



MINUTES
Committee of the Whole
Monday, July 11, 2016 @ 5:30 p.m.
City Council Chambers

CALL TO ORDER

The meeting was called to order at 5:33 p.m.

PRESENT

Councilmember Brown Clarke
Councilmember Jessica Yorke – arrived at 5:36 p.m.
Councilmember Patricia Spitzley
Councilmember Adam Hussain
Councilmember Kathie Dunbar – arrived 5:35 p.m.
Councilmember Carol Wood
Councilmember Jody Washington
Councilmember Tina Houghton

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Randy Hannan, Executive Assistant to Mayor
Dick Peffley, LBWL
Calvin Jones, LBWL
Bob Ford, LBWL Landscape Architect
Chris Knudstrup, LBWL
Susan Luter
Jeff Braver
Michael Mercer
Rhonda Oberlin, City of Lansing Emergency Management
Susan Stachowiak, Planning and Neighborhood Development
Bob Johnson, Planning and Neighborhood Development
Steve Serkaian, LBWL
David Price, LBWL
Vicki Hamilton- Allen, Habitat for Humanity
Dale Schrader
Ryan Smith, Cherry Hill Neighborhood Association
Bob Trezise, LEAP
Tim Daman, Lansing Region Chamber of Commerce
Art Hasbrook

Shannon Butler
Liz Howe, Preservation Lansing and Old Town Design Committee
Eric Gunfree
Jeff Parker, President ReoTown Station
Mr. Ezra
Sharon Burton

Minutes

Any action on the minutes was moved to the July 25, 2016 meeting.

Council President Brown Clarke informed the public that the Committee on the Whole will not take any action on the BWL topic; it was referred to the Committee on Development & Planning that will meet on July 14, 2016. The BWL will only be presenting information at this meeting.

Mr. Hannan stepped away from the meeting at 5:36 p.m.

Public Comment

Ms. Howe, East Lansing Resident, voiced concerns on the projects and suggested using another sites not using historic parks.

Council Member Wood stepped away from the meeting at 5:37 p.m.

Mr. Gunfre acknowledged that Lansing has a moderate population growth, but stated his opinion that this decision will not help the City.

Council Member Wood returned to the meeting at 5:40 p.m.

Mr. Parker spoke on behalf of ReoTown organization and their support of the substation as a gate way to the community. Mr. Parker did admit it was not the best option for the gateway, but support he did BWL in the substation and incorporate community involvement. Mr. Parker stated they also support the moving and restoration of Jenison house, movement of the park and with input from the community they will make it good. Mr. Parker pointed out that Preservation Lansing has already awarded BWL on their Depot project and he has confidence BWL will continue to be a good partner.

Mr. Ezra spoke in opposition to relocating Scott sunken garden, and stated his belief that BWL cannot move the park, according to MSHDA that qualifies it as National historic landmark. Mr. Ezra concluded by suggesting two smaller substations instead of one large substation.

Mr. Daman spoke on behalf of the Lansing Regional Chamber of Commerce and offered his support the project stating it meets all the criteria.

Ms. Hamilton-Allen represented Habitat for Humanity and their plans to purchase the Jenison house and move it to MLK area. The plan includes rehabilitation to a multi-family with 18-20 owner occupied units, and they did obtain the home thru the bidding process.

Mr. Schrader spoke in opposition to the project and asked the Committee to research other options.

Ms. Luter spoke in opposition to the project and asked for more green space.

Mr. Trezise spoke in support of the project.

Mr. Smith spoke on behalf of the Cherry Hill Neighborhood Association and against the proposal. Mr. Smith cited the City Charter referencing Chapter 4, page 26 the Sale of Property, encouraging the Committee to put the decision on the ballot.

Ms. Burton spoke in opposition to the project, not the Power Station itself, but in the proposed location. Ms. Burton asked for information on where the power is coming from, how far the new site will be from downtown and how did BWL they decide on the location.

Mr. Mercer spoke in opposition to the BWL plan and supported keeping it as park property.

Presentations

LBWL- Central Substation Project

Presenting from BWL was Mr. Peffley, Mr. Ford and Mr. Knudstrup. A power point presentation was done that outlined the Central Substation and future 2020 shutdown of the Eckert station. The presentation outlined the Integrated Resource Plan Citizens Advisory Committee Recommendations and the plan to relocated half of the current circuits to a closer to downtown location. The group provided details on other prospective sites and why those would not work due to GM future planning, potential for displacement of 17 households, vacating of an existing street, or displace businesses. The presentation then lead into the history of the Scott House/Center beginning in 1905 when it was built to razing in 1965 and renaming from Jenison House to Scott Center in 1953. It was then outlines the needs for underground circuits, 1/3 of the City customers currently being serviced by the Eckert Station which is currently in a flood plain.

