOVING ALONG WAY TOO FAST. THE TRIP TO CHICAGO TO HEAR AND VIEW THEIR CHILLER IS ALL WELL AND GOOD, BUT THEY DID NOT GO TO SEE THIS FACILITY AT 2:00 A.M., WHICH IS WHEN RESIDENTS IN LANSING ARE GOING TO BE THE MOST BOTHERED. THIS IS A $24,000,000 JOB. THE AESTHETICS ARE OKAY, BUT NOT FOR 24 HOURS PER DAY, IT LOOKS BASICALLY LIKE A BOX WITH WINDOWS IN IT.

DAVE ANDERSON OF 320 W. OTTAWA, SAID THAT HE IS AN ATTORNEY FOR MICHIGAN RADIO NETWORK AND MICHIGAN FARM NETWORK, WHICH IS OWNED BY THE SEGA CORPORATION. THE ISSUE TONIGHT IS RESPECT AND FAIRNESS TO THE RESIDENTS. HE IS PRIMARILY INTERESTED IN THE SOUND ISSUE, BECAUSE OF THE NATURE OF HIS CLIENT'S BUSINESS. THE FACILITY IN CHICAGO SOUNDS QUIET IN COMPARISON TO THE CROWD NOISES. THE BOARD HAS SAID THAT THEY WANT THE SAME KIND OF FACILITY AS THE ONE IN CHICAGO. IF THIS FACILITY IS APPROVED, IT SHOULD BE WITH THE SAME REQUIREMENTS FOR SOUND PROHIBITIONS. IF THE COUNCIL FOLLOWED FEDERAL STANDARDS, IT WOULD NOT ALLOW RESIDENTIAL USES OR MEDICAL AND CLINICAL USES IN AN AREA THAT CONTAINED THIS TYPE OF FACILITY. IT WOULD ONLY ALLOW INDUSTRIAL USES. THEY MEASURED THE DECIBELS IMPROPERLY. HIS CLIENT HAS FOUR STATE OF THE ART, WORLD CLASS STUDIOS AT THIS SITE. THESE STUDIOS WOULD BECOME TOTALLY UNUSABLE. THIS IS THE 19TH LARGEST BROADCASTING COMPANY IN THE NATION. THEY WOULD HAVE TO MOVE.

COUNCILMEMBER BEAL ASKED MR. ANDERSON WHAT THE DECIBEL LEVEL IS OVER THERE. MR. ANDERSON SAID THAT HE DOES NOT KNOW.

COUNCILMEMBER MEYER ASKED IF THE CONSOLIDATED COURTS FACILITY THAT IS PLANNED FOR THE AREA WOULD REDUCE THE DECIBEL LEVEL FROM THE CHILLER FOR ADJACENT BUSINESSES. MR. ANDERSON SAID THAT HIS CLIENT HAS A DIFFERENT KIND OF BUILDING AND CANNOT REMAIN IN BUSINESS AT THAT LOCATION IF THIS CHILLER IS PUT THERE.

COUNCILMEMBER BAUER SAID THAT THEY COULD REFUSE THIS REQUEST, ONLY TO HAVE AN OFFICE BUILDING CONSTRUCTED AT THIS SITE. MR. ANDERSON SAID THAT THEY WOULD WELCOME SUCH AN ALTERNATIVE.

COUNCILMEMBER ALLEN SAID THAT THE COMMENTS MAKE IT SOUND LIKE THE BW&L IS BEING IRRESPONSIBLE TO THE BUSINESSES IN THIS AREA. THAT IS NOT THE CASE. MR. PANDY HAS MADE MANY PROMISES THAT THEY WILL DO EVERYTHING IN THEIR POWER NOT TO DISRUPT ADJACENT BUSINESS USES.

STEPHANIE WHITBECK OF 620 W. IONIA SAID THAT THE BW&L CHILLER FACILITY IS INCONSISTENT WITH THE LAND USE. THE CURRENT LAND USE HAS THIS PROPERTY AS OFFICE AND MEDIUM RESIDENTIAL. THE REQUEST IS FOR A "G-1" BUSINESS DISTRICT CLASSIFICATION. SHE RECITED A LIST OF USES THAT WOULD BE ALLOWED IN THE "G-1" CLASSIFICATION. THE PROPOSED USE IS NOT ONE OF THEM. COUNCIL DOES NOT HAVE TO DECIDE ON THE PRACTICALITY OF THE CHILLER. THIS FACILITY BELONGS IN AN "I" HEAVY INDUSTRIAL AREA. THIS IS NOT AN ACCEPTABLE USE IN THIS AREA. COUNCIL HAS TO REJECT THIS BASED ON THE LAW THAT IS IN PLACE AT THIS TIME. THEY CAN CHANGE THE LAW, BUT THEY CANNOT PUT THIS FACILITY IN THIS AREA. THIS IS IN A CANYON OF STATE OFFICE BUILDINGS.

RON EGGLESTON OF 3314 PARKVIEW, A MEMBER OF THE "FRIENDS OF FENNER," SAID THAT HE LOVES LANSING PARKS. HE ASKED FOR COUNCIL'S SUPPORT OF THE ACQUISITION OF THE FENNER IN-HOLDING.

BRUCE MCCREY OF 1614 PEPPER TREE LANE, A MEMBER OF THE "FRIENDS OF FENNER," SAID THAT THE IN-HOLDING IS IN A GREAT AREA TO PROVIDE FOR THE EXPANSION OF FENNER. THE BOY SCOUTS, GIRL SCOUTS AND BROWNIES AND OTHER YOUTH GROUPS CAMP IN AN AREA BORDERED BY THE IN-HOLDING. IF THE CITY DOES NOT PURCHASE THIS PROPERTY, IT COULD BE BOUGHT BY SOMEONE WHO DEVELOPS IT AND THE PARK WILL LOSE IT'S NATURAL OUTDOORS AREA. IF THE CITY ACQUIRES IT, THEY CAN EXPAND THEIR CAMPING AREA. THIS IS A SIGNIFICANT EXPENDITURE, BUT BY UTILIZING STATE OF MICHIGAN GRANT FUNDS THE CITY WILL BE EXPENDING A VERY REASONABLE AMOUNT OF CITY FUNDS. HE URGED APPROVAL OF THIS ACQUISITION.

FERN FEATHERLY OF 501 RED CEDAR BLVD., IN WILLIAMSTON, A MEMBER OF "FRIENDS OF FENNER," SAID THAT THIS ACQUISITION IS IMPORTANT TO FENNER ARBORETUM. WE HAVE A CHANCE TO COMPLETE THIS AREA. THE FRIENDS OF FENNER ARE PLEDGING THEIR SUPPORT FINANCIALLY. THEY HAVE COMMITTED TO RAISING $25,000 OF THE MONEY NECESSARY TO COMPLETE THIS PROJECT.

NIA GODBALD OF 1499 STILLMAN IN MASON, A MEMBER OF "FRIENDS OF FENNER," SAID THAT IT ALWAYS BOTHERS HER TO HEAR THE DOGS BARKING WHEN SHE VISITS FENNER ARBORETUM. THIS ACQUISITION WOULD ALLOW THEM TO GET RID OF THIS KENNEL AND COMPLETE THE PARK.

CLARA BRETTON OF 3317 JEWELL, A NATURALIST AT FENNER NATURE CENTER, SAID THAT SHE HAS TO DEAL WITH THE BARKING DOGS YEAR ROUND. SHE ALSO HAS TO DEAL WITH HAVING TO WORK WITH THE IN-HOLDING YEAR ROUND. THIS IS AN OPPORTUNITY TO EXPAND THEIR SPACE AND THEIR SERVICES. THEY HAVE PROBLEMS WITH THE DOGS BARKING AND WITH HAVING THE FENCE AROUND THE IN-HOLDING. SHE URGED COUNCIL TO SUPPORT THIS ACQUISITION.

LEGISLATIVE MATTERS
RESOLUTIONS

RESOLUTION #437

BY COUNCILMEMBER LARRY MEYER
RESOLVED BY THE CITY COUNCIL
OF THE CITY OF LANSING

WHEREAS, THE CITY OF LANSING AND SHIGA, JAPAN HAVE IMPLEMENTED A POLICE OFFICER EXCHANGE PROGRAM IN AN EFFORT TO LEARN FROM THE DIFFERENT POLICING TECHNIQUES USED BY EACH COMMUNITY; AND

WHEREAS, YOSHIJI NAKANO, A SERGEANT AND COMMUNITY AFFAIRS SPECIALIST WITH THE SHIGA POLICE DEPARTMENT, VOLUNTEERED TO PARTICIPATE IN THE POLICE OFFICER EXCHANGE PROGRAM; AND

WHEREAS, DURING THE DURATION OF THE EXCHANGE, YOSHIJI NAKANO WOULD BE AWAY FROM HIS WIFE, MEGUMI, AND DAUGHTER, KOTONA, AND SON, KEITA; AND

WHEREAS, YOSHIJI NAKANO EAGERLY LEARNED HOW THE CITY OF LANSING POLICE HANDLED COMMUNITY POLICING, PREVENTING ON THE JOB INJURIES, CRIME VICTIM'S RIGHTS, TRAFFIC CONTROL AND TRAFFIC ACCIDENT PREVENTION PROGRAMS;

NOW, THEREFORE, BE IT RESOLVED THAT THE LANSING CITY COUNCIL, HEREBY, COMMEND YOSHIJI NAKANO FOR THE INTEREST HE HAS SHOWN AND HIS WILLINGNESS TO LEARN DIFFERENT TECHNIQUES USED BY THE LANSING POLICE DEPARTMENT.

BY COUNCILMEMBER MEYER

ADOPTED BY THE FOLLOWING VOTE:

YEAS: 7

NAYS: 1 (COUNCILMEMBER BEAL ABSENT AND UNEXCUSED FOR THE VOTE ON THIS ITEM)

ITEM VIII-B,2, RESOLUTION OF TRIBUTE FOR FIRE PREVENTION WEEK, WAS PULLED FROM THE AGENDA AT THE REQUEST OF COUNCILMEMBER MURPHY. IT WAS NOT AVAILABLE TO BE PRINTED.

