

**MINUTES OF THE BENTON HARBOR CITY COMMISSION
LULA LEE COMMISSION CHAMBERS
FEBRUARY 7, 2022**

The regular meeting of the Benton Harbor City Commission was called to order by Mayor Muhammad at 7:00p.m. Invocation led by Mayor Pro-Tem Seats, followed by the Pledge of Allegiance led by Manager Mitchell. Roll call showed the following members present: Commissioners Clark-Griffin, Edwards (arrived at 7:26pm), Henderson, Henry, Isom, Mayor Pro-Tem Seats, Mayor Muhammad. Members Absent: Commissioners Adams and Singleton. Also present: City Manager Mitchell, Director of Public Safety McGinnis, Assessor Story, Community and Economic Director Little, Attorney Racht and City Clerk Moore.

APPROVAL OF MINUTES

A motion was made by Commissioner Henderson and supported by Mayor Pro-Tem Seats to approve the Regular Minutes of October 4, 2021, Special Minutes of October 11, 2021, Regular Minutes of October 18, 2021, Regular Minutes of January 18, 2022, Closed Minutes of January 18, 2022, and Special Minutes of January 24. Motion carried on the following roll call vote: YEAS: Mayor Pro-Tem Seats, Commissioners Clark-Griffin, Henderson, Henry, Isom, Mayor Muhammad. NAYS: None. Members Abstain: None. Members Absent: Commissioners Adams, Edwards, Singleton.

APPROVAL OF ACCOUNTS PAYABLE

A motion was made by Mayor Pro-Tem Seats and supported by Commissioner Henderson to approve the Accounts Payable Listing. Motion carried on the following roll call vote. YEAS: Commissioners Isom, Henderson, Mayor Pro-Tem Seats, Mayor Muhammad. NAYS: Commissioners Clark-Griffin, Henry. Members Abstain: None. Members Absent: Commissioners Singleton, Adams, Edwards.

AUDIT PRESENTATION – REHMANN ROBSON

Paul Matz, Principal with Rehmann Robson gave an overview of the audit ending June 30, 2021.

Commissioner Henderson asked for Matz to elaborate on the statement under Questioned Costs, page 12 “No costs were required to be questioned as a result of this finding”. Matz stated that statement is referring to additional compliance testing due to use of grant funds. Any costs that may be questioned as not being used for the purpose of the grant would need to be reported, there were no findings.

Mayor Pro-Tem Seats questioned the repeat comments on outstanding checks. Matz stated he was not sure of the number of outstanding checks but could send that info to city manager. He also stated there were no changes in policies related to CDBG reporting. And that there was \$100,000 moved between the Cemetery operating unit and perpetual care fund and there was no documentation to support that transaction.

Mayor Pro-Tem Seats asked for a point of clarity on the city giving the cemetery \$100,000 which Matz stated there is no reasoning behind it and is unusual for that fund to transfer those dollars.

Manager Mitchell clarified that the \$100,000 was for purchase of equipment back around 2011.

Mayor Muhammad stated that transaction took place back when the Cemetery was outsourced during the emergency management.

Commissioner Henderson asked for elaboration on the finding on procurement, including bidding & conflict of interest policy. Matz stated the 5 items in the criteria paragraph on page 12 are items with rules that have to be followed related to administration of federal awards which specifies that there have to be policies in writing.

Mayor Muhammad asked for specifics on outstanding checks that were dated back to 2013. Matz stated those were AP check disbursements and will share a list with city manager.

Commissioner Clark-Griffin asked if the list of repeated comments means that the comments have been on the list previously and for how long. Matz stated some have been on there for many years. Clark-Griffin questioned Mayor Muhammad on referencing the emergency management. Mayor responded that when specifically speaking on the emergency manager it was tailored to the cemetery transactions.

Mayor Pro-Tem Seats asked if sending the outstanding checks to the State for unclaimed property would remedy the problem of repeat findings. He also stated he wanted to see a receipt of the equipment purchased for \$100,000. Matz stated that is correct that the checks being sent to the State would remedy that situation.

Mayor Muhammad stated that the \$100,000 in the cemetery's perpetual fund is supposed to remain as trust in the account.

