



**CITY OF WALLED LAKE
REGULAR COUNCIL MEETING
TUESDAY, NOVEMBER 15, 2016
7:30 P.M.**

The Meeting was called to order at 7:30 p.m. by Mayor Ackley.

Pledge of Allegiance led by Mayor Ackley.

Invocation led by Mayor Pro Tem Ambrose.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Ambrose, Council Member Helke, Council Member Lublin, Council Member Loch, Council Member Owsinek, Council Member Robertson

ABSENT: None

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Rodgers, Police Chief Shakinias, Fire Chief Coomer, Finance Director Coogan, Deputy Treasurer Barlass, City Attorney Vanerian and City Clerk Stuart

REQUESTS FOR AGENDA CHANGES:

Council Member Helke requested Resolution 2016-31¹ be placed under Unfinished Business as item #3 and discussions to be held during the portion of the open meeting².

Finance Director Coogan requested the auditor presentation be moved to later on the agenda.

Mayor Ackley provided a letter to Council she prepared regarding the settlement with Bailey Xenos Holdings, LLC vs. City of Walled Lake and she read into the record.

Dear City Council Member,

¹ *Clerk's Note:* Resolution 2016-31 was considered by the City Council at an open meeting on August 16, 2016. A motion to approve Resolution 2016-31 directing and authorizing the mayor to make inquiry into the activities and complaint filed against a sitting council member of the city pursuant to the city charter carried unanimously.

² *Clerk's Note:* The minutes of the August 16, 2016 council meeting indicate the passage of Resolution 2016-31 at an open meeting and in open session were considered for approval by all seven members of the City Council at an open meeting September 20, 2016. A motion to approve the August 16, 2016 council meeting minutes carried unanimously.

The Federal Court lawsuit, filed in response to the political activism gone wrong, has been in its entirety “dismissed with prejudice and without cost or attorney fees.” This means there will be no overblown development and no liability in this matter to the taxpayers of Walled Lake.

As you may recall this was Federal Civil Rights case that included claims of defamation against over 50 defendants from our city. The potential loss for the taxpayer was great, but with the guidance of administration and good legal counsel the taxpayers have won a solid victory.

About two weeks ago, as this case headed to Federal Court I met with the City Manager to develop the final plan to win the victory. It proved to be a good decision. As the Walled Lake Mayor, I have worked strenuously with the City Manager to win a dismissal of this case. This dismissal was final on upon signing by Federal U.S. District Judge, Laurie J. Michelson.

Sincerely,
Linda S. Ackley
Mayor

City Manager Whitt explained that this case had been scheduled for Federal Court on November 8, 2016 however the case was resolved on the 4th of November as pointed out by the mayor’s correspondence.

PUBLIC HEARING

1. Community Development Block Grant (CDBG) Program Year 2017

Deputy Treasurer Barlass presented the 2017 Program Year distribution recommendation.

Public Hearing Open 7:41 p.m.

No audience participation.

Public Hearing Closed 7:45 p.m.

CM 11-01-16 MOTION TO CLOSE PUBLIC HEARING

Motion by Robertson, seconded by Owsinek, CARRIED UNANIMOUSLY: To close public hearing.

Karen Kolke, 179 Spring Park – said she drives along Pontiac Trail every day to work and she noticed the steel metal plate on the road during the construction in front of 126 W. Walled Lake Drive. She asked when the plate will be removed.

Dennis Burks, 206 Spring Park – asked why Maher is running illegally. He spoke for three minutes.

Denise Rothstein, 164 Spring Park – asked what is going on with 152 Spring Park. She said she believes Maher Construction bought it and they recently cut down all the trees. She called the Police Department because they started working at 7:00 am in the morning until 6:00 p.m. at night removing the trees. She said Maher ruined the fence in the backyard. She said she believes Maher Construction is turning the home into an office use.

City Manager Whitt explained that based on Ms. Rothstein's complaint Code Enforcement will be instructed to review the site and if there are any violations noted, citations would be issued. Ms. Rothstein said Maher Construction also has their trash picked up at 4:30 a.m. She asked if there is a city ordinance about what time trash service can begin. City Manager Whitt explained that her complaint will be reviewed.