BY COUNCILMEMBER ADADO

THAT THE ORDER OF THE AGENDA BE REARRANGED TO ALLOW FOR THE ADOPTION OF ORDINANCES FOR PASSAGE AT THIS TIME

CARRIED UNANIMOUSLY

COUNCILMEMBER ADADO PRESENTED THE REZONING ORDINANCE, Z-10-99; 327 S. WALNUT ST. FOR ADOPTION AT THIS JUNCTURE IN THE MEETING. THAT ORDINANCE, ORDINANCE #2442, REZONING OF 327 S. WALNUT ST., MAY BE FOUND UNDER THE HEADING "ORDINANCES FOR PASSAGE" WHICH FOLLOWS RESOLUTIONS FOR ACTION. ALSO AT THIS TIME, COUNCILMEMBER ADADO SUSPENDED THE RULES TO PRESENT THE FOLLOWING COMPANION RESOLUTION TO Z-10-99;

RESOLUTION #438

BY THE COMMITTEE ON DEVELOPMENT AND PLANNING
RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LANSING

SLU-5-99
327 S. WALNUT STREET
PUBLIC FACILITY USE: BWL CHILLER FACILITY

WHEREAS, THE LANSING BOARD OF WATER AND LIGHT HAS REQUESTED A SPECIAL LAND USE PERMIT (SLU-5-99) TO CONSTRUCT A BUILDING ON VACANT LAND AT 327 S. WALNUT STREET PRESENTLY USED FOR A PARKING LOT. THE BUILDING WOULD BE FOR PUBLIC UTILITY USE AS A CHILLED WATER FACILITY TO PROVIDE AIR CONDITIONING TO SURROUNDING BUILDINGS; AND

WHEREAS, THE PROPERTY MEASURES 99' x 165' AND CONTAINS 16,335 SQ. FT. WITH A BUILD ABLE AREA OF 88' x 165' AND IS PRESENTLY THE SUBJECT OF A REZONING REQUEST (Z-10-99) TO CHANGE THE ZONING FROM "E-2" LOCAL SHOPPING DISTRICT TO "G-I" GENERAL BUSINESS DISTRICT, AND

WHEREAS, ACCORDING TO THE ZONING CODE A SPECIAL LAND USE PERMIT FOR PUBLIC UTILITY USE WOULD BE ALLOWED IN EITHER OF THESE DISTRICTS; AND

WHEREAS, THE PLANNING BOARD HELD A PUBLIC HEARING ON JULY 7, 1999 AT WHICH TWO PERSONS FROM THE BOARD OF WATER AND LIGHT SPOKE IN FAVOR OF THE PROPOSAL; ONE PERSON SPOKE AND TWO LETTERS WERE RECEIVED IN OPPOSITION TO THE PROPOSAL; AND

WHEREAS, THE PLANNING BOARD AT THEIR MEETING ON JULY 20, 1999 MOVED (5 AYES; 1 NAY) TO APPROVE THE BOARD OF WATER AND LIGHT REQUEST FOR A SPECIAL LAND USE PERMIT (SLU-5-99) SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE DESIGN OF THE BUILDING SHOULD DE-EMPHASIZE ITS HEIGHT
- 2. THE SCALE OF THE BUILDING DESIGN REFLECTS A PEDESTRIAN EMPHASIS.
- 3. SETBACK OF THE THIRD STORY SCREEN WALL
- 4. THE PLANS SHOULD INCORPORATE A LANDSCAPE AREA DESIGN FOR THE RIGHT OF WAY AREA
- 5. THE DESIGN SHOULD CREATE A WALK OF PERMANENT ART.

WHEREAS, THE COMMITTEE ON DEVELOPMENT AND PLANNING HAS REVIEWED THE REPORT AND RECOMMENDATION OF THE PLANNING BOARD AND AFTER CONSIDERATION WISHES TO RECOMMEND APPROVAL SUBJECT TO THESE MODIFIED CONDITIONS:

- 1. THE CENTRAL CHILLER FACILITY WILL BE DESIGNED, ENGINEERED, CONSTRUCTED, OPERATED AND MAINTAINED SO AS TO MAINTAIN A DAILY AVERAGE SOUND LEVEL NOT TO EXCEED 70 DECIBELS (LD,) AT EACH OF THE ADJACENT PROPERTY OWNERS' RESPECTIVE BUILDINGS.
- 2. THE CENTRAL CHILLER FACILITY EXTERIOR DESIGN WILL BE REVIEWED BY A FIVE MEMBER DESIGN-REVIEW COMMITTEE SELECTED BY THE CITY COUNCIL WITH ONE

REPRESENTATIVE EACH FROM CITY COUNCIL, CITY PLANNING, THE BOARD OF WATER AND LIGHT, INGHAM COUNTY, AND ADJACENT PROPERTY OWNERS. THE BOARD OF WATER AND LIGHT WILL SUBMIT AT LEAST THREE ALTERNATIVE DESIGNS TO THE COMMITTEE BY OCTOBER 8, 1999. THE COMMITTEE WILL REACH A MAJORITY DECISION AND DIRECT THE BOARD OF WATER AND LIGHT TO PROCEED WITH THE SELECTED DESIGN BY NOVEMBER 1, 1999.

- 3. THE BOARD OF WATER AND LIGHT WILL, AT ITS EXPENSE, RELOCATE MICHIGAN RADIO NETWORK'S SATELLITE DISH EQUIPMENT TO A SUITABLE LOCATION WHERE THE EQUIVALENT SATELLITE SIGNAL LEVEL IS RECEIVED WITHOUT INTERFERENCE.

NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL HEREBY APPROVES THE REQUEST BY THE LANSING BOARD OF WATER AND LIGHT FOR A SPECIAL LAND USE PERMIT (SLU-5-99) FOR THE PROPERTY AT 327 S. WALNUT STREET TO CONSTRUCT A CENTRAL CHILLER FACILITY SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE CENTRAL CHILLER FACILITY WILL BE DESIGNED, ENGINEERED, CONSTRUCTED, OPERATED AND MAINTAINED SO AS TO MAINTAIN A DAILY AVERAGE SOUND LEVEL NOT TO EXCEED 70 DECIBELS (L_{DN}) AT EACH OF THE ADJACENT PROPERTY OWNERS' RESPECTIVE BUILDINGS.
- 2. THE CENTRAL CHILLER FACILITY EXTERIOR DESIGN WILL BE REVIEWED BY A FIVE MEMBER DESIGN REVIEW COMMITTEE SELECTED BY THE CITY COUNCIL WITH ONE REPRESENTATIVE EACH FROM CITY COUNCIL, CITY PLANNING, THE BOARD OF WATER AND LIGHT, INGHAM COUNTY, AND ADJACENT PROPERTY OWNERS. THE BOARD OF WATER AND LIGHT WILL SUBMIT AT LEAST THREE ALTERNATIVE DESIGNS TO THE COMMITTEE BY OCTOBER 8, 1999 IN ACCORDANCE WITH THE PLANNING BOARD'S CONDITIONS OF JULY 20, 1999. THE COMMITTEE WILL REACH A MAJORITY DECISION AND DIRECT THE BOARD OF WATER AND LIGHT TO PROCEED WITH THE SELECTED DESIGN BY NOVEMBER 1, 1999.
- 3. THE BOARD OF WATER AND LIGHT WILL, AT ITS EXPENSE, RELOCATE MICHIGAN RADIO NETWORK'S SATELLITE DISH EQUIPMENT TO A SUITABLE LOCATION WHERE THE EQUIVALENT SATELLITE SIGNAL LEVEL IS RECEIVED WITHOUT INTERFERENCE.

BE IT FURTHER RESOLVED THAT THIS SPECIAL LAND USE SHALL REMAIN IN EFFECT ONLY SO LONG AS THE APPLICANT FULLY COMPLIES WITH THE CONDITIONS SET FORTH ABOVE IN THIS RESOLUTION AND IF IT FAILS TO SO COMPLY, THE SPECIAL LAND USE MAY BE CANCELED AND TERMINATED BY CITY COUNCIL RESOLUTION.

BE IT FINALLY RESOLVED THAT IN GRANTING THIS REQUEST, THE CITY COUNCIL DETERMINES THE FOLLOWING:

- 1. THE PROPOSED CHILLER FACILITY, IN ITS FINAL DESIGN, WILL BE CONSTRUCTED TO BE GENERALLY COMPATIBLE AND IN CHARACTER WITH, WITH SURROUNDING LAND USES;
- 2. THE PROPOSED CHILLER FACILITY WILL NOT CHANGE THE ESSENTIAL CHARACTER OF THE SURROUNDING AREA IF DESIGNED TO BE COMPATIBLE;
- 3. THE PROPOSED CHILLER FACILITY WILL, WITH THE RELOCATION OF THE SATELLITE EQUIPMENT FOR THE MICHIGAN RADIO NETWORK, NOT INTERFERE WITH THE GENERAL ENJOYMENT OF ADJACENT PROPERTIES IN THE AREA;
- 4. THE PROPOSED CHILLER FACILITY WILL, WITH PROPER DESIGN, REPRESENT AN IMPROVEMENT TO THE PROPERTY AND SUPPORT THE DEVELOPMENT OF OTHER BUILDINGS
- 5. THE PROPOSED CHILLER FACILITY, UNDER THE CONDITIONS LISTED ABOVE, WILL NOT BE HAZARDOUS OR INVOLVE USES, ACTIVITIES, MATERIALS, OR EQUIPMENT WHICH ARE DETRIMENTAL TO THE HEALTH, SAFETY OR WELFARE OF PERSONS OR PROPERTY FROM THE EXCESSIVE PRODUCTION OF TRAFFIC, NOISE, FUMES, SMOKE, ODOR, OR GLARE;
- 6. THE PROPOSED CHILLER FACILITY IS ADEQUATELY SERVED BY ESSENTIAL PUBLIC FACILITIES AND SERVICES;
- 7. THE PROPOSED CHILLER FACILITY WILL NOT PLACE DEMANDS ON PUBLIC SERVICES IN EXCESS OF CURRENT CAPACITY;
- 8. THE PROPOSED CHILLER FACILITY WILL, WITH THE ZONING AMENDMENT FROM "E-2" LOCAL SHOPPING DISTRICT TO "G-I" GENERAL BUSINESS, MEET THE INTENT OF THE ZONING CODE, BUT IS NOT IN CONFORMANCE WITH THE COMPREHENSIVE PLAN WHICH INDICATES OFFICE USE IN THIS LOCATION;
- 9. THE PROPOSED CHILLER FACILITY WILL MEET THE SETBACK, DESIGN AND LANDSCAPING REQUIREMENTS OF THE "G-I" GENERAL BUSINESS DISTRICT.

BY COUNCILMEMBER ADADO

ADOPTED BY THE FOLLOWING VOTE:

YEAS: COUNCILMEMBERS ADADO, ALLEN, BENAVIDES, LEEMAN, MEYER, MURPHY

NAYS: COUNCILMEMBERS BAUER, BEAL

RESOLUTION #439

BY THE DEVELOPMENT AND PLANNING COMMITTEE
RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LANSING

WHEREAS, THE CITY OF LANSING RECEIVED AND FILED A REQUEST FROM JET ENGINEERING, INC. TO ESTABLISH A LANSING INDUSTRIAL DEVELOPMENT DISTRICT (IDD-3-99), PURSUANT TO PUBLIC ACT 198 OF 1974, AS AMENDED, ON PROPERTY LOCATED AT 5212 AURELIUS ROAD, LANSING, MICHIGAN MORE FULLY DESCRIBED IN THIS RESOLUTION; AND

WHEREAS, A PUBLIC HEARING ON THE PROPOSED ESTABLISHMENT OF AN INDUSTRIAL DEVELOPMENT DISTRICT (IDD-3-99) WAS HELD IN THIS 16TH DAY OF AUGUST, 1999, AT WHICH TIME ALL INTERESTED PERSONS, RESIDENTS AND TAXPAYERS HAVE HAD THE OPPORTUNITY TO APPEAR AND BE HEARD AND MAKE ANY OBJECTION THEY MAY HAVE TO THE PROPOSED DISTRICT; AND

WHEREAS, JET ENGINEERING, INC. HAS MET ALL THE

COUNCIL HEREBY CONCURS WITH THE RECOMMENDATION OF THE COMMITTEE OF THE WHOLE TO APPROVE THE TRANSFER OF THE CLASS B-HOTEL LICENSE WITH DANCE PERMIT TO LAGF OPERATING ASSOCIATES; AND

BE IT FURTHER RESOLVED, THE CITY CLERK IS REQUESTED TO NOTIFY LAGF OPERATING ASSOCIATES OF THE APPROVAL BY THE CITY COUNCIL.

