

A regular meeting of the Kalamazoo City Commission was held on Monday, November 30, 2009 at 7:00 p.m. in the City Commission Chambers at City Hall.

Roll Call

COMMISSIONERS PRESENT: Mayor Bobby J. Hopewell
Vice Mayor Hannah McKinney
David Anderson
Don Cooney
Terry Kuseske
Barbara Miller
Stephanie Moore*

COMMISSIONERS ABSENT: None

Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott A. Borling.

Commissioner Excused

Commissioner Anderson, seconded by Commissioner Cooney, moved to excuse the absence of Commissioner Moore. With a voice vote this motion passed.

Invocation

The invocation, given by Jake Mulder, Ministry Director for Youth for Christ, was followed by the Pledge of Allegiance.

*Commissioner Moore arrived at 7:02 p.m.

Adoption of the Agenda

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

Commissioner Anderson requested Item F-4 (a resolution setting a public hearing for the FY2010 Budget) be moved from the Consent Agenda to the Regular Agenda.

Mayor Hopewell noted that Citizen Comments would be received before Sections K (Policy Items) and L (New Business) on the agenda.

Communications

City Manager Collard invited the public to attend meetings of various boards and commissions.

Consent Agenda

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:

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- approval of a one year contract extension for gasoline and diesel fuel with Knapp Energy, Inc. for an amount not to exceed \$964,493.

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- approval of a one year contract extension to purchase ferric chloride from PVS Technologies for the unit price bid of \$534 per dry ton for a total cost of \$170,800.

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- approval of a two year contract extension with Rathco Safety Supply, Inc., for rental of barricades, signs, and other traffic control devices for use in detours, special event activities, and

Consent Agenda
(cont'd)

Resolution 09-78

78561

other street and utility construction and repair activities in the amount of \$164,584.

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- adoption of a **RESOLUTION** assigning Bruce Merchant, Public Services Managing Director, as the City State Trunkline Maintenance Superintendent for the City of Kalamazoo.

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- approval of a proposed Service Agreement between the Kalamazoo County Transportation Authority, the City of Kalamazoo, and the Kalamazoo Transit Authority Board for CY2010.

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- acceptance of a grant of \$15,000 from the Harold and Grace Upjohn Foundation to support the LaCrone and Woods Lake Beach Parks Redevelopment Projects.

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- acceptance of a \$1,000 Good Neighbor Grant from the Kalamazoo Community Foundation to help defray costs related to the 2010 Dr. Martin Luther King, Jr. Community Wide Day of Service sponsored by the City of Kalamazoo in cooperation with AT&T Communications.

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- acceptance of a donation of \$100 from Shower Treat Soap LLC to be used for future capital improvements at the Kalamazoo Farmers' Market.
- approval of the following appointment and reappointments to the Historic District Commission:
 - the appointment of **Chris Roussi** for a term expiring on January 1, 2013.
 - the re-appointment of **Erin Seaverson** for a term expiring on January 1, 2013.
 - the re-appointment of **Jay Bonsignore** for a term expiring on January 1, 2013.

78567

- approval of the minutes from the following City Commission meetings: the Regular Neighborhood Meeting on November 16, 2009 and the Regular Business Meetings on November 9 and November 16, 2009.

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- approval of a recommendation to hold until December 7, 2009 the adoption of a **RESOLUTION** approving the redevelopment and purchase agreement to convey the property at 1308 North Burdick Street to Family Health Center, Inc. for \$1.00 and due consideration in developing a Health Care Access Center to provide medical services to residents of the community that are underinsured or uninsured, and authorize the City Manager to execute all necessary documents.

Commissioner Anderson, seconded by Commissioner Kuseske, moved to approve the consent agenda requests.

Consent Agenda
(cont'd)

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Kuseske, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Regular Agenda

Regular Agenda Items were considered next.

Resolution 09-79
Setting a Public
Hearing for the
FY2010 Budget

Commissioner Anderson highlighted the availability of the Proposed FY2010 Budget on the City's website and noted a public hearing on the budget would be held on December 21st.

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An opportunity was given for citizens to comment on a RESOLUTION setting a public hearing for December 21, 2009 to consider the proposed fiscal year 2010 budget, but no comments were offered.

Commissioner Kuseske, seconded by Commissioner Anderson, moved to adopt a **RESOLUTION** setting a public hearing on December 21, 2009 to consider the proposed fiscal year 2010 budget for the City of Kalamazoo.

With a roll call vote the motion passed.

AYES: Commissioners Anderson, Cooney, Kuseske, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Report on the
Concerns of
Winchell
Neighborhood
Residents with the
Development of
Property at 2309
Stadium Drive

City Manager Collard asked City Planner Keith Hernandez to report on the development project at 3209 Stadium Drive and the concerns of Winchell Neighborhood residents.

