

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

The regular meeting of the Benton Harbor City Commission was called to order by Mayor Pro Tem Seats at 7:01p.m. Roll call showed the following members present: Commissioners Adams, Clark-Griffin, Edwards, Henderson, Henry, Isom, Singleton, Mayor Pro Tem Seats. Members Absent: Mayor Muhammad (arrived at 7:05pm). Also present: City Manager Mitchell, Deputy Public Safety Director Clark, Assessor Story, Community and Economic Director/Assistant City Manager Little, Attorney Racht and Finance Director Williams.

APPROVAL OF MINUTES

A motion was made by Commissioner Adams and supported by Commissioner Henderson to approve the Regular Minutes of October 17, 2022. Motion carried on the following roll call vote: YEAS: Commissioners Henry, Isom, Singleton, Mayor Pro Tem Seats, Adams, Clark-Griffin, Edwards, Henderson. NAYS: None. Members Abstain: None. Members Absent: Mayor Muhammad.

APPROVAL OF ACCOUNTS PAYABLE

A motion was made by Commissioner Adams and supported by Commissioner Edwards to approve the Accounts Payable Listing.

During discussion, Commissioner Henry sent in some questions earlier in the day. Finance Director Williams clarified that the payment to Arendt Auto was for public works truck 153, payment to M&W Tire was for public safety vehicles, payment to DAS was for truck repair, Clean Earth Environment was for the sewer lift station cleaning and removal of blockage from sewer main. Payment to Brian Kazmierzak was reimbursement for the academy class refreshments, paid for by donations. Deputy Director Clark stated that anything for the fire academy is paid by the agency that sends their students or by donations, there was an all day Saturday class where a business donated for lunch. Williams continued to clarify that KSS Enterprise was for general maintenance supplies for city hall, the water plant, and public safety, MI Gas was a claim for damaged gas lines from demolished homes, SWMCAA was return of unused funds for utility bills for assistance for CDBG project which is grant funded, Rehric Company was for trash can parts and Jack Campbell was cemetery mowing, trash, and leaf removal. Commissioner Adams stated there are quite a few PILOTS, she asked if copies could be provided of all PILOTS in the City. She requested that the chairman of Personnel & Finance put on the agenda that a matrix is put on the website so the taxpayers can see their dollars coming and going out. Mayor Pro Tem Seats stated there is a lot of money going out for software and technology and would like those to be reviewed by a committee. Almost \$30,000 was paid for field work inspections, he asked if that went through committee, he said that if there is not a contract that should be bid out. Adam asked about the \$14,000 for cemetery cutting when the Code Enforcement Officer stated last month has come to a halt. Manager Mitchell stated that the cemetery mowing has not come to a halt as Veteran's Day is coming up. Seats asked for clarification on the \$6,000 return of grant funds from the Battle Creek Community Foundation. Commissioner Edwards stated in reference to Ring Central, calls are not going where they should. Mayor Muhammad called for the question. **Motion carried** on the following roll call vote. YEAS: Commissioners Isom, Singleton, Mayor Pro Tem Seats,

Commissioners Adams, Clark-Griffin, Edwards, Henderson Mayor Muhammad. NAYS:
Commissioners Henry. Members Abstain: None. Members Absent: None.

PRESENTATION – WATER SYSTEMS ALTERNATIVE ANALYSIS SUMMARY

John Young, engineer, provided an update on compliance with the Federal & State waters, the big part of which is the alternative analysis. The report does not make a recommendation, the decision on what the water system looks like in the future is the decision of the Commission. The report is currently posted in many places for comment through early December. There were 7 alternatives looked at:

1. The city maintains ownership of water system and money is invested in water plant and staffing is increased.
2. The city purchases water from St. Joseph, they have enough capacity to service the city.
3. The city purchases water from Benton Township, they do not have the capacity to service the city.
4. Regionalization: The city retains ownership of water system with cooperative partnership with a neighboring system.
5. Consolidation: The city would not retain ownership, there would be a regional water system that would be put together with the neighboring communities
6. Privatization: Sell the system to an investor who would come in and invest their own capital to improve the system
7. Drill wells, walk away from the Lake Michigan supply and have ground supply.