BY COUNCILMEMBER BAUER

CARRIED UNANIMOUSLY

ORDINANCES FOR INTRODUCTION

THERE WERE NO ORDINANCES FOR INTRODUCTION

ORDINANCES FOR PASSAGE

BY COUNCILMEMBER ADADO

THAT WE MOVE TO THE PASSAGE OF ORDINANCES

CARRIED UNANIMOUSLY

BY COUNCILMEMBER ADADO

THAT THE ORDINANCE WHEN READ BY IT'S TITLE FOR A SECOND TIME, BE CONSIDERED AS READ IN FULL

CARRIED UNANIMOUSLY

BY THE COMMITTEE ON DEVELOPMENT AND PLANNING

BY COUNCILMEMBER ADADO

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING THAT THE ORDINANCE PROVIDING THAT THE CODE OF ORDINANCES, CITY OF LANSING, MICHIGAN, BE AMENDED BY PROVIDING FOR THE REZONING OF A PARCEL OF PROPERTY LOCATED IN THE CITY OF LANSING, MICHIGAN, AND FOR THE REVISION OF THE DISTRICT MAPS ADOPTED BY SECTION 1246.02 OF THE CODE FOR PROPERTY LOCATED AT Z-10-99, 327 S. WALNUT, BE PLACED ON ORDER OF IMMEDIATE PASSAGE.

CARRIED UNANIMOUSLY

BY COUNCILMEMBER ADADO

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING THAT THE ORDINANCE PROVIDING THAT THE CODE OF ORDINANCES, CITY OF LANSING, MICHIGAN, BE AMENDED BY PROVIDING FOR THE REZONING OF A PARCEL OF PROPERTY LOCATED IN THE CITY OF LANSING, MICHIGAN, AND FOR THE REVISION OF THE DISTRICT MAPS ADOPTED BY SECTION 1246.02 OF THE CODE FOR PROPERTY LOCATED AT Z-10-99, 327 S. WALNUT, BE NOW PASSED

YEAS: COUNCILMEMBERS ADADO, ALLEN, BENAVIDES, LEEMAN, MEYER, MURPHY

NAYS: COUNCILMEMBERS BAUER, BEAL

ABSENT: NONE

BY COUNCILMEMBER ADADO

THAT THIS ORDINANCE, BEING NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, OR SAFETY, SHALL TAKE EFFECT UPON IT'S PASSAGE

ADOPTED BY THE FOLLOWING VOTE:

YEAS: 7

NAYS: 1 (COUNCILMEMBER BEAL DISSENTING)

ORDINANCE #2442

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, PROVIDING FOR THE REZONING OF A PARCEL OF REAL PROPERTY LOCATED IN THE CITY OF LANSING, MICHIGAN AND FOR THE REVISION OF THE DISTRICT MAPS ADOPTED BY SECTION 1246.02 OF THE CODE OF ORDINANCES.

THE CITY OF LANSING ORDAINS:

SECTION 1. THAT THE DISTRICT MAPS ADOPTED BY AND INCORPORATED AS SECTION 1246.02 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING, MICHIGAN BE AMENDED TO PROVIDE AS FOLLOWS:

TO CHANGE THE ZONING CLASSIFICATION ON THE PROPERTY DESCRIBED AS FOLLOWS:

CASE NUMBER:	Z-10-99, 327 S. WALNUT STREET
PARCEL NUMBER:	PPN 3301-16-326-011
LEGAL DESCRIPTION:	LOT 7 AND SOUTH ½ OF LOT 8, BLOCK 126, ORIGINAL PLAT OF LANSING, SUBJECT TO THE DRIVEWAY EASEMENT RIGHTS AS GRANTED BY THE DOCUMENT IN L. 1329. P. 915, INGHAM COUNTY DEEDS, AND SUBJECT TO ANY AND ALL OTHER EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

FROM "'E-2"' LOCAL SHOPPING DISTRICT TO "G-1" BUSINESS DISTRICT.

SECTION 2. ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT WITH THE PROVISIONS HEREOF ARE HEREBY REPEALED.

SECTION 3. THIS ORDINANCE SHALL TAKE EFFECT THIRTY (30) DAYS FROM ITS PASSAGE UNLESS GIVEN IMMEDIATE EFFECT BY THE CITY COUNCIL.

GIVEN IMMEDIATE EFFECT BY MOTION OF COUNCILMEMBER ADADO.

MARILYNN SLADE, CITY CLERK

BY COUNCILMEMBER BEAL

THAT THE ORDINANCE WHEN READ BE CONSIDERED AS READ IN ITS ENTIRETY.

CARRIED UNANIMOUSLY

BY THE COMMITTEE ON PUBLIC SERVICES

BY COUNCILMEMBER BEAL

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING THAT AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LANSING BY AMENDING CHAPTER 688 BY PROVIDING FOR THE REPEAL OF SECTION 688.08 FOR THE PURPOSE OF REPEALING THE BAN ON FEMALE BOX ELDER TREES, BE PLACED ON ORDER OF IMMEDIATE PASSAGE.

CARRIED UNANIMOUSLY

BY THE COMMITTEE ON PUBLIC SERVICES

BY COUNCILMEMBER BEAL

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING THAT AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LANSING BY AMENDING CHAPTER 688 BY PROVIDING FOR THE REPEAL OF SECTION 688.08 FOR THE PURPOSE OF REPEALING THE BAN ON FEMALE BOX ELDER TREES, BE NOW PASSED.

YEAS: COUNCILMEMBERS ADADO, ALLEN, BAUER, BEAL, BENAVIDES, LEEMAN, MEYER, MURPHY

NAYS: NONE

ABSENT: NONE

ORDINANCE #1007

AN ORDINANCE REPEALING SECTION NUMBER 688.08 OF THE CODIFIED ORDINANCES, FEMALE BOX ELDER TREES, IN ITS ENTIRETY.

THE CITY OF LANSING ORDAINS:

SECTION 1. THAT SECTION NUMBER 688.08 OF THE LANSING CODIFIED ORDINANCES, ENTITLED *FEMALE BOX ELDER TREES,* IS HEREBY REPEALED IN ITS ENTIRETY.

SECTION 2. ALL ORDINANCES, RESOLUTIONS OR RULES, PARTS OF ORDINANCES, RESOLUTIONS OR RULES INCONSISTENT WITH THESE PROVISIONS ARE REPEALED.

SECTION 3. SHOULD ANY SECTION, CLAUSE OR PHRASE OF THIS ORDINANCE BE DECLARED TO BE INVALID, THE SAME SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE, OR ANY PART OTHER THAN THE PART SO DECLARED TO BE INVALID.

SECTION 4. THIS ORDINANCE SHALL TAKE EFFECT ON THE 30TH DAY AFTER ENACTMENT UNLESS GIVEN IMMEDIATE EFFECT BY THE CITY COUNCIL.

MARILYNN SLADE, CITY CLERK

OTHER BUSINESS

▸ PUBLIC COMMENT ON CITY RELATED MATTERS

EUGENE BUCKLEY OF N. HAYFORD SPOKE REGARDING THE CLEANUP OF THE BROWNFIELD AREA THAT IS ENCOMPASSED BY THE MOTOR WHEELPROPERTY. MOTOR WHEEL LEFT TOWN AND TOOK THEIR PROFITS AND THEIR JOBS AND LEFT LANSING WITH THE CLEANUP PROJECT. THEY SHOULD BE THE ONES CLEANING THIS UP, NOT THE TAX PAYERS. THIS IS JUST ANOTHER CAMPAIGN CONTRIBUTOR THAT WE ARE DOING A FAVOR FOR.

WILLY WILLIAMS OF 505 W. LENAWEE NOTED THAT EVERETT HIGH SCHOOL HAS WON THEIR LAST TWO FOOTBALL GAMES IN A ROW. HE DISPLAYED COPIES OF VOTING RECORDS OF CANDIDATES WHO WILL BE ON THE NOVEMBER GENERAL ELECTION BALLOTS.

FRANK CURTIS "X", NO ADDRESS GIVEN, SAID THAT THE PEOPLE OF THE THIRD WARD WANT SOME OF THE MONEY FROM THE RAINY DAY FUND SPENT ON THEM. HE STATED HIS OBJECTIONS TO DESIGNER CLOTHING BEING MARKETED TO OUR YOUTH.

BEVERLY MILLER OF 413 PEARL ST. ASKED WHAT KIND OF REQUIREMENTS COUNCIL HAS FOR NOTICE TO THE PUBLIC. CITY ATTORNEY SMIERTKA EXPLAINED THE OPEN MEETINGS ACT TO HER. MS. MILLER SPOKE REGARDING THE FAILURE OF THE W.C. GRACE COMPANY'S FAILURE TO CLEANUP THE BROWNFIELD THEY HELPED TO CREATE. SHE SAID THAT THE CITY CANNOT ENFORCE THE DECIBEL LIMITATIONS THAT THEY PUT ON THE CHILLER FACILITY, BECAUSE THEY DO NOT HAVE A DECIBEL METRE.

CHARLENE DECKER OF 2711 PLEASANT GROVE PROTESTED THE ADOPTION OF THE CHILLER FACILITY, BECAUSE IT WAS NOT ON THE AGENDA. IT WAS A LATE ITEM. SHE WOULD HAVE SPOKEN ON IT, IF IT HAD BEEN ON THE AGENDA. THIS ACTION IS NOT FOR THE GOOD OF THE CITY. IT IS A SLAP IN THE FACE TO THE BUSINESSES OF THIS TOWN.

RUSSELL TERRY OF 121 W. MT. HOPE STATED HIS SUPPORT FOR THE CONSTRUCTION OF AN EXTREME SPORTS PARK IN THE CITY.

JOHN BEATTLY SAID THAT HE HAS A CHURCH AT 215 S. CAPITOL AVE. HE SAID THAT MOST PEOPLE ONLY WANT TRUTH, JUSTICE AND A FAIR CHANCE.

COMMITTEE REPORTS

RESOLUTION #454

REPORT OF COMMITTEE

THE DEVELOPMENT AND PLANNING COMMITTEE TO WHOM WAS REFERRED Z-10-99, THE PROPOSED ORDINANCE TO REZONE 327 S. WALNUT FROM "E-2" LOCAL SHOPPING DISTRICT TO "G-1" BUSINESS DISTRICT.

THE COMMITTEE THOROUGHLY REVIEWED THE PROPOSAL AND THE CONCERNS RAISED BY THE PROPONENTS AND OPPONENTS OF THE REZONING.

REPORTS AS FOLLOWS: THE COMMITTEE RECOMMENDS Z-

10-99, THE PROPOSED ORDINANCE TO REZONE 327 S. WALNUT FROM "E-2" LOCAL SHOPPING DISTRICT TO "G-1" BUSINESS DISTRICT.

SIGNED, LOU ADADO, CHAIRPERSON
SANDY ALLEN
TONY BENAVIDES

BY COUNCILMEMBER ADADO

THAT THE REPORT OF THE COMMITTEE BE RECEIVED.

