

Roll Call

A regular meeting of the Kalamazoo City Commission was held on Monday, April 3, 2017 at 7:02 p.m. in the City Commission Chambers at City Hall.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Don Cooney
David Anderson
Erin Knott
Matt Milcarek
Shannon Sykes
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were Deputy City Manager Patsy Moore, City Attorney Clyde Robinson, and Deputy City Clerk Shelby Moss.

Invocation

The invocation, given by Reverend Sarah Schmidt-Lee from Congregational Church, was followed by the Pledge of Allegiance.

Proclamations

Commissioner Knott proclaimed April 4, 2017 *National Service Recognition Day*. Senior Program Officer Sonja Dean from the Local Initiative Support Corporation received the proclamation.

Vice Mayor Cooney proclaimed April 2017 *Child Abuse Prevention Month*. Board Member Erin Cunningham and Executive Director Sarah Joshi of the Kalamazoo County Child Abuse and Neglect Prevention Council received the proclamation.

Commissioner Sykes proclaimed April 2017 Sexual Assault Awareness Month. Sexual Assault Advocate and Counselor Mallory Kruizenga and staff of the YWCA of Kalamazoo received the proclamation.

Adoption of the Agenda

By unanimous consent the City Commission adopted its meeting agenda with the following changes:

Commissioner Milcarek requested Item F8 (first reading of two ordinances amending the Kalamazoo City Code regarding quadricycles) and Item F9 (adoption of a resolution establishing a \$250 fee for seized vehicles) be moved from the Consent Agenda to the Regular Agenda.

A citizen requested Item F4 (improvements of traffic signals along North Drake Road and South Burdick Streets and the installation of bike lanes on South Burdick Street) be moved from the Consent Agenda to the Regular Agenda.

Communications

Deputy City Manager Moore announced there would be a City Commission work session on Monday, April 10, 2017 at 6:00 p.m. in the City Commission Chambers at City Hall. Deputy City Manager Moore stated the discussion topics would include the Foundation for Excellence (FFE) aspirational projects and examples of potential dashboards and metrics for FFE projects to drive impact and accountability.

Consent Agenda items were presented as follows with a recommendation to approve the items with authorization for the City Manager to sign on behalf of the city:

- approval of a one-year contract with Lakeland Asphalt Corporation for the purchase of a 2,000 tons of asphalt patching material in the amount of \$160,000.00.
- approval of contracts with ice control salt suppliers that are awarded bids by the State of Michigan for the 2017-2018 winter season requirements in an amount not to exceed \$450,000.
- approval of a one year contract for property maintenance with Natural Landscapes for mowing Mountain Home and Riverside cemeteries in the amount of \$124,930.
- approval of a contract with the Michigan Department of Transportation for the Portage Road Improvement Project in the amount of \$587,001.
- approval of an agreement between the City of Kalamazoo Building Authority and Traffic & Safety Control Systems, Inc. for the Parking Access and Revenue Control Upgrade Project in the amount of \$741,283.77.
- approval of a change order In the amount of \$40,000 for The Sweeney Group to continue fundraising efforts for Bronson Park Capital Campaign.
- adoption of a **RESOLUTION** to rescind and remove restrictions, covenants, and development standards for Davis Creek Business Park.
- authorization for the City Manager to execute a Bilateral Permit with Merit Network, Inc. pursuant to the Metropolitan Extension Telecommunications Right of Way Oversight (METRO) Act so as to permit the placement of fiber optic telecommunication lines within the City.
- approval and acceptance of an easement from the Kalamazoo County Land Bank for an operations and maintenance access trail to the Spring Valley Syphon.
- approval of Non-Motorized Path Easement Agreements for the Downtown Kalamazoo River Valley Trail with the following entities: the Board of Trustees for Western Michigan University; the Board of Trustees for Kalamazoo Community College; Downtown Tomorrow Inc.; West Michigan Cancer Center; Kalamazoo County Community Mental Health Authority; and Number 39, LLC.
- approval of a Buy/Sell Agreement with Dylan Wright for the purchase of property located at 1007 East Alcott Street.