Mr. Johnson presented a map and gave a brief history of the Scott House/Center, the properties and the exchange of ownerships between all the parcels involved. The parcel was sold, not donated; neither Scott nor Jenison house has historical certification or deed restrictions, and he then offered copies of the deeds that outlined the transactions.

The Committee was informed that the Cooley Gardens cannot be touched; and the park land would be restored or redesigned with the substation, which will occupy approximately 2 acres.

Council Member Washington stepped away from the meeting at 6:32 p.m.

The BWL representatives then outlined the plans for the site which included selectively clearing for views of the Grand River, installation of a board walk, parking, trails, and access to Cooley Gardens, and pedestrian loops for use of the river trail. The funds include \$20,000 for public art and those renderings were presented to the Committee.

Council Member Washington returned to the meeting at 6:36 p.m.

BWL is proposing \$40,000 to maintain the sunken garden at its new location, and \$100,000 to help move the Scott house to the Hillsdale site.

Council Member Yorke asked BWL what portion of the Sunken Garden could be moved to another spot on the site. Mr. Ford stated the main features could be moved, but they plan to move the entire garden as it is in the same layout when relocated to new site; same dimensions and features. The plants can be moved, some will be transplanted off site and in the spring will be put back. BWL plans to work with the garden club to decide which plants have to be replaced. Mr. Knudstrup did acknowledge that some things have deteriorated over time so they will be constructed.

Council Member Yorke stepped away from the meeting at 6:48 p.m.

Council Member Dunbar asked if there are documents that clarify the sale and transfer of the property since it is in question. Mr. Johnson referenced the map in their packet and went through the timeline.

Council Member Yorke returned to the meeting at 6:51 p.m.

Mr. Johnson concluded that the City never traded up the property was never sold to City. The Scott family donated, but the voters undid that, and in 1945 Gertrude Scott signed off. The Cooley Gardens was bequeathed to the City in 1937 with deed restrictions. There was never a trade between the City and the Scott family. Mr. Johnson clarified that all his research was done with probate court, and the Ingham County register of deeds. Copies will be sent to the Council office for the Council members.

Council Member Dunbar asked for a comparison of the wall height and visibility, based on the proposed renderings in the presentation. Mr. Knudstrup confirmed that all renderings are conceptual and most of the BWL wall will be 19'-23' high, not 45-50' high. Currently the south street station has a 12' tall wall.

Council Member Wood referred back to the history of the property and asked for clarification on the 2003 rededication of the park property at which the Scott Center was also dedicated park land at that time. Council Member Wood also asked about the land across the street that was in the hand of the Ingham County land bank, and Mr. Johnson confirmed they had spoken to the County, and they are still actively working with a prospective owner and have renewed and extended their offer.

Council Member Wood asked about the maintenance costs of the park when moved. Mr. Ford stated they will be the same as today, which is maintained by the Garden Club, Cooley and support from the Parks department. The parking lots will be new and last 25-30 years, in regards to the new walk ways BWL has budgeted \$40,000 endowment in addition to what is being used now. Council Member Wood asked for the RFP for the lease or sale of Scott house to Habitat, Mr. Johnson stated the purchasing agreement was worked out with the Parks and Recreation Department.

Council Member Hussain noted that in the past Mr. Abood with the City Attorney office informed Council they cannot put a referendum on the ballot but now wanted Mr. Smiertka opinion. Then secondly asked what is the cost of the construction of the whole project, and Mr. Knudstrup confirmed the total is \$12 million which included \$4 million for the IRP recommendations of park enhancements. Council Member Hussain then asked why only \$100,000 for moving the Center, and Mr. Serkaian confirmed that the proposal to move the house came from a meeting with Preservation Lansing, at which point BWL offered to move the house and pay up to \$100,000.

Council Member Washington stated her belief that the park land is water front and it does not matter how it was acquired it is park and water land and the Charter says it needs to go to the people for a vote.

Council Member Spitzley asked who would be paying for all the proposed recreational facilities and uses. Mr. Knudstrup confirmed those are all part of the \$4 million mentioned earlier.

Council Member Dunbar referred back to the earlier discussion on the Land bank property and asked during those negotiations they were made aware of this BWL project. Mr. Ford confirmed it was disclosed to them, and they are still moving forward. The new site and the Land Bank property are not in a flood plain.