CARRIED UNANIMOUSLY

SEPTEMBER 27, 1999

RESOLUTION #455
REPORT OF COMMITTEE

THE PUBLIC SERVICES COMMITTEE, TO WHOM WAS REFERRED THE REQUEST BY THE DEPARTMENT OF PARKS AND RECREATION TO AMEND CHAPTER 688 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING MICHIGAN FOR THE PURPOSE OF REPEALING THE BAN ON FEMALE BOX ELDER TREES;

REPORTS AS FOLLOWS: THE COMMITTEE AFTER LISTENING TO TESTIMONY FROM THE CITY FORESTER APPROVED THE AMENDMENTS TO CHAPTER 688 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING MICHIGAN FOR THE PURPOSE OF REPEALING THE BAN ON FEMALE BOX ELDER TREES.

SIGNED: ELLEN BEAL, CHAIRPERSON
SANDY ALLEN
TONY BENAVIDES

BY COUNCILMEMBER BEAL

THAT THE REPORT OF THE COMMITTEE BE RECEIVED.

CARRIED UNANIMOUSLY

SEPTEMBER 27, 1999

CITY OFFICER & BOARD REPORTS

1. LETTER FROM THE CITY CLERK SUBMITTING MINUTES OF BOARDS AND AUTHORITIES PLACED ON FILE IN THE CITY CLERK'S OFFICE

RECEIVED AND PLACED ON FILE

2. LETTER FROM ECONOMIC DEVELOPMENT CORPORATION PROVIDING NOTICE OF A PLANNING BOARD HEARING IN CONSIDERATION OF LANSING BROWNFIELD REDEVELOPMENT AUTHORITY PLAN #2 TO BE HELD ON TUESDAY, OCTOBER 5, 1999 IN CITY COUNCIL CHAMBERS

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

3. LETTERS FROM THE MAYOR RE:

A. APPOINTMENT OF STEVE MILLER, GARRY GOOLSBY AND ANDREW FREDRICK TO THE ALAIEDON TOWNSHIP CITIZENS ADVISORY COMMITTEE FOR TERMS TO EXPIRE JUNE 30, 2002
REFERRED TO THE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

B. SLU-10-99; SPECIAL LAND USE FOR PARKING LOT AT THE NE CORNER OF WASHINGTON & WASHTENAW ST.

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

C. ESTABLISHMENT OF KRENTEL BLOCK HISTORIC DISTRICT 1000-1006 S. WASHINGTON AVE., AND APPOINTMENT OF KRENTEL HISTORIC DISTRICT STUDY COMMITTEE MEMBERS

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

D. ACT-16-99; 1100 BLOCK OF RACE AND FACTORY STREETS, ACQUISITION OF PROPERTY FOR PARKING LOT EXPANSION

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

E. Z-02-98; 1131 & 1133 RACE ST.

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

F. ADMINISTRATIVE AND EXECUTIVE TRANSFERS

REFERRED TO THE COMMITTEE ON WAYS AND MEANS AND THE INTERNAL AUDITOR

G. AMENDMENT TO PROPERTY SALE AGREEMENT FOR LOT 4 OF R.E. OLDS PLAT

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

H. DONATION OF PROPERTY BY SUMMIT STEEL DEVELOPMENT CO. LLC TO FACILITATE THE EXTENSION OF THE PRUDDEN ACCESS STREET NORTH OF MAY ST. TO OAKLAND AVE.

REFERRED TO THE COMMITTEE ON DEVELOPMENT AND PLANNING

I. TRANSFER OF FUNDS; PUBLIC SERVICE DEPT., PLANNING DEPT.

REFERRED TO THE COMMITTEE ON WAYS AND MEANS AND THE INTERNAL AUDITOR

J. PUBLIC IMPROVEMENT II, III, IV; SANITARY SEWER EXTENSION TO 5812 S. CEDAR ST.

REFERRED TO THE COMMITTEE ON PUBLIC SERVICES

K. AUTHORIZATION FOR INSTALLMENT PURCHASE

DEC 22 1989

Office, Board of Water and Light
Lansing, Michigan **Tuesday, December 19, 1989**

The Board of Commissioners met in regular session at 5:30 p.m. The meeting was called to order by Chairman Hassler.

Roll Call

Present: Commissioners Belen, Jessop, McComb, Sebolt, Strolle, Williams, and Chairman Hassler -7

Absent: Commissioner Evans -1

Quorum

The Secretary declared a quorum present.

General Manager Pandy, Secretary Sova and Executive Staff members were present. (An attendance list is filed in the Secretary's Office.)

Invocation and Pledge

The Invocation and Pledge of Allegiance was given by Chairman Hassler.

BY COMMISSIONER JESSOP--
SECONDED BY COMMISSIONER SEBOLT

Approval of Minutes

That minutes of regular session of November 28, 1989 be approved as mailed.

Adopted unanimously.

Public Comments

CHAIRMAN HASSLER ANNOUNCED THAT MEMBERS OF THE PUBLIC WILL BE AFFORDED THE OPPORTUNITY TO ADDRESS THE COMMISSIONERS REGARDING ANY ITEM ON THE AGENDA AT THE TIME SUCH ITEM IS OPEN FOR DISCUSSION BY THE COMMISSIONERS. ANYONE WISHING TO COMMENT ON ANY MATTER NOT ON THE AGENDA MAY DO SO AT THIS TIME OR IMMEDIATELY PRIOR TO ADJOURNMENT.

Beverly LePard appeals disputed water will

Ms. Beverly LePard, 1007 W. Northrup, Lansing, was present to appeal a decision rendered on November 17, 1989, by an Independent Hearing Officer regarding her disputed water billing in the amount of $40.91. Ms. LePard claimed that she decided to pursue the appeal procedure after receiving the Hearing Officer's report which omitted a staff recommendation made during the hearing to waive the water bill in question. She stated her position on the accuracy of the account analysis,and cited a bad experience she encountered several years ago with an electric bill, which made her suspicious with the current water billing.

Chairman Hassler explained the BWL's obligation to all customers and noted that she had been provided with a complete account analysis on her disputed billing. He further noted that the testing of the meter indicated the meter to be operating within acceptable industry standards. Following lengthy discussion, General Manager Pandy suggested resolving Ms. LePard's appeal by refunding the difference between the $40.91 disputed amount and her average usage of approximately $35.00 for a net difference of $6.00. Mr. Pandy emphasized that although there were no errors found in the numbers, he considered it "good business" to resolve this matter for $6.00 in the interest of saving time for both Ms. LePard and staff. Ms. LePard accepted the offer.

Commissioner McComb commented that he would hope this compromise would not establish a precedent for future appeals which may come before the Board. Mr. Pandy assured the Commissioners that details of this case would be reviewed to explore ways to resolve similar disputes at the staff level.

GERRY BLANCHARD

COMMITTEE OF THE WHOLE REPORT

December 19, 1989

Committee of the Whole Report

RE: 1) District Cooling Feasibility Study
2) Long Range Strategic Planning
3) Hazel St. Training Center
4) EPA Notice of Violations for Ottawa and Moores Park Stations
5) Proposal RE: MSU's energy requirements
6) Capital City Riverfest

Board of Commissioners
Board of Water and Light
Lansing, Michigan

The Committee of the Whole met with staff on December 5, to receive presentations on the following items:

1. District Cooling Feasibility Study Conclusions
2. Long-Range Strategic Planning
3. Other Related Topics

Present were Commissioners Belen, Jessop, Hassler, McComb, Strolle, and Williams. Absent were Commissioners Evans and Sebolt.

District Cooling Feasibility Study

The consulting firm of SFT, Inc. was retained by the Steam Utility to evaluate the economic and engineering feasibility of providing cooling services to customers within the Lansing Downtown area by establishing a district cooling plant (DCP). A DCP would provide chilled water from a central plant by means of an underground chilled water distribution system, and would deliver it to individual buildings for their air conditioning uses. The study addressed many factors such as marketability of the product, impact on the summer steam load, impact on the electric system, siting of the plant and distribution system, system design, probable capital and operations costs, reliability and environmental and other regulatory impact on a preliminary feasibility basis. It should be noted that the preliminary feasibility of developing a District Cooling Plant has been demonstrated within a conservative framework of assumptions.

Lengthy discussion ensued on this topic. The Commissioners concurred that a District Cooling Program would not only benefit the Central District customers and the Board of Water and Light, but would support economic development in Downtown Lansing.

Following discussion, the Commissioners recommended the following resolution for action by the Board,

Res. 89-12-1
Authorization to proceed with Phase I of the District Cooling Program

Resolution 89-12-1
AUTHORIZATION TO PROCEED WITH PHASE I OF THE DISTRICT COOLING PROGRAM

RESOLVED, That staff be authorized to proceed with Phase I of the District Cooling Program by making a firm commitment to proceed with establishing a Cooling District Utility. This would involve in-house staff developing a more detailed evaluation of the project and securing preliminary commitment from the identified potential Phase I customers. The Board will be asked to approve additional funds in the near future to be used for engineering analyses to more precisely identify capital investment costs.

Long-Range Strategic Planning

Five strategic planning task forces were formed to take a long-term focus out to the year 1995. The findings of the following task forces were presented to the Commissioners for their input and consensus.

- Level of Service Forecast
- Industry Environmental Forecast
- Workforce Forecast
- Financial Forecast
- Possible New Ventures

Other Items
General Manager Pandy briefed on the status of the following items:

1. **Hazel Street Training Center.** Modifications required to bring the center in compliance with City code were outlined as follows:

Fire Code requirements	$ 95,000
Barrier free building access	235,000
Safety Training Office modifications	100,000
Total	$430,000

Following discussion, staff agreed to further investigate State and City requirements for barrier free building access.

2. **Consent Order with Michigan Department of Natural Resources (MDNR), regarding Ottawa and Moores Park Stations.** The BWL was informed by the MDNR that Region 5 of the U. S. Environmental Protection Agency (EPA) has asserted its authority. The EPA rejected the Consent Order negotiated between the BWL and MDNR. Consequently, the BWL must reach an agreement with EPA no later than December 15, 1989, as to whether or not the BWL is going to enter into a (1) Consent Order, (2) Administrative Order, or (3) meet compliance.

3. **Michigan State University (MSU) Energy.** The State of Michigan is in the process of evaluating alternatives for supplying MSU's energy requirements. The BWL has been asked by the State to submit a proposal by December 20, 1989, indicating the BWL's interest in supplying MSU's present and future steam and electric requirements.

   General Manager Pandy advised that staff has proceeded to request proposals from consulting engineering firms to assist in identifying alternatives for the BWL to supply MSU with present and future steam and electric requirements, fully identify the capital cost requirements and annual operating and maintenance costs associated with each alternative, utilize identified costs to develop commodity charges for BWL supplied steam and electricity, and provide a proposal for BWL Energy Supply to MSU.

Following discussion, the Commissioners concurred with staff that this would be an excellent venture for the BWL.

4. **Capital City Riverfest.** General Manager Pandy advised that the Festival Manager of Capital City Riverfest has requested the renewal of the BWL's sponsorship of the Electric Float Parade for fiscal year 1990.