Consent Agenda

Resolution 17-22

Consent Agenda
(cont'd)

- approval of the Mayor's reappointments to the following board and commissions:
 - the reappointment of Dan DeMent to the Retirement and Perpetual Care Investment Committees for a term expiring on March 31, 2020. This recommendation includes a request to waive City Commission Rule 12e regarding term limits.
 - the reappointment of Randy Eberts to the Retirement and Perpetual Care Investment Committees for a term expiring on March 31, 2020. This recommendation includes a request to waive City Commission Rule 12e regarding term limits.
 - the reappointment of Robert Sailsbury to the Retirement and Perpetual Care Investment Committees for a term expiring on March 31, 2020. This recommendation includes a request to waive City Commission Rule 12e regarding term limits.
 - the reappointment of James Coss to the Planning Commission for a term expiring on March 31, 2020.
- approval of the minutes from the City Commission meetings on March 20, 2017.

Commissioner Knott, seconded by Commissioner Urban, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban, Vice Mayor Cooney, Mayor Hopewell

NAYS: None

Regular Agenda

Regular Agenda items were considered next.

Contract for Street
Improvements to
N. Drake Rd and
S. Burdick St.

When an opportunity was given for citizens to comment on a contract with the Michigan Department of Transportation and a purchase order with Carrier and Gable for the improvement of traffic signals along North Drake Road and South Burdick Street and the installation of bike lanes on South Burdick Street, the following people addressed the City Commission:

Richard Stewart, City resident, expressed concerns about the lack of community engagement regarding the bike lanes on South Burdick Street. Mr. Stewart requested more law enforcement of bike riding laws.

Joseph Cekola, City resident, expressed support for bike lanes in the City of Kalamazoo. Mr. Cekola stated bike lanes were important for promoting Kalamazoo to the millennial workforce.

Paul Wells, non-resident, expressed support for bike lanes on South Burdick Street.

Paul Selden, non-resident, expressed support for bike lanes on South Burdick Street. Mr. Selden highlighted the need to educate bicyclists on the rules of the road. Mr. Selden stated bike lanes and pedestrian friendly communities were good for economic growth.

Commissioner Sykes, seconded by Vice Mayor Cooney, moved to approve a contract with the Michigan Department of Transportation in the amount of \$505,413 and a purchase order with Carrier and Gable in the amount of \$102,809 for the improvement of traffic signals along North Drake Road and South Burdick Street and the installation of bike lanes on South Burdick Street.

Prior to a vote on the motion, Commissioner Milcark expressed support for bike lanes on South Burdick Street and stated a better built environment for bicyclist and motorists would promote safety for all.

Commissioner Urban expressed support for bike lanes on South Burdick Street as it was part of the City's non-motorized plan.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

When an opportunity was given for citizens to comment on two ordinances amending various sections of the Kalamazoo City Code to eliminate the seatbelt requirement for quadricycles and to permit the possession and consumption of alcoholic beverages by passengers on quadricycles, the following people addressed the City Commission:

Richard Stewart, City resident, expressed concerns regarding the proposed ordinance amendments and the public consumption of alcoholic beverages.

Zachary Lassiter, City resident, expressed concerns about the previous speaker's intentions and past business interests.

Andrew Haan, President of Downtown Kalamazoo Inc. (DKI), stated DKI had gathered a petition from several Downtown businesses supporting the consumption of alcoholic beverages by passengers on quadricycles. Mr. Haan stated quadricycle programs where alcoholic beverages could be served had been successful in other Cities, and he felt it would add to the beer culture in the City of Kalamazoo.

Contract for Street
Improvements to
N. Drake Rd and
S. Burdick St.
(cont'd)

Quadricycle
Ordinance
Amendments

Quadricycle
Ordinance
Amendments
(cont'd)

Frank Warren, City Resident, expressed concerns regarding the proposed ordinance changes and the public consumption of alcohol.