City Planner Keith Hernandez highlighted four outstanding issues with the development of the BW-3 property on Stadium Drive and the concerns of Winchell Neighborhood residents:

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- the development of property at 3209 Stadium Drive was proceeding according to approved site plans and building plans. Planner Hernandez reported City staff was monitoring the project.
- the developer had moved soil onto property that was reserved to the City for an easement. Planner Hernandez reported the City would withhold a certificate of occupancy until this situation was resolved.
- the adequacy of the City's landscaping ordinance was being discussed within the Master Plan development process. Planner Hernandez reported consideration was being given to topographical differences and whether the use of fencing was as effective as natural screening.
- there was a relational history between residents and the property owner. Planner Hernandez reported City staff was willing to facilitate discussions with both parties.

Report on the
Concerns of
Winchell
Neighborhood
Residents with the
Development of
Property at 2309
Stadium Drive
(cont'd)

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Citizen Comments

City Manager Collard expressed support for staff and stated the City was in a difficult position between the residents, who had legitimate concerns, and the developer, who had legitimate property rights. City Manager Collard stated both sides had offered comments that had not been helpful to the process of finding a reasonable solution. City Manager Collard indicated staff had received a legal opinion about what the City could enforce.

City Attorney Robinson City Attorney Robinson reported the current landscape ordinance had been in place since 2000, and it had worked well for almost 10 years. City Attorney Robinson explained zoning ordinances tried to address every situation, but the BW-3 development was a situation where the ordinance didn't work due to the severe topographical differences between the abutting properties. Regarding the placement of soil on a City utility easement, City Attorney Robinson stated the City was the dominant owner of the sewer easement, and the developer could not burden the property with a structure or other material. City Attorney Robinson expressed hope that the developer and the City would resolve the situation without resort to the courts.

Commissioner Cooney expressed appreciation to City staff for their work and asked to be kept informed of developments in this situation.

Commissioner Anderson commented on possible damage to homes and their foundations as a result of excavation near those homes.

City Attorney Robinson explained damage to homes as a result of the excavation was a matter of common property law, and such damage could create a cause of action between the home owners and the developer.

In response to a question from Commissioner Kuseske, City Attorney Robinson stated he would need to do research on whether the destruction of tree roots during excavation created a cause of action.

In response to a question from Commissioner Miller, City Attorney Robinson stated the City would not be responsible for damage to the residents' structures and trees.

Next, the following citizens addressed the City Commission regarding non-agenda items:

Chris Franz, City resident, discussed the history of racism, the civil rights movement, and the Marijuana Tax Act of 1937.

Twan Jenkins, City resident, spoke about the Kalamazoo Valley Museum staff barring him and his friends from the museum due to their ages.

Charles Boyle, City resident, spoke regarding the number of candidates in the recent municipal election and requested a charter amendment implementing term limits for City Commissioners.

Meeting Recessed

The meeting recessed at 7:30 p.m.
The meeting reconvened in the Community Room at 7:42 p.m.

New Business

Items of new business were considered next.

Organization of the
48th City
Commission

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Commissioners discussed the following topics related to the organization of the 48th City Commission: committee assignments; requests for proclamations, resolutions and ordinances; the City Commission Ethics Policy; communication with the City Administration; notification procedures for vacations, illnesses, and being out of town; requests to attend conferences.

Committee
Assignments

Mayor Hopewell reviewed the committee assignments from the 47th City Commission and asked Commissioners to indicate their preferences for new assignments. Discussion followed.

Mayor Hopewell indicated he was willing to step down from the Legislative Committee if another Commissioner wanted to serve. Both Commissioners Miller and Moore expressed interest in the Legislative Committee. Mayor Hopewell asked Commissioners Miller and Moore to discuss this committee seat and to let him know who would be filling it, and he stated he would continue serving on the Legislative Committee if an agreement could not be reached.

By consensus the City Commission agreed to the following committee assignments:

Administrative Committee

Bobby Hopewell
Hannah McKinney
Don Cooney

Internal Audit Committee

Mayor Hopewell
Commissioner Anderson

Legislative Committee

Hannah McKinney
Don Cooney

Ethics Policy

Mayor Hopewell reviewed the Ethics Policy and noted Commissioners needed to submit their signed acknowledgement statements to the City Clerk.

Commissioner Miller expressed a desire to see the advocacy section of the policy "tightened up" regarding use of titles.

Commissioner Anderson stated much thought had been given to this issue by the Ethics Policy Development Subcommittee, but it was decided to not prohibit Commissioners from using their titles. Commissioner Anderson noted the policy required Commissioners to ensure their personal views were not presented as the views of the entire Commission or the City of Kalamazoo.