Following discussion, the Commissioners concurred with the $5,000 advertising expense on terms comparable to the 1989 Riverfest agreement.

Respectfully submitted,
Gerald W. Williams, Chair Pro Tem
Committee of the Whole

BY COMMISSIONER BELEN--
BY COMMISSIONER SEBOLT

That the Committee of the Whole Report, including Resolution 89-12-1, be approved as submitted.

Adopted unanimously.

PERSONNEL COMMITTEE REPORT

December 19, 1989

Personnel Committee Report RE: improvements to retiree benefits

Board of Commissioners
Board of Water and Light
Lansing, Michigan

The Personnel Committee reports it met on December 19, 1989 to discuss the following items:

1. Possible inflationary adjustment options to retiree pensions.
2. Increase in Medicare Part B reimbursement.
3. Availability of retiree participation in the employee/retiree paid vision care program.

Following review and discussion, the committee adopted the following resolution and recommends Board approval:

Res. 89-12-11 RE:
1. Monthly pension increase effective 1-1-91
2. Medicare reimbursement increased to $20 per month effective 1-1-90
3. Vision insurance option available to retirees at their cost

Resolution 89-12-11
IMPROVEMENTS TO RETIREE BENEFITS

RESOLVED:

1. That effective January 1, 1991, the monthly pension now paid to pensioners, who retired prior to January 1, 1986, be increased proportionately by the percentage difference between 1.55 and the pension multiplier in effect at the time of retirement, to a maximum adjustment of $125.00 per month. Vested pensioners are excluded from this increase. Further, that an adjustment be considered again in 1995.

2. That Medicare reimbursement for eligible pensioners and spouses be increased to $20.00 per month effective January 1, 1990.

3. That vision insurance be available to retirees at their cost effective as soon as practical.

Respectfully submitted,
E. Lane Jessop, Chairman
Personnel Committee

BY COMMISSIONER JESSOP--
SECONDED BY COMMISSIONER SEBOLT

That the Personnel Committee Report, including Resolution 89-12-11, be approved as submitted.

Adopted unanimously.

Staff presentation RE: BWL proposal to State of Michigan on MSU energy alternatives

General Manager Pandy requested the Board's permission to modify the order of business, due to time commitments by BWL staff members, to present an overview of staff's proposal to the State of Michigan on Michigan State University's energy alternatives.

Mr. Pandy reported that at the December 5, 1989 Committee of the Whole meeting, he indicated staff would endeavor to retain an outside engineering consultant to assist in identifying alternatives for the BWL to supply MSU with energy requirements. The tight time frame did not allow sufficient time for those consultants contacted to meet the deadline date of December 20, 1989. Hence, this project was taken on solely by BWL staff.

Steam Utility Director Joette Woodard-Yauk, Electric Planning General Supervisor Doug Wood, and General Supervisor of Water and Steam Planning Sue McCormick briefed the Commissioners on the contents of the BWL proposal to be submitted to the State of Michigan on December 20, 1989. Their presentation covered the (1) Executive Summary, (2) MSU's capabilities and requirements for steam and electric, (3) Generic advantages to MSU of interconnection with the BWL, and (4) Alternative BWL proposals.

The Commissioners commended staff members who assisted in this project, particularly for taking on the ambitious task of working in an extremely tight schedule.

Recommendations of Director and General Manager

Board of Water and Light
Lansing, Michigan

Dear Ladies and Gentlemen:

The following items are recommended for your approval:

ADMINISTRATIVE

Res. No. 89-12-2

Board meeting schedule for first six months of 1990

In accordance with Article II, Section 2.1 of the Board's Rules of Administrative Procedure, it is requested that the following list of dates be adopted as the meeting schedule for the Board of Water and Light (BWL) for the ensuing six (6) months.

This schedule is subject to change as a result of date conflicts with rescheduled City Council meetings.

Further, that a notice of the meeting schedule be published in the LANSING STATE JOURNAL the week of January 1, 1990.

The following is the schedule of regular meetings of the Board of Commissioners of the BWL commencing at 5:30 p.m. for the first six months of 1990:

1990	
January 23	Tuesday
February 27	Tuesday
March 27	Tuesday
April 24	Tuesday
May 22	Tuesday
June 26	Tuesday

Res. No. 89-12-3

Approval of Amendment No. 1 to the Partial Requirement Power Supply Agreement with SEMREC

The Board approve Amendment No. 1 to the Partial Requirement Power Supply Agreement between BWL and Southeastern Michigan Rural Electric Cooperative (SEMREC) dated December 2, 1986.

Amendment No. 1 extends the term of the Agreement from December 31, 1992 to December 31, 1999 and replaces existing Appendix A and Appendix B with Appendix A-1 and Appendix B-1, which specify a new schedule of minimum capacity and energy purchases by SEMREC and a new schedule of capacity charges. The Amendment No. 1 has been approved by the Board of Directors of SEMREC.

ADMINISTRATIVE (Continued)

(Res. No. 89-12-3) While this Amendment No. 1 will result in reduced revenues to the BWL in 1990-1992, it will result in a long term benefit to the BWL by increased revenues through 1999. Mr. Wolfe's memo dated 12/7/89 along with a Comparison of Current & Proposed SEMREC Capacity Charges is enclosed.

Res. No. 89-12-4

Approval of contract with MPPA for sale of partial requirements capacity and energy for FY 1990

That the BWL enter into a contract with Michigan Public Power Agency (MPPA) for the sale of partial requirements capacity and energy for the calendar year 1990 in amounts mutually agreed to by the parties. The capacity charges is $3.50 per kW per month and the energy is billed at BWL average out-of pocket cost plus 10% for the three previous months. MPPA will resell this capacity and energy to six of its member cities who now purchase wholesale power from another supplier. Those cities are Charlevoix, Chelsea, Eaton Rapids, Harbor Springs, Petoskey and Portland.

1990 estimated revenues are:	Capacity charge:	$469,000
	Energy charge:	470,400
	Total Revenues:	$939,400

Those sales are estimated to yield a net profit of about $469,000 to BWL. A chart showing the Schedule of Capacity Requirements for 1990 is enclosed.

Res. No. 89-12-5

Approval of a transportation contract with the Norfolk Southern Railroad and Grand Trunk Western Railway

That the BWL enter into a transportation contract with the Norfolk Southern Railroad (NS) and the Grand Trunk Western Railway (GTW), subject to approval as to form by the BWL's Legal Counsel. The contract particulars are as follows:

1. Term of one (1) year, commencing on January 1, 1990 through December 31, 1990.

2. Volume commitment shall be a minimum of 25,000 tons.

3. Rates to be held firm and free of escalation for the entire contract period.

By entering into this contract with NS and GTW, the BWL will be able to increase its base of potential Spot suppliers. It is expected that competition among the Spot suppliers will be enhanced.

The anticipated minimum savings to the BWL during the contract period will be approximately $12,000.

HUMAN RESOURCES

Res. No. 89-12-6

Sheryl Bowie receives suggestion award

That Ms. Sheryl D. Bowie, Customer Service Representative, be awarded $180.38 for her suggestion (1990-2) to write on the turn-off order the application number followed by the letters "LO". Currently, the Customer Assistance Department has an automatic leave-on procedure for rental unit owners not wanting their services disconnected. The Customer Assistance Department has to verify that a leave-on order has been made when they receive a turn-off order from the Electric Meter Department. This suggestion will save time for both the Electric Meter and Customer Service Departments by not having to verify files.

By implementing this suggestion, it is estimated the BWL will save $1,053.78 the first year.

Res. No. 89-12-7

Jack Jaquette receives suggestion award

That Mr. Jack Jaquette, Work Dispatcher Supervisor, be awarded $220.60 for his suggestion (1990-12) for a new work card listing all types of jobs completed by crew members. Currently, the supervisor writes on the back of the card all work and locations of jobs that crew members perform each day. The designed card is saving the supervisor time by only having to mark appropriate boxes.

By implementing this suggestion, it is estimated the BWL will save $1,456.00 the first year.

Res. No. 89-12-8

Michelle Joiner and Eva Lydia Duncan receive suggestion award

That Ms. Michelle Joiner and Ms. Eva Lydia Duncan, Customer Service Representatives, be awarded $145.25 (to be divided equally) for their suggestion (1989-225) to give BESOC the application number along with the address when calling in a turn on. By writing application numbers on slips, the Group Leader will save time from having to go through the files to locate the application.

By implementing this suggestion, it is estimated the BWL will save $702.52 the first year.

PENSION

Res. No. 89-12-9

George Ling receives suggestion award

That George D. Ling, Station Shift Supervisor at Erickson Station, be placed on monthly pension of $1,508.67 effective December 1, 1989. He has selected Option VI with the provision that after his death, if his wife, Karen J. Ling, survives him she will receive 70% or $1,056.07 per month for the rest of her life. Mr. Ling has worked for the BWL for 34.66 years and is 58 years of age.

WATER

Res. No. 89-12-10

Sheet 12.05 of Rules and Regulations for Water System Extension amended RE: Water main installation charges effective 1-1-90

That charges in the Board of Water and Light's Rules and Regulations for Water System Extension, Sheet 12.05, be changed to $20.60 per linear foot of water main installed, with an additional 15% per linear foot on improved roads, and $1,635.00 per hydrant installed during the 1990 construction season, and that these charges be applied to service lines tapped off applicable BWL financed water mains. These charges will be effective January 1, 1990 for the 1990 construction season.

The recommended charges have been determined in accordance with the procedure set forth in the Water System Extension Policy (Sheets 12.03-12.04). They represent an increase of $2.10 per foot for main installation and a decrease of $50.00 per hydrant for hydrant installation over the charges in effect for the 1989 construction season.

Respectfully submitted,

Joe Pandy

Joseph Pandy, Jr.
General Manager

JP/bg

BY COMMISSIONER SEBOLT--
SECONDED BY COMMISSIONER WILLIAMS

Res. 89-12-2 through 89-12-5 approved

RESOLVED, That Resolutions 89-12-2 through 89-12-5 (Administrative) of the General Manager's Recommendations be approved.

Adopted unanimously.

BY COMMISSIONER SEBOLT--
SECONDED BY COMMISSIONER WILLIAMS

Res. 89-12-6 through 89-12-7 approved

RESOLVED, That Resolution 89-12-6, 89-12-7, and 89-12-8 (Human Resources) of the General Manager's Recommendations be approved.

Adopted unanimously.

BY COMMISSIONER WILLIAMS--
SECONDED BY COMMISSIONER SEBOLT

Res. 89-12-9 approved

RESOLVED, That Resolutions 89-12-9 (Pension) of the General Manager's Recommendations be approved.

Adopted unanimously.

BY COMMISSIONER WILLIAMS--
SECONDED BY COMMISSIONER SEBOLT

Res. 89-12-10 approved

RESOLVED, That Resolution 89-12-10 (Water) of the General Manager's Recommendations be approved.

Adopted unanimously.

GENERAL MANAGER'S REMARKS

General Manager Pandy reported on the following BWL activities:

DISTRICT COOLING SYSTEM. The State of Michigan has shown a definite interest in participating in the District Cooling Program. They have discussed the possibility of installing a steam turbine to replace their existing electric chiller and other viable options. A meeting with State personnel is planned for January 8 to discuss their commitment in more detail.