Commissioner Anderson, seconded by Commissioner Sykes, moved to offer for first reading two ordinances amending various sections of the Kalamazoo City Code to eliminate the seatbelt requirement for quadricycles and to permit the possession and consumption of alcoholic beverages by passengers on quadricycles.

In response to questions from Commissioner Sykes, Attorney Robison stated quadricycle drivers would not be permitted to consume alcohol, and the request to eliminate the seatbelt requirement came from the quadricycle owners. Attorney Robinson stated seatbelts were not required on any other type of bicycle or motorcycle, and he explained that if a quadricycle were in an accident the passengers could escape from the vehicle as quickly as possible.

Commissioner Sykes stated she did not believe it was necessary to eliminate the seatbelt requirement, and she would not support the consumption of alcoholic beverages by passengers on the quadricycles if the seatbelt requirement was removed from the ordinance.

Commissioner Milcarek remarked on the experiences of other cities that had allowed alcohol on quadricycles but were reconsidering that decision. Commissioner Milcarek stated there was nothing wrong with the existing ordinance, and he suggested more time needed to pass before the City was able to determine the effect of the current ordinance. Commissioner Milcarek indicated he would not support the proposed changes.

Vice Mayor Cooney stated he did not support the proposed ordinance changes and wanted to wait and see how the quadricycle businesses fared in other cities where the consumption of alcohol was permitted.

Commissioner Urban stated he could not support the ordinance with both the removal of the seatbelt requirement and the permitted consumption of alcoholic beverages by passengers. Commissioner Urban stated he would keep an open mind for changes in the future.

Commissioner Knott stated she had a hard time making the distinction between being consuming alcohol on a quadricycle and consuming alcohol on the street, and she questioned why one would be allowed and not the other. Commission Knott indicated she would not support the proposed consumption of alcohol on a quadricycle.

In response to questions from Commissioner Anderson, Attorney Robinson stated he had done research on several municipalities with quadricycle ordinances when he drafted the City's current ordinance in 2015. Attorney Robinson stated he knew of two municipalities that had originally adopted ordinances prohibiting the consumption of alcohol and then revised their ordinances to allow it. Attorney Robinson explained he was bring these changes forward at the request of the current quadricycle business operating in Kalamazoo, and it was a policy decision for the Commission to make.

Mayor Hopewell stated he would not support the proposed elimination of the seatbelt requirement from the ordinance.

With a roll call vote this motion failed unanimously:

AYES: None

NAYS: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

In response to questions from Commissioner Milcarek, Attorney Robinson stated a vehicle could be seized if a person was taken into custody for possession of any controlled substance with intent to deliver, and the fee was to recover the costs incurred by the city for towing the vehicle and processing claims.

When an opportunity was given for citizens to comment on a resolution that establishes a \$250.00 fee for vehicles seized pursuant to M.C.L. § 333. 7521, the following people addressed the City Commission:

Zachary Lassiter, City resident, expressed concerns regarding the State of Michigan's forfeiture process and thanked the Mayor and the Chief of Police for addressing his concerns via email and making time to meet with him at a later date.

Sherry Opalka, City resident, questioned if the resolution would have a negative impact on the medical marijuana community.

Commissioner Anderson, seconded by Commissioner Urban, moved to adopt a **RESOLUTION** that establishes a \$250 fee for vehicles seized pursuant to M.C.L. 333. 7521, if the owner requests the release of the seized vehicle.

In response to questions from Commissioners, Attorney Robison stated the Medical Marijuana Act had protections for patients and caregivers, if they possessed no more than the permitted amount of marijuana as specified in the act. Attorney Robinson explained the Michigan Public Health Code required individuals to post at least a \$250 bond for vehicles that were subject to forfeiture under the law. However, Public Act 418 of 2016 eliminated the bond requirement, effective April 4, 2017. Attorney Robinson indicated the proposed resolution would formalize the continuation of current vehicle seizure practices and replace the \$250 bond with a recovery fee of the same amount. Attorney Robinson stated that if drugs were found and a vehicle towed, the fee would apply regardless if criminal charges were filed. Attorney Robinson added that in a situation like this the registered owner of the vehicle would be able to recover the vehicle upon payment of the \$250 fee, with no additional towing and storage fees. Attorney Robinson explained the forfeiture process happened in civil court, and he noted that if the Kalamazoo Valley Enforcement Team (KVET) chose to move forward with this process the claimant would be informed, and the \$250.00 fee would be waived. Attorney Robinson stated the vehicle forfeiture process was pursued only if the vehicle had a minimum value of \$3,000, which would allow KVET to realize some revenue after paying for the court