Ethics Policy
(cont'd)

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City Attorney Robinson remarked that a draft version of the policy had stronger language regarding advocacy and use of titles.

Commissioner Moore questioned when the use of her title would be wrong.

Commissioner Anderson remarked that the policy required the City Commission to review the policy on an annual basis, and he suggested establishing a regular review process.

Mayor Hopewell stated the Ethics Policy Subcommittee could be recreated to review the policy and suggest changes.

Commissioner Cooney stated he didn't think a committee review was necessary.

Commissioner Kuseske stated a policy that was too specific could be worse than the problem or concern it tried to address.

Commissioners Kuseske and Miller requested information on the history and development of the Ethics Policy.

Mayor Hopewell stated the ethics policy would remain unchanged.

Assignment of
Liaisons to
Advisory Boards,
Commissions and
Committees

Mayor Hopewell reviewed the advisory board liaison assignments from the 47th City Commission and asked Commissioners to indicate their preferences for new assignments. Discussion followed.

By consensus the City Commission agreed to the following liaison assignments:

Mayor Hopewell:

City: Downtown Development Authority
Community: Regional Water/Wastewater Commission

Vice Mayor McKinney:

City: Historic Preservation Commission; Downtown
Development Authority (alternate)
Community: None

Commissioner Cooney:

City: Community Development Act Advisory Committee
Community: Public Media Network Board of Directors; Community
Action Board

Commissioner Anderson:

City: Community Relations Board; Environmental Concerns
Committee
Community: Kalamazoo Area Transportation Study Policy Committee

Assignment of
Liaisons to
Advisory Boards,
Commissions and
Committees
(cont'd)

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Requests for
Ordinances,
Resolutions, and
Proclamations

Commissioner Miller:

City: Employee Retirement System Board of Trustees (Pension Board); Kalamazoo Municipal Golf Association; Parks and Recreation Advisory Board; Investment Committee of the Retirement System; Perpetual Care Investment Committee

Community: Kalamazoo Area Transportation Study Policy Committee (alternate)

Commissioner Moore:

City: Brownfield Redevelopment Authority; Economic Development Corporation; Friends of Recreation Board

Community: None

Commissioner Kuseske:

City: Planning Commission; Kalamazoo Transit Authority Board

Community: Kalamazoo County Convention and Visitors Bureau

Regarding requests for ordinances, resolutions, and proclamations, City Clerk Borling reviewed the range of policies and practices in other Michigan cities, which included no procedures for accepting agenda item requests from citizens or Commissioners at one end of the spectrum, to a very detailed procedure for accepting such requests and holding staff accountable for follow-up at the other end of the spectrum.

City Attorney Robinson stated ordinances, resolutions, and proclamations were instruments through which the City Commission could act, but ordinances and resolutions were used to accomplish the business of the legislative body, whereas proclamations were honorific in nature. City Attorney Robinson indicated a key question was "Whose agenda is it?", and the answer was usually the City Manager or City Clerk.

Commissioner Kuseske remarked that proclamations should mean something and should not be given indiscriminately. Commissioner Kuseske stated there should be standards for proclamations and recommended the City Commission only recognize people, organizations or events that were significant to the community.

Mayor stated requests for proclamations were submitted by staff, citizens, and Commissioners. Mayor Hopewell stated he would like the designation "48th" be removed from the final section of the proclamation, so that the proclamation would be from the "City Commission." Mayor Hopewell suggested that some proclamations be presented at a City Commission meeting, and some be presented in the community.

Commissioner Moore stated it would be difficult to create standards for proclamations because an issue, organization or event of importance to one Commissioner might be important to another. Commissioner Moore indicated she would like to know what proclamations were being presented, especially those that are not presented at City Commission meetings.

Requests for Ordinances, Resolutions, and Proclamations (cont'd)

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Vice Mayor McKinney stated proclamations should come from the entire City Commission and expressed support for Commissioner Moore's suggestion that Commissioners be informed of the proclamations that are presented in the community. Vice Mayor McKinney suggested the number of proclamations presented at one meeting be limited to three.

Mayor Hopewell asked if the City Commission should approve proclamations not issued at City Commission meetings.

Commissioner Miller suggested that the Mayor present the proclamations at City Commission meetings, and she expressed support for regular reports of proclamations that are issued.

City Manager Collard noted the more problematic proclamation was the proclamation that made a political or policy statement. City Manager Collard suggested the Legislative Committee be the clearinghouse for such proclamations.

Mayor Hopewell suggested the Community Relations Board review policy oriented or political proclamations.

