

## Roll Call

The Kalamazoo City Commission met as a Committee of the Whole on Monday, March 15, 2021 at 5:00 p.m. This meeting was held as an electronic meeting under the authority of the Michigan Open Meetings Act (PA 267 of 1976) as amended by PA 254 of 2020.

## COMMISSIONERS PRESENT:

Mayor David Anderson  
Vice Mayor Patrese Griffin  
Eric Cunningham  
Jeanne Hess  
Erin Knott  
Chris Praedel  
Jack Urban

## COMMISSIONERS ABSENT:

None

All members present indicated they were physically located in the City of Kalamazoo.

Also present were City Manager Jim Ritsema, Deputy City Manager Jeff Chamberlain, Deputy City Attorney Richard Cherry, and City Clerk Scott Borling.

## Public Comments

Next, when an opportunity was given for general public comments, the following people addressed the City Commission:

Jeff Messer, City resident, asked the City Commission to have a discussion about resuming some form of in-person meetings, and he asked the City Attorney to provide information on the relevant state restrictions for in-person meetings.

**2021-00**

First Reading of an  
Ordinance to Amend  
Chapter 12 re:  
Emergency Management

Deputy City Attorney Richard Cherry reviewed a proposed ordinance that would amend Chapter 12 of the Kalamazoo City Code to set forth Emergency Management protocols and permit the City Commission and other public bodies of the City which are subject to the Open Meetings Act to continue to meet by electronic means.

In response to a question from Commissioner Urban, Deputy City Attorney Cherry stated the City Commission could rescind the declaration of emergency if it wanted to start meeting in person sooner than the stated expiration date of August 31<sup>st</sup>.

City Manager Ritsema noted the restriction on meeting in person was due to the statewide 25-person limit for indoor gatherings.

Commissioner Urban stated a 50-person limit would allow for in-person meetings, and he indicated the City needed to move to hybrid meetings as soon as possible.

In response to questions from Commissioner Praedel, Deputy City Attorney Cherry reported there were three bills pending in the state legislature that would extend the ability of local governments to meet remotely without a reason, but City Attorney Robinson was not confident the bills would pass. Deputy City Attorney Cherry stated the City Commission could revisit this item if the bills passed, and he indicated Ann Arbor and Grand Rapids were taking similar actions to allow for virtual meetings.

City Manager Ritsema indicated the City of Battle Creek continued to hold virtual public meetings.

In response to a question from Commissioner Hess, Deputy City Manager Chamberlain indicated staff were checking with other jurisdictions to see how hybrid meetings could work. Deputy City Manager Chamberlain noted a plan to implement hybrid meetings would involve all the City's boards and commissions, not just the City Commission.

Deputy City Attorney Cherry stated it was his opinion the proposed local emergency resolution would apply to any public body in the City that was meeting under the Open Meetings Act.

Commissioner Cunningham, seconded by Commissioner Knott, moved to offer for first reading an ordinance, to be adopted as an emergency measure, to amend Chapter 12 of the Kalamazoo City Code to set forth Emergency Management protocols and permit the City Commission and other public bodies of the City which are subject to the Open Meetings Act to continue to meet by electronic means.

Prior to a vote on the motion, Commissioner Cunningham stated the City needed to consider hybrid meetings, and he suggested moving meetings outdoors at least once per month when warmer weather arrived.

City Manager Ritsema indicated the City owned a large tent that could be used for outdoor public meetings.

Commissioner Praedel reviewed the impact of COVID-19 on the United States, Michigan, and Kalamazoo. Commissioner Praedel stated the City Commission did not know what pre-existing conditions and family situations were present in Commissioners, staff, and the public, and he stated the Commission should hold off meeting in person until it was safe, for as long as they had the power to do so. Commissioner Praedel stated he did not like being forced to meet remotely and would rather meet in person. Regarding comments that remote meetings disenfranchised people, Commissioner Praedel noted a decision to resume in-person meetings would exclude people who were concerned about getting COVID. Commissioner Praedel remarked on the increased level of public engagement during this time, both in terms of email messages and public comments during meetings, and he expressed support for the continuation of remote meetings.