The report dismisses Regionalization, Consolidation and Privatization, leaving 4 scenarios that retain ownership. The economics didn't work for Benton Township or St Joseph to provide water. The status quo alternative is increased staffing and provide short term and long term improvements at the treatment plant, the other is drill some wells and build a new treatment plan.

After the public comment portion is complete and the EPA gives its unofficial blessing, they will be back to ask what the Commission wants to do. The next step in the process is choose an alternative, then a technical, management and financial capacity study is required.

Elaine Venema, engineer with Fleis and VandenBrink, reported that the draft Technical, Managerial, and Financial Study was submitted to EGLE, comments were put into a revised draft that has not yet been submitted to the State. The final TMF Study is due to the state in March.

Manager Mitchell stated the 30 day comment period will be up on December 1, it will then be submitted to the EPA. Commissioner Edwards asked what would happen to the old plant if the alternative was to go with the ground drilling. Young stated the old plant would be abandoned and a new plant would be built to address ground water.

Young clarified that retaining full ownership of the plant and staffing it has three alternatives; bringing in city staff, train and pay them; contract staff; or use a hybrid of both city staff and contracted staff. There would be an incremental increase per customer for the first alternative where the city would maintain and staff the plant.

Mayor Muhammad stated the question in front of us is should the city keep and maintain the water system for us, by us. Commissioner Singleton asked what the cost figures were for the other alternatives. Young stated that the estimated incremental monthly increase to the residents are included in the Alternative Analysis Report. Commissioner Adams said that we have to think long term about every decision we make. With Michigan being the largest water source, she asked if ground water systems should start in the near future. Young stated that the current water supply is plentiful and is relatively easy to treat. Commissioner Henderson asked about wages and certifications for employees and if there is information in the upcoming report and if there were any incentives for city

employees to get certifications for higher pay. Young stated this is a universal problem, yes, the operators are certified by the state, city employees can take a test to get the certification they need. Henderson asked if there was a list of available certifications that the employees can take the test for. Young stated that there are different levels of certifications needed that are managed by EGLE, those can be found on their website.

Commissioner Clark-Griffin stated that her and Commissioner Henry have sent emails requesting the use of ARPA funds to help with resident's water bills but haven't gotten a response. Commissioner Isom asked about the gap between elections and revenue. Young stated the revenue being brought in is about half of what's needed to run the system. Mayor Muhammad asked Governor Whitmer if Benton Harbor could get money allocated for residents, like Flint did, opposed to getting the water credit, free bottled water was provided to the residents.

CITIZENS COMMENTS

Jamie Davis stated as far as water goes, everyone's body is 90% water, which should be our first priority. The bottled water that is being given is detrimental to drink, it does not have the Ph required. He commented that it has been about a year and a half since the young lady passed in reference to the street name change and it is ridiculous and asked to please handle the situation that should have been done along time ago.

Deondrea Grant stated that a vehicle on her property was towed on Sunday, October 23 around 7pm, after speaking with the officer, he stated the vehicle was tagged on Friday at 4:45pm as an abandoned vehicle and would be towed within 48hrs. He also stated he knocked on the door to try to provide notice. Grant stated that her surveillance system never showed him knocking on the door. She also observed the officer taking several other vehicles in the area. The following Monday her husband has to pay \$430 to get the vehicle back. In addition to the standard towing charge there was a \$75 charge for towing without a key, as well as another \$175 charge because the vehicle was picked up on Sunday. She sent an email on October 24 and received responses back from Commissioner Clark-Griffin and Officer McGinnis, her husband also had a conversation with Officer Clark. In Officer McGinnis' response he cited ordinance Sec 2.56 and Sec 41-121. She stated there is no detail of abandoned vehicle in this ordinance. She is requesting a reimbursement of the expense paid for the vehicle as well as an amendment to the city ordinance dealing with private property. She feels like if she could have had a proper conversation this could have been resolved.