Manager Mitchell stated that he hasn't been able to find any information on where the \$100,000 was moved.

Matz clarified that a "clean" audit means no fraud was found and that the financial statements were accurately stated.

PRESENTATION – FLEIS & VANDENBRINK

Elaine Venema and Blair Selover with Fleis & Vandenbrink presented a draft copy of the Technical Managerial Financial Capacity Study for the water system to review and they will return for a Q&A session. This copy gets sent to the State as required by the Administrative Consent Order that the city has with EGLE. The whole project was Grant funded through the State. The book is confidential, parts are covered by the Terrorism Act of 2002.

Mayor Muhammad state that the EPA is conducting a study as well. Selover stated he doesn't know how extensive their report will be.

Commissioner Clark-Griffin asked for a point of clarity on what the company does. Selover stated they provide consulting services and assist the water plant operations.

Mayor Pro-Tem Seats stated he doesn't believe the book should leave the premises due to the confidential information.

CITIZENS COMMENTS

Lee Reed gave an update on the Master Plan progress. Paul Lippens with McKenna would like to attend the next two Commission meetings and meet with the DDA and 4th Ward Commissioner Clark-Griffin prior to. He would like to give an update on the timeline and discuss how to structure the Advisory Committee.

Julia Gourley Donohue requests formal approval to have the City join as a partner in presenting the Biennial Sculpture Invitational running May 2022 to September 2023. As a partner, its requested to appoint a City Commissioner to be a liaison for the exhibition to the Krasal Art Center.

Joey Andrews announced his candidacy for the 38th State House District.

Princella Tobias thanked everyone on behalf of Benton Harbor Team Solution for the support at this year's MLK event which was hosted by teens. She also presented 2022 Mr. Benton Harbor Nicholas Gunn, who presented Awards and thank you letters to the Commissioners that attended and helped at the event.

Emma Kinnard inquired on the pay from the Brownfield to the City. Stated she is still receiving bills for water. Asked when are the violations and the water plant being cleared up. And also if the residents should or should not use the water.

Mayor Muhammad responded that it was forbidden to consume the water at this time and there have been numerous communications sent out with information of the same.

Shaquille Turner expressed the need to fix the fire hydrant at May and Milton. He stated he emailed Manager Ellis and is requesting the water be shut off at the hydrant.

Ogden Wright on behalf of Xaymaca stated they are now certified, trained, and qualified to oversee the lead service line replacement project. He presented a professional profile to the Commission.

CONSENT CALENDAR

Commissioner Henderson requested to pull **APPROVAL OF AN ORDINANCE AMENDING CITY OF BENTON HARBOR CODE OF ORDINANCES CHAPTER 44 UTILITIES; ARTICLE II BY ADDING DIVISION 3. "MANDATORY REPLACEMENT OF LEAD SERVICE LINE"** from the agenda to discuss

The following Consent Calendar items were moved by Mayor Pro-Tem Seats and supported by Commissioner Isome. Motion carried on the following roll call vote: YEAS: Commissioners Clark-Griffin, Edwards, Henderson, Henry, Isom, Mayor Pro-Tem Seats, Mayor Muhammad. NAYS: None, Abstain: None, Absent: Commissioners Singleton, Adams.

APPROVAL OF BID REQUEST FOR TECHNOLOGICAL UPGRADE OF COMMISSION CHAMBERS

SEPARATED ITEMS

After discussion, and the suggestion by Attorney Racht to change the opt out time from 180 days to 90 days, **Motion was made by Mayor Pro-Tem Seats and supported by Commissioner Henderson to APPROVE AN ORDINANCE AMENDING CITY OF BENTON HARBOR CODE OF ORDINANCES CHAPTER 44 UTILITIES; ARTICLE II BY ADDING DIVISION 3. "MANDATORY REPLACEMENT OF LEAD SERVICE LINE". Motion carried on the following roll call vote: YEAS: Commissioners Edwards, Henry, Isom, Mayor Pro-Tem Seats,**

Commissioner Clark-Griffin, Mayor Muhammad. NAYS: None, Abstain; None, Absent: Commissioners Henderson, Singleton, Adams.