STEAM SALES AGREEMENT WITH B.O.C. Mr. Pandy referred to a letter he received from General Motors (GM) expressing appreciation to Joette Woodard-Yauk, Dana Tousley, and Roger Ophaug for their cooperation in working with GM in completing negotiations for a revised steam sales agreement with BOC Lansing.

OAKWOOD TRANSFORMER (PCB) CASE. A letter from the BWL to the attorney representing four clients in the Oakwood, East Lansing, area regarding the BWL's settlement offer was handed out for review. Mr. Pandy reported on the status of negotiations.

COAL INVENTORY REPORT. A coal report for the week ending December 9, 1989 was handed out. The coal supply is down to 55 days, based on a system burn of 3,300 tons/day, which is up from 3,100/day. A survey of upper Midwest utilities is being conducted by Fuels Procurement staff to determine the average coal inventory being held by other utilities. The results of the evaluation will assist in determining whether or not the BWL's inventory goal should remain at 60 days.

EPA NEGOTIATIONS. Staff is continuing to negotiate with the U.S. Environmental Protection Agency, Region V relative to their Notice of Violations for Ottawa and Moores Park Stations. The Commissioners will be kept apprised on the progress of negotiations with EPA.

WATER REGIONALIZATION. The Water Regionalization Committee has selected three firms to which the request for proposals (RFP) will be submitted. Mr. Pandy highlighted the contents of the RFP.

Participating in the water regionalization concept are:

BWL	East Lansing	Meridian Township
Delhi Township	Lansing Township	Watertown Township
Delta Township	MSU	Windsor Township
Dewitt Township	Mason	

Communities showing interest are: Aleidon Township, Bath Township, Grand Ledge, and Williamston.

Other communities to be invited are: Oneida Township, Vevay Township, and Williamston Township

The City of Dewitt is the only community that has elected not to participate.

EXTENDED OFFICE HOURS. A memo, dated December 19, 1989, written by Consumer Services Director Neal Housler regarding extended office hours was handed out. The memo was written in response to an inquiry made by Commissioner Williams at the November 28, 1989, Board meeting. Staff is currently studying the possibility of providing telephone service for turn-on and turn-off orders and account inquiries beyond the 8:00 a.m. to 5:30 p.m. hours.

BWL FOOD DRIVE. The BWL Community Events Committee has reported they surpassed both goals that were set for the food drive. A total cash collection of $592 and over 1,000 pounds of canned goods were divided and delivered to the Kingsley Center, Potter Park United Methodist Church and Economic Crisis Center.

APPA COMMUNITY SERVICE AWARD. Mr. Pandy advised of his plans to submit an application for APPA's new Community Service Award to be presented to a public power utility at the APPA National Conference in June, 1990. The award is designed to recognize efforts of public power utilities that fill a community need by demonstrating a high commitment to community service. Mr. Pandy displayed a collection of letters, awards and articles written on behalf of BWL employees to be used as exhibits for the award application.

REMARKS BY BOARD COMMISSIONERS

Commissioner Sebolt thanks Board and staff for remembering him during his convalescence

Commissioner Sebolt expressed his appreciation to the Commissioners and staff for the prayers, cards, and flowers received during his convalescence from surgery.

BY COMMISSIONER JESSOP--
SECONDED BY COMMISSIONER HASSLER

Excused Absence

That the absence of Commissioner Evans be excused.

Adopted unanimously.

Adjournment

On motion of Commissioner Strolle, the Board adjourned at 6:38 p.m.

Mary E. Sova
Mary E. Sova, Secretary

Filed: December 21, 1989

Rita M. Bauman, City Clerk

Attachment C

Rule 8 – Disputes and Hearing Procedure

RULE 8. DISPUTE AND HEARING PROCEDURE

8.1 DISPUTES

A. In accordance with the Lansing City Charter, the BWL is required to provide a fair and equitable dispute and hearing process for its Customers as follows:

1. When any Customer disputes a bill or service and the BWL is so advised in writing, the date of the notice of dispute will be recorded.
2. Service to a Customer will not be disconnected for nonpayment of a disputed bill if the Customer has requested a hearing, pending results of the hearing. Service may be disconnected for nonpayment of bills that are not disputed.
3. The disputed bill or service will be investigated promptly and completely.
4. The Customer will be advised of the results of the investigation.
5. An attempt will be made to resolve the dispute in a manner mutually satisfactory to both parties.
6. The BWL will provide the opportunity for each Customer to enter into a reasonable settlement agreement in order to mutually resolve the disputed claim or to satisfy any liability not in dispute.
7. If a settlement cannot be reached between the Customer and the BWL, the Customer may choose to appear before the BWL's Dispute Review Committee. The review will be scheduled within ten (10) days of the request or as mutually agreed to by both parties.
8. If a settlement cannot be reached following examination by the Dispute Review Committee, the account will be referred to the BWL's General Manager.
9. If a settlement is not reached after review by the BWL's General Manager, the Customer will be afforded an opportunity for a hearing before an independent hearing officer as set forth below in 8.2.
10. The Customer will be responsible for payment of all other bills or portions of bills as rendered which are not in dispute.

8.2 INDEPENDENT HEARINGS

A. Any Customer who disputes the services provided or a billing for services, furnished in accordance with the BWL's Rate Schedules, Rules and Regulations, or established policies, procedures, and practices, may request a hearing. If a hearing request is based on a disputed past due bill, the request must be made within ten (10) calendar days following the final outcome of the dispute process. A request for a hearing must be made in writing and submitted to the BWL's corporate office at 1201 S. Washington Avenue, Lansing, Michigan 48910.

B. Upon receipt of a request for a hearing, the BWL will forward this request to an independent hearing officer who is appointed by the BWL. The hearing officer will arrange a time for the hearing and advise both the Customer and the BWL of the date, time, and location in writing. The hearing will be scheduled during normal business hours. Failure of either the Customer or the BWL to attend the hearing, without cause and prior notice, constitutes a waiver of the absent party's right to the hearing.

C. The BWL and the Customer have the right to:

1. Representation by counsel or other person of their choice.
2. Present evidence, testimony, and oral and written argument.
3. Cross-examine witnesses appearing on behalf of the other party.
4. Have the hearing recorded by a court reporter at the expense of the party requesting a court reporter. The hearing officer will also have the right to have the hearing recorded by a court reporter. Recordings will be preserved at least six (6) months from the date of the hearing. All evidence relevant to the dispute will be received.

D. For each hearing, the hearing officer will compile a hearing record which will contain:

1. A concise written statement of the BWL's position in the dispute.
2. A concise written statement of the Customer's position in the dispute.
3. Copies of all evidence submitted by the parties.

E. If a decision is reached during the hearing, the hearing officer must state the decision to both parties. If the hearing officer does not reach a decision during the hearing, additional time will be allowed to reach a decision. When a decision has been reached, either at the hearing or later, the hearing officer will prepare a report which will contain the following:

1. A concise summary of the evidence and position presented by the parties.
2. The decision and a statement that the decision of the hearing officer was based solely on the evidence presented and reasons therefore.
3. Advise that the representatives of the BWL and the Customer have a right to file an appeal with the Board of Commissioners.
4. A statement as to any settlement agreement.
5. A statement that the dispute determination is binding on both parties unless appealed to the Board of Commissioners within ten (10) days of the date of mailing of decision, and that any request for appeal must be in writing to the Corporate Secretary.

F. The hearing officer will file the written report with the Board of Commissioners and the Mayor of the City of Lansing. A copy of the report will be sent to the Customer via certified mail.

G. If the dispute is unresolved and the decision appealed, the hearing officer will make recommendations on the dispute to the Board of Commissioners who will then hear the dispute. The Corporate Secretary of the BWL will arrange a date, time, and location for the appeal and will issue, in writing, the date, time and location to both the Customer and the BWL. Failure of either the Customer or the BWL to appear at the time set for the appeal, without cause and prior notice, will constitute a forfeiture of the appeal. The decision rendered by the Board of Commissioners will be final.

Attachment D

Lansing Charter Article 5, Chapter 2

CHAPTER 2. - BOARD OF WATER AND LIGHT

BWL PROPOSED EDITS – November 2024

5-201 - General responsibility.

The Board of Water and Light, hereinafter known as the Board, shall have the full and exclusive management of the water, chilled water, thermal energy, including heat or hot water and~~,~~ steam and electric services and such additional utility services of the City of Lansing as may be agreed upon by the Board and City Council. The Board shall be responsible to the Mayor and the City Council for the provision of these services in a manner consistent with the best practices.

5-202 ~~-~~ 21806 ~~Director~~General Manager, Internal Auditor, Secretary.

.1 —The Board shall appoint a ~~Director~~ General Manager who shall be responsible to the Board for carrying out the duties assigned by the Board and shall serve at its pleasure.

.2 —The Board shall appoint an Internal Auditor who shall report directly to the Board. The Internal Auditor shall serve at the pleasure of the Board.

.3 —The Board shall appoint its own Secretary who shall be responsible to the Board and shall serve at its pleasure.

5-203 - Powers.

.1 The Board shall make all contracts pertaining to the conduct of the Board of Water and Light business and shall have the authority to settle litigation involving the Board of Water and Light.

.2 The Board shall have the power to acquire property, both real and personal, and interests in property in the name of the City for purposes of the Board of Water and Light.

.3 The Board shall have the power to sell real property and interests in real property not needed for the operation of the Board of Water and Light, subject to the approval of six (6) City Council members and subject to the limitations on the sale of real property by the City contained in this Charter.

.4 The Board shall adopt policies and procedures to assure fairness in procuring personal property and services and disposing of personal property. These policies and procedures of the Board shall parallel the policies and procedures adopted by the Council for the purchase and sale of personal property and services unless the Board makes a specific finding that a City policy or procedure is not consistent with the best practices for public utility operation.

.5 The Board shall prepare and adopt its annual budget by June 1 of each year, and implement it with whatever modifications the Board may adopt from time to time. The budget and any amendments shall be filed with the City Clerk within ten (10) days after adoption.

.6 The Board shall submit to the Mayor, prior to October 1 of each year, its capital improvements plan for the next six (6) years pursuant to Section 7-109.

.7 In the best interest of the City, the Board and other agencies of the City are encouraged to cooperate on projects deemed to be beneficial and to utilize each other's services.

.8 The Board of Water and Light may utilize the streets, alleys, bridges and other public places of the City for the furnishing of public utility services. In the exercise of this right, the Board of Water and Light shall furnish timely information about proposed uses to the officials of the City and to the agencies which will be most directly affected by the use.

.9 The Board may conduct whatever audits of Board of Water and Light~~the~~ activities it deems appropriate and shall be responsible for the cost of such audits~~compensate the City for the cost of that portion of the annual audit of the City which covers the Board of Water and Light~~.

.10 The Board may provide for the pensioning of any employee of the Board of Water and Light or the surviving spouse or dependent of any deceased employee.

.11 ~~-~~The Board, except as otherwise provided in this Charter, shall be responsible for and have authority over the compensation, benefits, bonding, conditions of employment, and labor management activities for all employees of the Board of Water and Light.

5-204 - Withdrawal of funds.