Commissioner Knott expressed agreement with Commissioner Praedel and thanked him for his remarks. Commissioner Knott stated she wanted to feel safe, and she would not do outdoor meetings. Commissioner Knott reported she had noticed large increases in participation in her day job. Commissioner Knott stated higher percentages of vaccinated people would be the key for a return to in-person public meetings.

Commissioner Urban stated he was not eager to expose people to COVID19, and a permanent move to hybrid meetings would be ideal. Commissioner Urban questioned whether it was appropriate to vote on something at a Committee of the Whole (CoW) meeting.

**2021-00**

First Reading of an  
Ordinance to Amend  
Chapter 12 re:  
Emergency Management  
(cont'd)

**2021-00**

First Reading of an  
Ordinance to Amend  
Chapter 12 re:  
Emergency Management  
(cont'd)

Mayor Anderson noted the recommended action was the first reading of an ordinance and not the final approval, which was scheduled to take place during the 7:00 business meeting.

Deputy City Attorney Cherry noted there was an issue of timeliness with this item, as this was the last City Commission meeting before the statutory provision for no-reason remote public meetings expired at the end of the month. Deputy City Attorney Cherry stated the Commission would need to adopt the proposed ordinance and state of emergency resolution today or hold a special meeting prior to the end of March to take these actions if Commissioners wanted to be able to meet remotely for the first meeting in April.

City Manager Ritsema remarked that City Attorney Robinson had designed the CoW meetings to allow for City Commission actions.

Commissioner Urban stated this circumstance was atypical, and this action should not be considered precedent setting.

Commissioner Cunningham thanked Commissioner Praedel for his remarks and stated his concerns were more important than the Commission rushing to gather in person.

Commissioner Praedel commented that outdoor meetings sounded like a solution for in-person meetings, but inclement weather and locations that were not accessible could result in people being excluded from participation.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Cunningham, Hess, Knott, Praedel, Urban, Vice Mayor Griffin, Mayor Anderson

NAYS: None

Review of Upcoming  
City Commission  
Agenda Items

Deputy City Manager Chamberlain reviewed items for upcoming City Commission meeting agendas. Deputy City Manager Chamberlain indicated the City Manager, Mayor, and Vice Mayor had met to go over topics for future CoW meetings.

City Manager Ritsema announced the next four CoW meetings would feature the four priorities identified at the retreat on Saturday, and these meetings would include staff presentations on the current work being done on each priority. City Manager Ritsema stated there would also be a CoW meeting dedicated to the use of federal stimulus funding. City Manager indicated other potential CoW topics included the five priorities that were not discussed at the retreat.

Presentation on the  
Area-Wide Water  
Services Agreement

City Manager Ritsema provided introductory remarks regarding the negotiation of a new water services contract.

Deputy City Manager Chamberlain recognized the members of the water services contract negotiation team. Deputy City Manager Chamberlain stated the impetus to negotiate a new contract was a lawsuit brought against the City by Comstock Township, Cooper Township, Kalamazoo Township, Oshtemo Township, Pavillion Township, Richland Township, Richland Village, and Texas Township, Deputy City Manager Chamberlain reported all these jurisdictions had approved

the proposed agreement. Deputy City Manager Chamberlain thanked Oshtemo Township Supervisor Libby Heiny-Cogswell and Comstock Township Treasurer Brad Padgett in particular for their good questions, discussions, and information sharing. Deputy City Manager Chamberlain reviewed key negotiation points and important provisions of the proposed agreement.

Director Baker described the water system and current priorities for capital investment.

Bart Foster, the City's utility rate consultant, reviewed a history of water rates for the City's water system. Mr. Foster stated the rate model the City had been using was 40 years old and resulted in rate volatility and differences in rates between City and non-City customers. Mr. Foster reported there was a desire by both parties to make sure contract language for rates and the rate-setting process would treat all parties fairly. Mr. Foster stated predictions using the current rate model showed little difference between City and non-City customers in the near term, and a decision was made to use a simple, stable rate model where all customers paid the same amount. Mr. Foster indicated the new model would be much simpler and would not require the detailed cost analysis of the current rate model. Mr. Foster noted Kalamazoo rates for water and wastewater were among the lowest in the state, even after accounting for the equalization of in-City/out-of-City rates.