Quadricycle
Ordinance
Amendments
(cont'd)

Resolution 17-23
Setting the Recovery
Fee for Seized
Vehicles

Resolution 17-23
Setting the Recovery
Fee for Seized
Vehicles (cont'd)

proceedings and administrative costs. Attorney Robinson advised that it was not a good idea for the City to publish the threshold that defined an amount of a controlled substance "for delivery," as it would provide criminals with information that would allow them to avoid trafficking charges. Attorney Robinson stated failure to pass the resolution would result in the City being responsible for all costs associated with seizing vehicles.

Commissioner Milcarek stated it was hard for him to support this resolution and expressed concern that the fee could contribute to the decline of a family where one member makes a mistake using the family vehicle.

Commissioner Sykes expressed opposition to someone being forced to pay the recovery fee if they were found not guilty of the criminal charges. Commissioner Sykes also voiced concern for the family member whose car was used to traffic narcotics without their knowledge.

Mayor Hopewell offered remarks about vehicle owners being responsible for what happened in, around, and to their vehicles.

With a roll call vote this motion passed 5-2.

AYES: Commissioners Anderson, Knott, Urban, Vice Mayor Cooney, Mayor Hopewell

NAYS: Commissioners Milcarek, Sykes

Ordinance 1948
Re: 2017 Water
Revenue Bonds

An opportunity was given for citizens to comment on the adoption of an ORDINANCE to amend Ordinance No. 1947 to provide for the use of a letter of credit, surety bond or insurance policy to fund the Bond Reserve Account for the 2017 Revenue Bonds of the Water Supply System, but no comments were offered.

Commissioner Milcarek, seconded by Commissioner Knott, moved to adopt an ordinance to amend Ordinance No. 1947 to provide for the use of a letter of credit, surety bond or insurance policy to fund the Bond Reserve Account for the 2017 Revenue Bonds of the Water Supply System.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban, Vice Mayor Cooney, Mayor Hopewell

NAYS: None

Parking Ramp #4
Purchase
Agreement

Assistant City Manager Jerome Kisscorni reviewed details of a purchase agreement to sell Parking Ramp #4 to 306 Parking, LLC, an affiliate of PlazaCorp Realty Advisors, Inc. Assistant City Manager Kisscorni reported PlazaCorp had recently purchased the former Rose Street Market building and had entered into an agreement with a national hotel chain to redevelop the building, which would be serviced by the parking ramp.

In response to questions from Commissioners, Assistant City Manager Kisscorni stated there was no parking contract with Amtrak for its passengers, but they would be allowed to use any of the 100 designated public parking spaces. Assistant City Manager Kisscorni reported the City was in discussions with the County and others to develop an additional public parking ramp in the Arcadia Commons West area.

Parking Ramp #4
Purchase
Agreement (cont'd)

When an opportunity was given for citizens to comment on a purchase agreement for the sale of Parking Ramp No. 4 to 306 Parking, LLC, the following people addressed the City Commission:

Andy Wenzel, Director of Acquisitions and Development at PlazaCorp Realty Advisors, expressed support for the sale of Parking Ramp No. 4 and reported the development of the Rose Street Market building into a national hotel chain would provide \$20 million of investment and 50 new jobs to the area.

Commissioner Knott, seconded by Commissioner Sykes, moved to hold until April 17, 2017 approval of a purchase agreement for the sale of Parking Ramp No. 4 to 306 Parking LLC.