COMMUNICATIONS

Public Safety Director McGinnis asked for help to nail down Mr Benton Harbor since he expressed interest in Public Safety.

Assessor Story stated that $\frac{3}{4}$ of the applications were returned for the disabled veterans exemption and that the business personal property statements are coming due within the next couple weeks.

Community & Economic Development Director Little explained where some items stated in the audit stand.

Attorney Racht stated an order was obtained for the tear down of 472 Colfax, the owner has until March 3rd to comply.

Clerk Moore requested all Commissioners review the current Policy & Procedures and submit any changes to her office.

Manager Mitchell thanked the Public Works department for working long hours and taking care of the streets.

COMMISSION COMMENTS

Commissioner Henry requested the Clerk provide Policy & Procedures from before 2012. Stated that we need to find a way to get people involved in the Master Plan. The Newsletter is currently being put together.

Commissioner Edwards thanked everyone working on the water. On behalf of the City he looks forward to things coming up in the park. And reminded everyone to check on their neighbors.

Commissioner Isom state it was very important to have a clean Audit. Thanked Fleis & Vandenbrink for the info and the Committee for moving forward with the Resolution for the RFP to fix the mics. Thanked those in the audience.

Mayor Pro-Tem Seats commended the body for the work they are doing and the leadership that been crucial in the last couple years. He thanked the Clerk for lasting 90 days and is looking forward to many more years. He thanked the Mayor and Lee Reed for their leadership and commended the forefathers.

Mayor Muhammad thanked the Commission, citizens, and presenters for coming out. Stated how important the audit process is and how it serves as a yearly check up. He commended the Public Works department for keeping the streets clean. Announced the State of the City address to take place on February 22, 2022 at 7pm where there will be a report of the health of the city, the current, past, and future state of the city.

CLOSED SESSION

A motion was made by Mayor Pro Tem Seats and supported by Commissioner Henderson to go into Closed Session to DISCUSS PENDING LITIGATION; WMP

PROPERTIES, V. CITY OF BENTON HARBOR, ET AL, BERRIEN COUNT CIRCUIT COURT FILE NO. 20-00999-AW-H. AND PENDING LITIGATION BRAZIEL, ET AL, VS CITY OF BENTON HARBOR, ET AL 1;21-CV-009060 WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION Motion carried on the following roll call vote: YEAS: Commissioners Henderson, Henry, Isom, Mayor Pro-Tem Seats, Commissioners Clark-Griffin, Edwards, Mayor Muhammad. NAYS: None. Abstain: None. Absent: Commissioners Singleton, Adams.

The regular meeting recessed to go into Closed Session at 8:33p.m. and reconvened at 9:25 p.m.

A motion was made by Commissioner Edwards and supported by Commissioner Isom to APPROVE PROPOSAL A in the case of WMP. Motion carried on the following roll call vote: YEAS: Commissioners Isom, Clark-Griffin, Edwards, Henderson, Henry, Mayor Muhammad. NAYS: None. Abstain: None. Absent: Commissioner Singleton, Mayor Pro-Tem Seats, Commission Adams.

A motion was made by Commissioner Edwards and supported by Commissioner Clark-Griffin to APPROVE PROPOSAL A in the case of BRAZIEL. Motion carried on the following roll call vote: YEAS: Commissioners Clark-Griffin, Edwards, Henderson, Henry, Isom, Mayor Muhammad. NAYS: None. Abstain: None. Absent: Commissioner Singleton, Mayor Pro-Tem Seats, Commissioner Adams.

MOTION TO ADJOURN

A motion made by Commissioner Henderson and supported by Commissioner Edwards to adjourn the meeting and was carried on the following roll call vote: YEAS: Commissioners Clark-Griffin, Edwards, Henderson, Henry, Isom, Mayor Muhammad. NAYS: None. Abstain: None. Absent: Commissioners Adams, Singleton, Mayor Pro-Tem Seats.

There being no further business to discuss, the meeting adjourned at 9:27 p.m.

Tiffany Moore, City Clerk

Marcus Muhammad, Mayor