.1 The funds and revenues of the Board of Water and Light shall be deposited in the ~~City Treasury and shall be credited only to the funds and~~ accounts of the Board of Water and Light. ~~They shall not be withdrawn or used for any other purpose whatsoever.~~ The Board shall have and exercise full control over all of the funds of the Board of Water and Light~~ in the City Treasury~~.

.2 All warrants drawn for the payment of money under the authority of the Board shall be signed by the General Manager and countersigned by the Secretary of the Board and cou~~ntersigned by the~~ General Manager of the Board~~City Controller~~.

.3 Whenever warrants are issued and there is no money for the payment of the warrant, the Board~~City Treasurer~~ shall, upon presentation of the warrant, stamp the date of presentation on the face of the warrant, together with a statement that the warrant will bear interest thereafter at the rate of six (6) percent per year. The interest shall cease after notice has been given to the holder, in the manner determined by the Board, that there is sufficient money of the Board of Water and Light on hand to pay the warrant with interest. Warrants of the Board of Water and Light are not general obligations of the City.

~~.4 The Council may provide, by ordinance, procedures for the disbursement of moneys of the Board of Water and Light by check issued by the Secretary of the Board in accordance with the ordinance.~~

5-205 - Rates.

.1 The Board may fix just and reasonable rates and other charges as it may deem advisable for services furnished by the Board of Water and Light.

.2 The Board shall conduct a public hearing at least thirty (30) days prior to the effective date of any changes in rate structure. At least forty-five (45) days before the public hearing, the Board shall file with the City Clerk a statement explaining the new rates and charges together with a notice of the public hearing. Notice to the public shall be given in the same manner as is required for proposed ordinances.

5-206 - Collection and hearing procedure.

.1 Upon the request of the Board, the City Council shall provide by ordinance for the collection of unpaid charges for public utility services furnished by the Board of Water and Light and for the imposition and enforcement of liens upon property served by the Board of Water and Light.

.2 When any person fails or refuses to pay any sums due on utility bills, the service upon which the delinquency exists may be discontinued and suit may be brought for the collection of the money owed.

.3 The Board shall establish a procedure for the resolution of disputes between the Board of Water and Light and any of its customers concerning services or billing for services furnished in accordance with filed rates, rules and regulations, and established Board policies and procedures. The procedure shall incorporate the designation of an independent hearing officer. ~~The hearing officer shall report to the Board and the Mayor the results of each hearing conducted and shall make recommendations to the Board on any hearing which has not been resolved. The Mayor may make recommendations to the Board on each unresolved hearing. The Board shall report its final action on any unresolved dispute, together with the hearing officer's report and recommendations to the Mayor and the City Council.~~

5-207 - Sale or exchange of facilities.

The Board shall not, unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special City election, sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of the Board of Water and Light. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of the Board of Water and Light which are no longer useful or which are replaced by new machinery for the operation of the Board of Water and Light, or to the exchange of property or easements for other needed property or easements.

CHAPTER 2. - BOARD OF WATER AND LIGHT

BWL PROPOSED EDITS – November 2024

5-201 - General responsibility.

The Board of Water and Light, hereinafter known as the Board, shall have the full and exclusive management of the water, chilled water, thermal energy, including heat or hot water and steam and electric services and such additional utility services of the City of Lansing as may be agreed upon by the Board and City Council. The Board shall be responsible to the Mayor and the City Council for the provision of these services in a manner consistent with the best practices.

5-202 – 21806 General Manager, Internal Auditor, Secretary.

.1 The Board shall appoint a General Manager who shall be responsible to the Board for carrying out the duties assigned by the Board and shall serve at its pleasure.

.2 The Board shall appoint an Internal Auditor who shall report directly to the Board. The Internal Auditor shall serve at the pleasure of the Board.

.3 The Board shall appoint its own Secretary who shall be responsible to the Board and shall serve at its pleasure.

5-203 - Powers.

.1 The Board shall make all contracts pertaining to the conduct of the Board of Water and Light business and shall have the authority to settle litigation involving the Board of Water and Light.

.2 The Board shall have the power to acquire property, both real and personal, and interests in property in the name of the City for purposes of the Board of Water and Light.

.3 The Board shall have the power to sell real property and interests in real property not needed for the operation of the Board of Water and Light, subject to the approval of six (6) City Council members and subject to the limitations on the sale of real property by the City contained in this Charter.

.4 The Board shall adopt policies and procedures to assure fairness in procuring personal property and services and disposing of personal property. These policies and procedures of the Board shall parallel the policies and procedures adopted by the Council for the purchase and sale of personal property and services unless the Board makes a specific finding that a City policy or procedure is not consistent with the best practices for public utility operation.

.5 The Board shall prepare and adopt its annual budget by June 1 of each year, and implement it with whatever modifications the Board may adopt from time to time. The budget and any amendments shall be filed with the City Clerk within ten (10) days after adoption.

.6 The Board shall submit to the Mayor, prior to October 1 of each year, its capital improvements plan for the next six (6) years pursuant to Section 7-109.

.7 In the best interest of the City, the Board and other agencies of the City are encouraged to cooperate on projects deemed to be beneficial and to utilize each other's services.

.8 The Board of Water and Light may utilize the streets, alleys, bridges and other public places of the City for the furnishing of public utility services. In the exercise of this right, the Board of Water and Light shall furnish timely information about proposed uses to the officials of the City and to the agencies which will be most directly affected by the use.

.9 The Board may conduct whatever audits of Board of Water and Light activities it deems appropriate and shall be responsible for the cost of such audits.

.10 The Board may provide for the pensioning of any employee of the Board of Water and Light or the surviving spouse or dependent of any deceased employee.

.11 The Board, except as otherwise provided in this Charter, shall be responsible for and have authority over the compensation, benefits, bonding, conditions of employment, and labor management activities for all employees of the Board of Water and Light.

5-204 - Withdrawal of funds.

.1 The funds and revenues of the Board of Water and Light shall be deposited in the accounts of the Board of Water and Light. The Board shall have and exercise full control over all of the funds of the Board of Water and Light.

.2 All warrants drawn for the payment of money under the authority of the Board shall be signed by the General Manager and countersigned by the Secretary of the Board and the General Manager of the Board.

.3 Whenever warrants are issued and there is no money for the payment of the warrant, the Board shall, upon presentation of the warrant, stamp the date of presentation on the face of the warrant, together with a statement that the warrant will bear interest thereafter at the rate of six (6) percent per year. The interest shall cease after notice has been given to the holder, in the manner determined by the Board, that there is sufficient money of the Board of Water and Light on hand to pay the warrant with interest. Warrants of the Board of Water and Light are not general obligations of the City.

5-205 - Rates.

.1 The Board may fix just and reasonable rates and other charges as it may deem advisable for services furnished by the Board of Water and Light.

.2 The Board shall conduct a public hearing at least thirty (30) days prior to the effective date of any changes in rate structure. At least forty-five (45) days before the public hearing, the Board shall file with the City Clerk a statement explaining the new rates and charges together with a notice of the public hearing. Notice to the public shall be given in the same manner as is required for proposed ordinances.

5-206 - Collection and hearing procedure.

.1 Upon the request of the Board, the City Council shall provide by ordinance for the collection of unpaid charges for public utility services furnished by the Board of Water and Light and for the imposition and enforcement of liens upon property served by the Board of Water and Light.

.2 When any person fails or refuses to pay any sums due on utility bills, the service upon which the delinquency exists may be discontinued and suit may be brought for the collection of the money owed.

.3 The Board shall establish a procedure for the resolution of disputes between the Board of Water and Light and any of its customers concerning services or billing for services furnished in accordance with filed rates, rules and regulations, and established Board policies and procedures. The procedure shall incorporate the designation of an independent hearing officer.

5-207 - Sale or exchange of facilities.

The Board shall not, unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special City election, sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of the Board of Water and Light. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of the Board of Water and Light which are no longer useful or which are replaced by new machinery for the operation of the Board of Water and Light, or to the exchange of property or easements for other needed property or easements.

Tuesdays	proposed mtg Date	notes
1/7/2025	**1/7/2025**	
1/14/2025		
1/21/2025	**1/21/2025**	MLK day Monday; Inauguration
1/28/2025		
2/4/2025	**2/4/2025**	
2/11/2025		
2/18/2025	**2/18/2025**	President's Day Monday
2/25/2025		
3/4/2025	**3/4/2025**	
3/11/2025		
3/18/2025	**3/18/2025**	
3/25/2025		
4/1/2025	**4/1/2025**	
4/8/2025		
4/15/2025	**4/15/2025**	
4/22/2025		
4/29/2025	**4/29/2025**	
5/6/2025		Election Day*
5/13/2025	**5/13/2025**	
5/20/2025		
5/27/2025	**5/27/2025**	
6/3/2025		
6/10/2025	**6/10/2025**	
6/17/2025		Juneteenth Thursday
6/24/2025	**6/24/2025**	

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Kristen L. Rewa
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November 7, 2024

Via Email
Mr. Brian C. Jeffries
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Lansing Charter Commission
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Brian.Jeffries@lansingmi.gov

Re: Section 1-302 Non-Discrimination And Civil Rights

Dear Mr. Jeffries:

This letter addresses Article I, Chapter 3, Section 1-302 in the City Charter and provides proposed language for the Commission to review and discuss.

City Charter, Article I, Chapter 3, §1-302 Non-Discrimination And Civil Rights provides:

> 1-302 Non-Discrimination And Civil Rights
>
> .1 In the exercise of its powers or in the performance of its duties the City and all of its agencies shall ensure that no person or group engaged in the conduct of official business or seeking to do business with the City is discriminated against because of race, creed, political orientation, color, national origin, marital status, sex, age, handicap or for any cause not reasonably related to the accomplishment of a legitimate governmental purpose, and shall take whatever action is necessary to accomplish this purpose.
>
> .2 The City and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.

It appears the current language of Section 1-302.1 aims to prevent discrimination in the provision of city services as provided by the state and federal constitutions as well as state anti-discrimination statutes. We recommend that the Charter Commission consider revising 1-302.1 to reflect more modern anti-discrimination language. Since the Charter was enacted, state law, particularly the Elliott Larsen Civil Rights Act has undergone several revisions.

Michigan's Elliott-Larsen Civil Rights Act (ELCRA) prohibits discrimination in several distinct areas. Most relevant to this discussion, Article 3 of the ELCRA covers "public service", which is defined as follows:

> (b) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of this state, a political subdivision, or an agency of this state or of a political subdivision or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions and decisions regarding an individual serving a sentence of imprisonment. [MCL 37.2301].

The City is considered a political subdivision of the state and therefore, city services, buildings, and operations fall within the definition of "public service." Section 302 of the ELCRA prohibits discrimination in public service as follows:

> Except where permitted by law, a person shall not do any of the following:
>
> (a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service <u>because of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, or marital status</u>. [MCL 37.2302 (emphasis added)].

Additionally, the Persons with Disabilities Civil Rights Act (PDCRA) prohibits a public service, including City services, from discriminating against individuals with disabilities. The Act provides at MCL 37.1302 as follows:

> Except where permitted by law, a person shall not:
>
> (a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service <u>because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.</u>

The City's current Charter uses the word "handicap", which was the legal term used in state law at the time. Both state and federal law now use the word "disability" as defined in the PDCRA and the federal Americans with Disabilities Act. We recommend that the Commission replace "handicap" with "disability".