Vice Mayor McKinney stated a majority of the City Commission should express some level of support for proceeding with development of ordinances and business resolutions, as these may require staff time to develop.

Mayor Hopewell stated the question was "How does an item get on the agenda" and remarked that some cities required Commissioner sponsors for ordinances.

Commissioner Anderson suggested requests for ordinances and business resolutions be made under the "New Business" section of the City Commission agenda to gauge Commission interest.

Commissioner Miller suggested the City Commission not adopt any resolutions other than those that do the business of the City. Commissioner Miller stated position resolutions did not accomplish anything and are frequently discarded by the recipients.

Commissioner Cooney expressed disagreement with Commissioner Miller's suggestion and stated the CC had a right and responsibility to advocate on behalf of Kalamazoo residents.

Commissioner Moore stated many citizens wanted the City Commission to speak on their behalf.

Commissioner Kuseske remarked on the connection between the Legislative Committee and position resolutions and stated the issue was how the City could make an impact on state and federal legislation. Commissioner Kuseske observed the need to balance advocacy on national issues and the work of the City Commission in the community. Commissioner Kuseske stated the establishment of rules would not enable the Commission to strike the proper balance in this area, and the Commission would need to evaluate requests on an individual basis.

Requests for Ordinances, Resolutions, and Proclamations (cont'd)

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In response to a question from Commissioner Moore, City Attorney Robinson stated Commissioners must make it clear they are not representing the City Commission or City of Kalamazoo when advocating as an individual. City Attorney Robinson indicated a simple disclaimer statement would be sufficient.

Vice Mayor McKinney asked the City Attorney to develop a disclaimer that Commissioners could use in advocacy letters. Vice Mayor McKinney stated the "New Business" section of the agenda should be used to provide staff with direction on the development of ordinances.

City Manager Collard noted two Commissioners were able to call a special meeting, and he suggested the number of supportive Commissioners required to get an agenda item on the table did not need to be the same as the number of Commissioners required to dispose of that item.

Vice Mayor suggested that a request from two commissioners be sufficient to place ordinances and resolutions on the agenda under New Business.

City Attorney Robinson suggested getting rid of flowery language in proclamations. City Attorney Robinson noted the use of resolutions was broad and not limited to policy statements, and any rule regarding resolutions would need to take this into consideration.

By consensus the City Commission directed staff to address the following issues: the nomenclature of "resolutions" versus "ordinances," flowery language in proclamations, and the use of titles and City Commission letterhead for advocacy purposes.

In response to a question from Commissioner Moore, City Manager Collard stated City letterhead was readily available to Commissioners, but the use of this letterhead would communicate that the content of the letter was the official position of the City.

Commissioner Cooney noted senators and representatives used letterhead to express their personal views.

Commissioner Anderson stated the use of City letterhead by Commissioners had not caused a problem, and the Commission should not try to solve a problem that did not exist.

Commissioner Moore requested further clarification on when City letterhead should or should not be used.

Communications between City Commissioners and the City Administration

Regarding City Commissioner communications with the City Administration, City Manager Collard stated there were no issues in general, but he asked the Commissioners to be aware that their voices carried more weight than they realized and to be careful when having even casual discussions with department heads.

Notification
Procedures and
Safety Issues

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Mayor Hopewell asked if there were any questions or concerns about the notification procedure when Commissioners were ill or out of town, but no concerns were expressed. Mayor Hopewell asked Commissioners about being notified of "sentinel events" such as plane crashes or large fires.

Vice Mayor McKinney stated Commissioners should be informed of major events before they appear on the front page of the newspaper. Commissioners expressed agreement with Vice Mayor McKinney's remark.

In response to a question from Commissioner Moore, Mayor Hopewell indicated Commissioners did not need to notify the other Commissioners of illnesses, vacations, or other personal events unless those events result in absences from meetings.

In response to a question from Mayor Hopewell, Commissioners indicated they did not have any questions or concerns about security.

Travel Requests

Mayor Hopewell asked Commissioners to limit travel requests to in-state destinations (including Chicago), which were the same limitations placed on City staff. Mayor Hopewell suggested out-of-state travel might be possible if Commissioners were willing to pay for transportation themselves.

City Commissioner
Comments

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

City Commissioner
Comments (cont'd)

Commissioner Cooney reported Kalamazoo native Derek Jeter had been named "Sportsman of the Year" by *Sports Illustrated* magazine. Commissioner Cooney noted Jeter's Turn Two Foundation had spent \$10 million on programs for young people.

Commissioner Kuseske thanked staff for reviewing the Proposed 2010 Budget with him that morning.

Mayor Hopewell reminded Commissioners of the business meeting on December 7th.

Adjournment

The meeting adjourned at 8:29 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on January 19, 2010

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: January 19, 2010