Council Member Dunbar noted that the plan is at a cost of \$4,000 lineal foot, and asked if the other options cost more. Mr. Knudstrup stated they did, and BWL has to do something and this is the most viable site. With the location in the flood plain of the current Eckert plant and the age of that plant they need to do something. Council Member Dunbar asked if they could get approval from DEQ to upgrade the current site. Mr. Knudstrup stated they will and Emergence Management has already told them it will not be supported.

Ms. Oberlin spoke on the flood plain noting that since BWL built Eckert before Flood Plain regulations, they would now have to bring those up into the current requirements. Council Member Dunbar asked if they did stay what that cost would be, and Mr. Knudstrup admitted they had not done a breakdown on that, however because of the flood plain they would have to raise off that area and maintain that service while they did it. It is not feasible to fix the substation on site, and Eckert in its current state is reaching the end of its life and will go off line in 2020. If the proposal does not go thru, they will have to invest \$12 million into equipment and \$20 million into environmental equipment which will then go into the rates of the users. Council Member Dunbar asked if there are other sites that keep the City tied to coal, and Mr. Knudstrup noted every site they have looked at is not viable. Council Member Dunbar asked if GM will be affected by the substation. Mr. Knudstrup stated this proposed substation is solely for downtown, however they have spoken to GM about the substation they will need, but at this point GM is not interested in giving up land. GM and downtown are served by the current substation, and so GM is at risk as is downtown. GM owns their circuits and those go over the road, while the downtown BWL goes under the road and railroad. It is the same substation, but service is different. If the City ran their circuit's downtown they would be poles on both sides of the streets and hard wires. Mr. Peffley added to the discussion noting they are trying to break up the service. The Central Sub Station will be much smaller than the Eckert site, and he wanted noted that BWL did negotiated with GM for a year, but it didn't happen. The Eckert Station is in compliance now but they need to spend wisely because it ends 2020. If BWL builds a substation in a current site and flood plain, they won't make the 2020 shut down and it will take millions to extend it another 7 years.

Council Member Dunbar asked Mr. Peffley to explain to the public helping them understand the general amount for rate payers to stay where they are at. Mr. Peffley noted that BWL has not had a rate increase in a couple years, but with any build there will be a rate hike.

Council Member Spitzley acknowledged the Councils responsibility for fiscal issues and her concern on the long term cost to Lansing with a \$26 million substation planned, so what would the cost be to the City of Lansing including maintenance costs. Mr. Peffley stated the wall art enhancements are covered by BWL with \$20,000 to update every 3 years, and BWL will work with the Parks and Recreation Department on the Riverwalk and other enhancements.

Council Member Houghton asked if the other five (5) substations are comparable in size to this proposed station. Mr. Peffley noted it is 10-15% in size of those but will cost the most because this will include locating where the underground lines are to connect or rebuild. This site is, all in cost, far cheaper than any other site.

Council Member Yorke asked Mr. Smiertka for back ground opinion on the comments made earlier by Council Member Wood on the dedicated status for the land and house. Council Member Yorke then spoke briefly on the increased cases of asthma sufferers in Ingham County.

Mr. Smiertka informed the Committee that the property is owned by the City, BWL cannot own property. The property is titled in BWL name, but the owner is the City. Therefore there is no sale here as the Charter conflicts, it is dedicated park property, not because it is noted in the deed restrictions, but because of its designation in 2003. The process for removing that designation had been gone through by the Parks Board, and through the design plan. The decision Council has is to change from "public park" to "public utilities". Mr. Smiertka continued by referencing the Charter Section, Chapter 2 where it states BWL can utilize public land, and this is a public place. The Charter Commission has contemplated that BWL has use of a public place and it comes down to if Council wants to change the use. Council President Brown Clarke asked what that process would involve. Mr. Smiertka noted it would not be a change in title but ACT285 process which has already gone through the Park Board and is now in front of the Council. Council Member Spitzley asked for clarification on "park land" and now being told it is not "dedicated park land". Mr. Smiertka stated that Council makes that decision, and not specifically take off the list but a change of use. Council Member Spitzley then asked if the only need to go to a vote of the people would be if the City was selling, and Mr. Smiertka confirmed, restating that the property is all City property just the title is for BWL services.

Council President Brown Clarke asked Ms. Stachowiak about the Planning Board meeting vote. Ms. Stachowiak confirmed that public utilities are permitted with a SLU, and the zoning stays the same. The land still stays park land.

Council Member Spitzley stepped away from the meeting at 7:55 p.m.

Council Member Dunbar asked if it stays park land is it undedicated. Ms. Stachowiak noted again that it still stays park land and under the ownership of the city.