Moreover, the Breastfeeding Antidiscrimination Act, PA 197 of 2014, provides:

> Unless expressly permitted by a state or federal statute or a regulation promulgated under a state or federal statute, a person with control over a place of public accommodation or public service shall not do any of the following . . . Deny the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service <u>to an individual because the individual is breastfeeding a child or is expressing human milk</u>." [MCL 37.232].

City Ordinances also address discrimination. Although current ordinance language is not controlling, it can offer guidance on more recent policy statements of the City. The Human Rights Ordinance provides a general policy statement:

> It is the intent of the city that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, veteran status or HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, or service in armed forces in sovereign nations as all forms of discrimination adversely affect Lansing citizens and the quality of life and opportunities available to all people. [Lansing Ordinance, Title 12, Ch. 297, Sec. 297.01]

The ordinance prohibits discrimination based on the characteristics outlined above, in the provision of public services, which includes city services:

> (a) No person shall discriminate against any other person in providing information, offering access, or making referrals regarding public services, or by withholding, denying, curtailing, or otherwise limiting the full use of and benefit from public services. [Ordinance, Sec. 297.05].

Additionally, the City's ordinance on the Diversity, Equity, and Inclusion Advisory Board directs that board to review newly introduced ordinances and amendments "for potential negative effects that may disproportionately impact citizens on the basis of race, color, religion, national origin, age, height, weight, marital status, political orientation, gender, sexual orientation, arrest record, disability, or for any cause not reasonably related to the accomplishment of legitimate governmental purpose"; opine on goals and implementation of the City's Racial Justice and Equity Plan; and "[a]dvise on issues of diversity, equity, and inclusion within the Lansing community with the overarching goal of ensuring the City of Lansing is a welcoming and inclusive community to all." Lansing Ordinance, Title 8, Chapter 256, Section 256.02.

To better align the Charter's non-discrimination provision modern law, we have prepared two alternative proposed revisions to facilitate this Commission's review and discussion. These are by no means the only options.

<u>Option 1</u>: maintains the current structure of Charter Section 1-302.1 and adds additional personal characteristics that are protected from discrimination in public services under state

law as it currently stands.

> .1 In the exercise of its powers or in the performance of its duties the City and all of its agencies shall ensure that no person or group engaged in the conduct of official business or seeking to do business with the City is discriminated against because of race, religion, creed, political orientation, color, national origin, marital status, sex, sexual orientation, gender identity or expression, age, disability, breastfeeding a child or is expressing human milk, other characteristics defined by law or ordinance, or for any cause not reasonably related to the accomplishment of a legitimate governmental purpose, and shall take whatever action is necessary to accomplish this purpose.
>
> .2 The City and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.

<u>Option 2</u>: uses the language developed in the Human Rights Ordinance (with light grammatical modifications), recognizes the inclusion of additional characteristics as may be defined by law, and provides that additional action, including city ordinances, will effectuate the purpose of this section.

> .1 It is the intent of the City that no person or group be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, veteran status, HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, service in armed forces in sovereign nations, or other characteristic as defined by law, as all forms of discrimination adversely affect Lansing citizens and the quality of life and opportunities available to all people.
>
> .2 The City and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.
>
> .3 The City shall take such action, and shall adopt such ordinances, as shall be necessary to accomplish the purpose of this section.

The difficulty in preparing revised language concerning anti-discrimination is the likelihood of the language becoming obsolete or incomplete with time, as federal, state, and local laws change. Charter commissions are generally cautioned to draft charter language concerning policy in broad terms, leaving more detailed treatment and enforcement mechanisms to be developed by ordinance. We recommend that the Charter Commission consider any potential revisions of this section as setting a threshold for the City's policy decisions on discrimination for years to come, allowing City ordinances, regulations, and policies to provide the detailed definitions and enforcement mechanisms to effectuate the general policy statement set forth in the Charter.

A note on future work. Our review of Sec 1-302 identified additional antidiscrimination provisions of the City Charter, including Section 6-301 Non-Discrimination, which prohibits discrimination in city employment. Additionally, several provisions refer to “affirmative action”, including Section 6-301, Section 4-102.10, and Section 4-401. We recommend that these provisions should be reviewed by the Charter Commission in due course.

Very truly yours,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

Kristen L. Rewa

KLR/car

cc: Vice Chair Lori Adams Simon (lori.simon@lansingmi.gov)
Chris Swope, *MMC/MiPMC* (Chris.Swope@lansingmi.gov)
Brian P. Jackson, *MiPMC*, (Brian.Jackson@lansingmi.gov)

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Kristen L. Rewa
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November 7, 2024

Via Email
Mr. Brian C. Jeffries
Chairperson
Lansing Charter Commission
124 W. Michigan Ave., 9th Floor
Lansing, MI 48933
Brian.Jeffries@lansingmi.gov

Re: 2-103.1 Ineligibility For Office (Felony Offenses)

Dear Mr. Jeffries:

This Memorandum outlines the law regarding qualifications for officers as well as provides proposed language changes should the Commission choose to consider it.

The Board has received public communication requesting that City Charter Article 2, Chapter 1, Section 2-103.1 be amended to reflect current state constitutional language regarding qualifications for office. Section 2-103.1 currently reads as follows:

> 2-103 Ineligibility For Office
>
> .1 Any person who has been convicted of either a violation of the election laws of this City, this State or the United States of America or a violation of a public trust or any felony shall not be eligible to hold any City office for a period of 20 years from the date of the conviction.

While "office" is not defined in the Charter, the Charter does define "Officer":

> OFFICER includes, but is not limited to, the elected officials of the City, the members of boards and commissions, and their executive staffs, all heads of departments and divisions. [Charter, Sec 1-205]

The scope of 2-103.1 is limited by Sec 5-103.1, which excludes board members. That section provides:

5-103 Appointment Of Board Members

.1 Every member of a board, commission or committee established by Charter or

> ordinance shall be an officer of the City and shall possess the qualifications required by this Charter for holding office, <u>except that a felony conviction shall not render an individual ineligible for appointment or membership.</u> [emphasis added].

Thus, as it currently stands, Sec 5-103.1 applies to the elected officials of the City, executive staff of any elected official or board/commission, and all heads of departments and divisions. It renders any individual seeking those positions ineligible due to any felony conviction or conviction (felony or misdemeanor) related to election law or a violation of public trust for 20 years from the date of the conviction. The conviction does not have to be related to conduct committed while that person was acting in an official government capacity.

Specifically, the Commission received public comment that Section 2-103.1 should be modified to reflect current provisions for ineligibility in office as set forth in the Michigan Constitution. The Michigan Constitution of 1963, Article XI § 8 provides:

> A person is ineligible for election or appointment to any state or local elective office of this state and ineligible to hold a position in public employment in this state that is policy-making or that has discretionary authority over public assets if, within the immediately preceding 20 years, the person was convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust and the conviction was related to the person's official capacity while the person was holding any elective office or position of employment in local, state, or federal government. This requirement is in addition to any other qualification required under this constitution or by law.
>
> The legislature shall prescribe by law for the implementation of this section.

This provision was added to the Constitution in 2010. As such, this provision did not exist in the Michigan Constitution at the time the Lansing Charter was last revised in 1978. The constitutional provision is also narrower than the current Lansing Charter provision. Article XI § 8 is limited to (1) elected officials or employees with policy-making or discretionary authority over public assets; (2) felony convictions which are (3) less than 20 years old and (3) relate to "dishonesty, deceit, fraud, or a breach of public trust" and (3) the actions which led to the conviction were committed in the person's official capacity while holding an office or employment in a local, state, or federal government.

Court interpretations of Article XI § 8 have been limited. The federal courts agreed that this provision prohibited an individual from seeking an elective county office in 2022 based on a 2009 bribery conviction stemming from her actions while serving on a city council. See *Conyers v. Garrett*, No. 22-1494, 2022 WL 2081475, at *1 (6th Cir. June 10, 2022)(denying preliminary injunction). However, the Michigan Supreme Court held that this provision did not disqualify an individual from running for a city council seat where his conviction for misuse of federal funds stemming from his official actions as the police chief and board member for a federally recognized tribe did not meet the criteria of this provision because "local, state, or federal government" does not include a sovereign tribal nation. *Paquin v. City of St. Ignace*, 504 Mich. 124, 135, 934 N.W.2d 650, 656 (2019).

It has been asserted that the current language of Sec. 2-103.1 violates or is preempted by Article XI § 8. This is incorrect. A local law is preempted by state law when the local law permits what the state law prohibits or prohibits what the state law permits. See *Ter Beek v City of Wyoming*, 495 Mich 1, 20: 846 NW2d 531 (2014).

As Article XI § 8 clearly indicates, "[t]his requirement *is in addition* to any other qualification required under this Constitution or by law." As such, the constitutional provision allows more restrictive eligibility requirements "by law", which includes a city charter. Notably, Michigan Election Law provides that a city's charter governs qualifications for city office. MCL 168.321(1). In short, the restrictions imposed by the Constitution Article XI, §8 are a "floor". The City Charter cannot contain language that is less restrictive than Art XI, § 8, but the Charter may contain a more restrictive requirements. The current language of Section 2-103.1 is not in violation of, or preempted by Article XI § 8, or any other provision of the Michigan Constitution or statute. Rather, Section 2-103.1 is a more restrictive requirement placed on City office holders, which is expressly permitted by the Constitution. It is our opinion that the Charter Commission is not required to remove or otherwise revise the current language of Sec. 2-103.1 to comply with state law because Secon 2-103.1 does not violate state law.

However, the Charter Commission is free to consider and recommend revisions to Section 2-103.1 as a matter of public policy. To the extent the Commission wishes to consider changes to Section 2-103.1, it has several options:

<u>Option 1</u>: The Commission could choose to strike all of 2-103.1 from the Charter. If you do so, that would simply leave individuals to refer to the state constitutional requirements, which still apply regardless of the contents of the City Charter. *See, Conyers, supra*.

<u>Option 2</u>: Alter the language of 2-103.1 to reflect the language contained in Article XI § 8. The proposed additional language could read as follows:

> A person is ineligible for election or appointment as any elective officer and ineligible to hold an employment position within the City that is policy-making or that has discretionary authority over public assets if, within the immediately preceding 20 years, the person was convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust and the conviction was related to the person's official capacity while the person was holding any elective office or position of employment in local, state, or federal government.

Option 2 tracks the language of Mich Const, Art XI, § 8, with the same limitations and interpretations of that constitional provision. As such, felony conduct committed in an official capacity as a Tribal nation official would not fall within these provisions, per *Paquin*.

<u>Additional options</u>: There are not simply two options. The Commission may choose to consider additional changes to Section 2-103.1, so long as the revision does not permit what the terms of Mich Const, Art XI, § 8 prohibit. For example, the Commission could chose to address the issue noted by *Paquin* in the list of official conduct to include felony conduct committed in an official capacity in "local, state, federal, or tribal government". Changes can also include adding more conviction types or adding time to the duration of prohibition.

Please let me know if you have any questions.

Very truly yours,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

Kristen L. Rewa

KLR/car

cc: Vice Chair Lori Adams Simon (lori.simon@lansingmi.gov)
Chris Swope, *MMC/MiPMC* (Chris.Swope@lansingmi.gov)
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