Earlene Patterson stated her sewer backed up, and she has called but nobody has come out. Her address is 670 Madison. Mayor Muhammad asked City Manager to have someone from Public Works go out and look at it and get it resolved ASAP.

Ira Ward left his number at the last meeting he attended and hasn't yet heard back from the city regarding his sewer back up. His address is 1198 Jennings.

Marvin Heywood stated the sewer issue has been going on for years and nobody is getting a call back, he thanked Commissioner Clark-Griffin for answering emails. He stated the water issue was brought to the Commission attention in 2017, a lawyer was sent from the lawyer. The water plant has been asked about for years. He stated that Abonmarche has been ripping the city off for years.

Ashley Hines asked for a follow up on the criminal charges for Lady T and the commercial district on Pipestone and Broadway. When she last spoke about it there was support from the Commission to bring back that Commercial corridor. Was asking for a list of things that could be complied with to get the property taken off the demolition list. Surprised to hear that AEP approached the property owners in the area, she thinks a conversation needs to take place with AEP, they are asking that the property owners comply with demolition or they will file eminent domain.

Shaquille Turner stated no dumping means no dumping, according to the City Charter, you can be fined or incarcerated. He stated that Public Works is dumping, Code Enforcement was informed. There is no dumping in the City limits.

Emma Kinnard stated there has been dumping for years. The city has the opportunity to work and take care of our own, the people are watching. There hasn't been any report about the water plant that was in non-compliance. She's asked if the violations at the plant were cleaned up and what was still owed on the updates.

Elnora Gavin stated she supports Shamika Jordan's family and the renaming of the street and would like the other things in the original resolution respected. There should be an ordinance against charging anyone for unsafe water. There is a petition at fixthatbill.org to have the water bills zeroed out.

Mr Duncan thanked all the guys working for the city doing the things they do, would like to see them paid more than what they are currently being paid. Has not seen anything happen for the citizens in the last 70 years. He said do not give the water plant away, ask for the Marijuana businesses and Whirlpool to help.

CONSENT CALENDAR

A motion was made by Commissioner Henderson and supported by Mayor Pro Tem Seats to SUSPEND THE RULES to add 289 PARKER DEED to the agenda. Motion carried on a unanimous roll call vote.

Commissioner Adams requested to remove APPROVAL OF EXCLUSIVE OPTION TO PURCHASE AND AUTHORIZATION TO REHAB TWO CITY OWNED HOUSING UNITS for further discussion.

Commissioner Adams requested to remove AMENDMENT TO THE LEAD SERVICE LINE REPLACEMENT GRANT AGREEMENT for further discussion.

The following Consent Calendar items were moved by Commissioner Singleton and supported by Commissioner Henderson. Motion carried on a unanimous roll call vote.

PROCLAMATION PROMOTING SMALL BUSINESS ATURDAY IN BENTON HARBOR

RESOLUTION OF HONORARY STREET RENAMING FROM MCALISTER STREET TO SHAMIKA JORDAN WAY

SEPARATED ITEMS

A motion was made by Commissioner Adams and supported by Commissioner Henderson to approve the APPROVAL OF EXCLUSIVE OPTION TO PURCHASE AND AUTHORIZATION TO REHAB TWO CITY OWNED HOUSING UNITS