Deputy City Manager Chamberlain stated there was agreement that continuous lawsuits and arguments were not good for anyone. Deputy City Manager Chamberlain indicated the lawsuit would proceed if the contract was not approved, and the City would lose control over the end result. Deputy City Manager Chamberlain reported all City departments had signed off on the proposed agreement.

In response to a question from Mayor Anderson, Mr. Foster stated he had been involved with Kalamazoo utility rates since 1989.

In response to a question from Mayor Anderson, Director Baker stated the City had eliminated water shut-offs, had helped over 500 customers with COVID-19 relief funds; was partnering with Consumers Energy for an energy sustainability program; and would provide direct utility assistance as state and county resources became available.

In response to a question from Commissioner Cunningham, Deputy City Manager Chamberlain indicated he did not know what the new utility advisory body would look like, but the City was aware of the need for this board to have diverse representation.

In response to questions from Commissioner Praedel, Deputy City Manager Chamberlain stated he did not know how the township representatives would be selected, but the City Commission would approve the City's representatives. Deputy City Manager Chamberlain explained the advisory board would select the rate consultant and make rate recommendations to the City Commission, but the City Commission would make the final determination on utility rates. Deputy City Manager Chamberlain stated he did not know the sum of the legal fees paid by all parties during the contract negotiations, but he remarked there were two contracted attorneys, two rate consultants, and a contracted accountant at the table. Deputy City Manager Chamberlain confirmed the other parties had approved the contract, and the City Commission would be undoing a lot of work if it did not approve it.

Presentation on the  
Area-Wide Water  
Services Agreement  
(cont'd)

Presentation on the  
Area-Wide Water  
Services Agreement  
(cont'd)

In response to questions from Commissioner Praedel, Director Baker noted Galesburg, Portage, Climax, and Vicksburg/Schoolcraft had their own water systems. Director Baker stated the proposed contract contained provisions for other water systems to join the City's network, but water systems typically did not connect to each other due to long approval processes with state and federal agencies.

In response to a question from Commissioner Praedel, Deputy City Manager Chamberlain confirmed the lawsuit was about equity in costs, and he noted the contract did not require the City to pay anything to any customers. Deputy City Manager Chamberlain stated approval of the agreement would make the lawsuit go away.

Commissioner Hess commented on a new trust that was not there before – trust among community partners, trust in the professionals on City staff, and trust in science.

Mayor Anderson stated one of the most profound and important services the City provided was clean, safe water, and this was a service worth preserving in every way, shape, and form. Mayor Anderson remarked that this action was a moment for celebration and recognition. Mayor Anderson acknowledged there were people who had been involved in the lawsuits and negotiations over the years who would have strong feelings about water rates and ownership of the system, but at some point the community needed to come to an agreement that people would understand 35 years from now. Mayor Anderson noted the proposed agreement would codify certain thinking regardless of whether the representatives of the parties trusted each other in the future. Mayor Anderson expressed hope that this agreement would set the stage for further collaboration on other projects. Mayor Anderson stated water and wastewater issues were at the front of the City's agenda when he ran for City Commission in 2005, and he stated he was glad the process was coming to an end, as there were so many other issues to deal with now.

City Manager Ritsema thanked the negotiation team. City Manager Ritsema noted the City still needed to negotiate a wastewater service agreement.

Commissioner  
Comments

Next an opportunity was given for comments from City Commissioners, but no comments were offered.

Adjournment

The meeting adjourned at 6:26 p.m.

Respectfully submitted,

Scott A. Borling  
City Clerk

For City Commission approval on May 3, 2021

Approved by:

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David F. Anderson, Mayor  
Dated: May 3, 2021

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