Council Member Spitzley returned to the meeting at 7:57 p.m.

The BWL needs the SLU to place the substation on the land.

Council Member Dunbar then asked Mr. Peffley if all the amenities were added because of public input. Mr. Peffley confirmed there were not BWL ideas, but public input.

Council Member Wood asked if the City is not undedicating the park property, can there be a referendum from the public to undo it. Mr. Smiertka confirmed there is a procedure for referendum in the Charter and the Ordinance is subject of a referendum. Basically ordinances are subject for a referendum by the public, but in this case this is a resolution,

Council Member Wood noted the Scott House is a dedicated park property, and Habitat is proposing to convert into an owner occupied housing what steps need to be taken. Mr. Smiertka acknowledged he would have to look into that.

Council Member Washington informed the Committee and public that the applications for the project will be at the Committee on Development and Planning on July 14th.

FOIA POLICY

Council President Brown Clarke referred to the FOIA policy in the packet and noted that the resolution had standard protocols that needed to be met. Mr. Smiertka acknowledged he had procedures in place to expedite the requests. Mr. Smiertka offered to provide a monthly journal to Council. Council Member Spitzley asked for his plan to address the back log in requests. Mr. Smiertka stated his staff had informed him there was no back log, so Council Member Spitzley she would confirm the comparison to the log supplied by Mr. Abood on June

27th with the next month's log. Council President Brown Clarke also asked to look at the status of the requests and the process. Mr. Smiertka stated he will put something in place and also offered to place the log on the City Attorney website.

BUDGET OUTLOOK 2017/2018

Council President Brown Clarke asked Council staff to email the template and the Budget Policies and Priorities for FY2017-2018 for them to work on them with their appropriate Committees.

Legal Opinion and Clarification on Council's Capacity to Amend Mayoral Referrals

Council President Brown Clarke noted that there is a question as to when a Resolution is referred to Council that the Mayor's office drafted, can Council amend it. This was a referral to the dates Council inserted in the Resolution for the Interim City Attorney before they adopted it. The questions include if Council can edit or add to those resolutions.

Mr. Hannan returned to the meeting at 8:08 p.m.

Council Member Wood added to the questions and asked if when Council passes a resolution and it is signed off "to form" by the City Attorney, and Council is not told there was an issue and the Mayor did not veto, and it was not until the end of the time noted in the resolution that Council was told Administration was not going to abide by it. If the determination is made that Council can or cannot make changes, once the resolution is passed and approved by the City Attorney office, can the Administration not abide by it.

Mr. Smiertka first stated that when the City Attorney signs the resolution "to form" it means it is ok to put on the agenda and nothing more. He continued by stating that he had performed some research into the topic of if they were not authorized to act to limit the appointment, and what was the status of the Interim City Attorney during that 28 days. Mr. Smiertka's belief is that nothing that the Interim City Attorney could have done was illegal, and his understanding was that Mr. Abood was the Chief Deputy Attorney before he became Interim, and therefore the authority was in his job description as Chief Deputy Attorney. As to whether Council can limit in the appointment sector, Mr. Smiertka acknowledges the Charter was absent on. The Charter does state the Mayor appoints and the Council confirms, and in another section of the Charter Mr. Smiertka noted it states the Mayor, as Executive Head, determines the Heads of Departments. The argument would be with the Charter since there is nowhere in the Charter that says Council can limit the appointments. Mr. Smiertka suggested that Council should have rejected the Mayor's proposed resolution and sent it back to include a time limit. His research shows that in the past, in legal opinion, the Mayor has always imposed the limit. Mr. Smiertka did offer to do further research, but Council President Brown Clarke stated that was not necessary, however Council Member Wood asked for the dialogue legal opinion in memo form. Council Member Spitzley asked if there was something from the City Attorney already on this matter, and it was confirmed no. The question then led to when the resolution was approved Mr. Abood approved it to form, and if it contained something that Council could not do Mr. Abood should have advised Council at that time, not inform Council after the deadline. It was stated that it would be hard to do business if Council is putting something on the table that would not pass legal. Council Member Wood reminded the Committee that there was a discussion on the floor that day, however Mr. Abood did not comment. Mr. Smiertka noted that the City Attorney approved to form, and by signing as City Attorney they are not telling them to adopt, but he did add that it should have been pointed out.

PLACE ON FILE

Letters on BWL Sunken Garden were placed on file and also referred to the Committee on Development and Planning.

ADJOURN

The meeting was adjourned at 8:25 p.m.
Respectfully Submitted by, Sherrie Boak
Recording Secretary, Lansing City Council
Approved by the Committee on August 8, 2016