During discussion, Commissioner Adams stated that Mr. Little was previously asked what properties were going to be involved and she is now seeing that one of the properties, 717 Colfax, that the property owner adjacent has the first right to a property. The deal with the previous owner fell through. She is asking that this property be removed. Director Little stated that this property was

previously negotiated with a gentleman and the agreement stated that if the agreement was not fulfilled it would revert back. Notice was served. Attorney Racht stated that he has not seen the agreement on that property. Mayor Muhammad asked if there is a provision in the agreement that if the fulfillment on the said party is not filled on what they were obligated to do and the property reverts back to the city, is it safe for the city to enter into another agreement. Attorney Racht stated that presumably if Mr. Little has the agreement and the agreement wasn't complied with and notice was given, then you can proceed forward. Mayor Pro Tem Seats that having legal representation we should be using it to the best of our ability and if something comes up legally that the Attorney review it prior. He is asking that the said agreement and the previous agreement be introduced to the legal department. Commissioner Clark-Griffin would like to know what two houses are being discussed tonight. Mayor Muhammad clarified 1135 Superior and 717 Colfax. Adams stated any agreements go through the city attorney and that has not happened. The property that was previously on here on Agard should be on here. Planning & Economic Development Committee needs to discuss the properties obtained on foreclosure. Mayor Muhammad stated there has been really good work to work with residents and homeowners but in this case this particular deal did not go through and there is an organization willing to do work, but hopes there is capacity there and asked if there has been an agreement aside from the resolution presented. Director Little stated everything was presented to the committee and previously there was not written agreement, it was verbal put into a resolution that the Commission approved. Mayor Muhammad stated there should be written obligations stating a timeline to fulfill the agreement. He asked Director Little to work with the city attorney and the organization, if this resolution passes, to come up with a legal agreement and timeline. Mayor Pro Tem Seats asked for clarification on if the city is donating the property or selling the property, there is no dollar amount on the resolution. Adams would like to see the properties that came out of foreclosure to put into a city land back and put into an agreement with this organization. Clark-Griffin stated that protocol is not being followed, this is the third or fourth time that the CDC has been here, procedures have not been followed. Commissioner Edwards if the CDC could provide a presentation of what they are going to do with the properties. Mayor Muhammad clarified what is being done tonight is initiating the process. Attorney Racht clarified that what is presented is an option to purchase, further clarifying that the city will leave those properties open for the opportunity for them to purchase for a certain amount of time. Mayor Muhammad stated to protect the city, the organization, and the residents there needs to be an agreement. **Motion carried** on a unanimous roll call vote.

A motion was made by Commissioner Adams and supported by Commissioner Henderson to approve the AMENDMENT TO THE LEAD SERVICE LINE REPLACEMENT GRANT AGREEMENT

During discussion, Commissioner Adams asked for clarification of which replacement because some. Mayor Muhammad stated that the city received \$45 million dollars from the state, there is about \$26 billion left, this amendment would be used for water treatment plant improvement, distribution system upgrade to improve water mains, contractual support services. He clarified the first step is to approve the amendment then the direction to go. This is no extra cost to the city, this is from the state budget and is not related to ARPA funds. Commissioner Henry asked if any of this project going to straighten out the sewer back up problems. Mayor Muhammad clarified that the agreement states that what's being amended is not going to straighten out the entire system, some tough decisions will have to be made and accountability of the city. Henry stated her perspective is you go after the worst problem that has been happening. Mayor Muhammad stated this is for water, there are sewer dollars, infrastructure dollars from the federal government that the city is going to go after. Henry asked how

she gets the sewer issues resolved. Mayor Muhammad clarified the sewer issues are a whole other infrastructure issue and to go through the city manager to contact Abonmarche. Mayor Muhammad called for the question. **Motion carried** on a unanimous roll call vote.