Commissioner Anderson highlighted the report *Estimating the Impacts of PlazaCorp Investments Related to the Acquisition of the Arcadia Ramp in Downtown Kalamazoo on the Region* from the W.E. Upjohn Institute for Employment Research, and he strongly encouraged anyone with questions regarding the sale of the ramp to read the report.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

When an opportunity was given for citizens to comment on \$883,000 of Foundation for Excellence (FFE) funding for youth development programs, the following people addressed the City Commission:

FFE Funding for
Youth Development
Programs

Frank Warren, City resident, expressed support for the Summer Youth Employment Program.

Vice Mayor Cooney, seconded by Commissioner Milcarek, moved to take the following actions regarding 2017 Foundation for Excellence (FFE) aspirational projects: 1) accept \$883,000 of FFE funding for the following projects: a) \$83,000 for the Supervised Playground Program; b) \$50,000 for the All Things Possible program; and c) \$750,000 for the Summer Youth Employment program; and 2) amend the FY 2017 budget in the following fashion: a) receive \$883,000 into the City's new FFE accounting Fund; b) transfer \$883,000 from the FFE accounting Fund to the City's General Fund; and c) authorize an increase of \$883,000 of expenditure appropriations in the FY2017 General Fund Parks and Recreation Department.

FFE Funding for
Youth Development
Programs (cont'd)

Commissioner Urban expressed support for the human investment being made in Kalamazoo's young people through the Summer Youth Employment Program.

Vice Mayor Cooney expressed support for the development and expansion of the Summer Youth Employment Program made possible by the funding from the Foundation for Excellence.

Mayor Hopewell expressed support for the Summer Youth Employment Program and the Supervised Playground Program. Mayor Hopewell stated he was encouraged the Summer Youth Employment Program would provide an opportunity for young people to grow and gain career development skills.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

Citizen Comments

When an opportunity was given for general citizen comments, the following people addressed the City Commission:

Frank Warren, City resident, requested the parking meters in front of the Kalamazoo County Court House building be repaired.

Tom Jangula, City resident, expressed concern regarding the lack of information provided by the City in response to three Freedom of Information Act requests he filed concerning sanctuary cities.

Zach Lassiter, City resident, requested the Kalamazoo Department of Public Safety (KDPS) and KVET policies regarding personal property forfeiture be made City ordinances in order to have more regulation on the tools given to police officers to use.

City Commissioner
Comments

Next, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Milcarek stated the City had not declared itself a sanctuary city but had passed a Welcoming Community proclamation. Commissioner Milcarek remarked on the proposed federal budget and potential cuts to local government funding.

Commissioner Urban welcomed Syrian refugees who had recently resettled in the Kalamazoo area with the help of local nonprofits. Commissioner Urban stated having a safe community was a priority, and the lines of communication were open.

Commissioner Knott stated that at the next work session she would report on a conversation she had with residents around the Downtown area regarding concerns of blight and trash in the community.

Commissioner Sykes indicated the City was discussing a contingency plan to address potential reductions in federal funding, and she welcomed communication from the public on the topic.

Commissioner Anderson explained that City Commissioners did not review Freedom of Information Act (FOIA) requests, and he stated anyone with questions should follow up with City's FOIA coordinator. Commissioner Anderson wished Mayor Hopewell a very Happy Birthday.

Mayor Hopewell asked that Public Safety Chief Jeff Hadley describe the City's policy and practices on immigration enforcement.

Chief Hadley stated Public Safety Officers were prohibited from asking anyone about their citizenship status when they were seeking public safety services. Chief Hadley stated it was policy that officers not ask about citizenship status during minor traffic infractions or petty crimes. Chief Hadley indicated KDPS had neither the authority nor the interest in enforcing federal immigration laws.

Mayor Hopewell thanked Chief Hadley for his presentation and stated the City was doing what it had always done regardless of threats, and Kalamazoo would continue to be a welcoming and safe community.

The meeting adjourned at 9:11 p.m.

Respectfully submitted,

Shelby Moss
Deputy City Clerk

For City Commission approval on June 5, 2017

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: June 5, 2017

City Commissioner
Comments (cont'd)

Adjournment