A motion was made by Mayor Pro Tem Seats and supported by Commissioner Singleton to approve the DEED FOR 289 PARKER

During discussion, Mayor Pro Tem Seats stated that the property has been maintained and taxes have been paid by the family for over 30 years. Nothing is currently owed on the tax or water bill. There is no right of the city to have it's name on the property. It is being requested to have the attorney remove the city name from the property. Attorney Racht stated its his understanding that there was a land contract around 30 years ago and taxes were not being paid by the property owner so it reverted to the state who sent it to the city and the person on the contract paid off the owner and paid the taxes to the city. Mayor Muhammad stated this is something that should be handled with the attorney and staff. Attorney Racht stated that for whatever reason the proper paperwork wasn't filed with the register of deeds, it is in the city's name. The city can quit claim the property. Assessor Story stated that in the 80's and 90's when a property went into tax foreclosure it was deeded to the state. **Motion carried** on a unanimous roll call vote.

COMMUNICATIONS

Deputy Director Clark – no report

Assessor Story – no report

Director Little – no report

Attorney Racht clarified that the state deeded 289 Parker to the city in 1993. He stated that the Adams Billboard has been resolved in the city's favor.

Finance Director Williams had nothing to report tonight but there will be much to report at the next Personnel & Finance Committee meeting. He gave an update from the Clerk in her absence: She reported that tomorrow is election day, polls are open from 7am to 8pm, polling locations by vising Michigan.gov/vote. As of the end of the day today 831 Absentee Ballots were issued, with 692 returned and 139 outstanding, totaling 83.27% returned. Absentee Ballots can be dropped off to the Clerk's office or the Drop Box outside of the Hall until 8pm tomorrow night.

Manager Mitchell presented the information for free home lead inspection services.

COMMISSION COMMENTS

Commissioner Clark-Griffin congratulated the Jordan family for the renaming of the street to Shamika Jordan Way. She stated at the last meeting she spoke on the Mayor being a member of the Commission and not having the right to veto and violating the Code of Ethics, since then the Legislative Committee has discussed changes to the Policy & Procedures, which gives the Mayor more power and gives the Commission and residents less power. Wants the residents to continue to fight, she will continue to fight for the residents. There are 5 seats up next year, we need a change, she's willing to work with anyone that wants to see the city move forward. She encouraged everyone to vote tomorrow.

Commissioner Henry reiterated when you hear public comment or public hearing that's your opportunity to get involved, the more information that's provided, knowledge is power.

Commissioner Edwards encouraged everyone to go vote.

Commissioner Henderson stated you have to have thick skin, be willing to listen and make hard decisions to sit in these positions. The reason they are elected is to make those decisions. There are

Commission seats up next year, people want to make decisions based on what they think, not what the facts are. Leaders bring people together around things that are going to change the community. There is more that is agreed upon then separates and divides them.

Commissioner Singleton stated that getting out to vote is very important. Glad to see initiatives taken for illegal dumping.

Commissioner Isom said don't forget to go vote and let's keep the water plant. He read the Resolution of Honorary Street Naming from McAlister St to Shamika Jordan Way (from Cross St to E May St)

Commissioner Adams stated she has always been an emotional person but it has never affected her when it comes to making an important decision. She said her prayers and thoughts are always with the Jordan family for their loss.

Mayor Pro Tem Seats told the Jordan family that you can't replace a love one, but you can honor them. He said it's one thing to talk, it's another to walk. He spoke on revitalization and the investment in the alley. He asked how much money was spent on the alley behind Cornerstone and why does it look different than it did when it was dredged and dug up.

Mayor Muhammad referenced Benton Harbor Monopoly. He stated Monopoly deals with complete control, water, utilities, renters, owners, pieces, etc, but stated do we understand the game. It takes economics to rebuild, improve, and solve the issues in Benton Harbor. He stated our money doesn't circulate one time in our community, so what board are playing on. Benton Harbor is in another place and space and it's moving forward. Relationships make things happen and get things done. Lead service line replacement is 99.6% complete.

MOTION TO ADJOURN

A motion made by Mayor Pro Tem Seats and supported by Commissioner Adamss to adjourn the meeting was carried on a unanimous roll call vote.

The regular meeting was adjourned by Mayor Muhammad at 9:59pm.

Tiffany Moore, City Clerk

Marcus Muhammad, Mayor