APPROVAL OF THE MINUTES:

1. Regular Council Meeting of October 18, 2016

CM 11-02-16 APPROVAL OF THE OCTOBER 18, 2016 REGULAR COUNCIL MINUTES

Motion by Robertson, seconded by Lublin, CARRIED UNANIMOUSLY: To approve the October 18, 2016 Regular Council Minutes.

AUDIENCE PARTICIPATION:

Rules for Audience Participation read into record by City Clerk Stuart.

COUNCIL CONSIDERATION:

1. Auditor Presentation – Pfeffer, Hanniford and Palka for Year End June 30, 2016

Finance Director Coogan introduced two members of the city's auditor team John Pfeffer and Kathy Moravc from Pfeffer, Hanniford, and Palka.

Mr. Pfeffer requested Council approve the audit so it may be submitted to the State of Michigan before end of the 2016 year.

City Manager Whitt explained that the audit will be timely filed. Council Member Lublin said the report has a qualified opinion status.

Mr. Pfeffer agreed and said it is the highest level opinion an independent auditor can issue.

**CM 11-03-16 MOTION TO ACCEPT THE QUALIFIED OPINION AUDIT
REPORT AND RECOMMEND SUBMITTAL TO THE STATE OF
MICHIGAN**

Motion by Lublin, seconded by Ambrose, CARRIED UNANIMOUSLY: To accept the qualified opinion audit report and recommend submittal to the State of Michigan.

2. CDBG Program Year Recommendation 2017

**CM 11-04-16 MOTION TO APPROVE CDBG 2017 FY PROGRAM FUND
RECOMMENDATIONS**

Motion by Owsinek, seconded by Ambrose: CARRIED UNANIMOUSLY: To approve CDBG 2017 FY Program fund recommendations.

MAYOR'S REPORT:

Mayor wished everyone a Happy Thanksgiving and reminded everyone of the Annual Tree Lighting on December 5, 2016 at 7p.m.

COUNCIL REPORT: None

CITY MANAGER'S REPORT:

1. Departmental / Divisional Statistical Reports

- a. Police**
- b. Fire**
- c. Code Enforcement**
- d. Finance -Warrant Report #11-2016
 -Investment Report**

**CM 11-05-16 TO RECEIVE AND FILE THE MONTHLY DEPARTMENTAL /
DIVISIONAL STATISTICAL REPORTS**

Motion by Lublin, seconded by Robertson, CARRIED UNANIMOUSLY: To receive and file the monthly Departmental / Divisional Statistical Reports.

City Manager Whitt said based on a recent meeting of the Trailway Council and changes with Commerce Township board members he asked that trailway representative, Ms. Coogan provide an updated report.

Finance Director Coogan said she requested the financial statements from the Trailway Council to present to City Council. She explained there is some discrepancy between the escrow from the airline funds and the escrow provided from the municipalities. There is no closing right now.

3. Discussion on Resolution 2016-31

Council Member Helke requested that Resolution 2016-31, a complaint against a sitting council member be tabled indefinitely. Council Member Lublin stated to Helke that it sounded like she wanted the resolution discussed.

CM 11-10-16 MOTION TO TABLE RESOLUTION 2016-31 INDEFINITELY

Motion by Helke, seconded by Lublin.

DISCUSSION:

Council Member Helke stated she would like to point out to the council the Michigan Compiled Laws Open Meetings Act 267 1976 Part 15.268 - Closed Sessions permissible purposes, Section 8:

A public body may meet in a closed session only for the following purposes:

- a. To consider the dismissal, suspension, or disciplining of or to hear complaints, or charges brought against or to consider a periodic personnel evaluation of a public officer, employee, staff member or individual agent if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time in which case the matter at issue shall be considered after the rescission only in open sessions.

Council Member Helke further explaining the law to the council said that in Attorney General Bill Schuette's publication Open Meetings Handbook, the phrase "if the named person requests a closed hearing" is italicized.

Council Member Helke said since becoming aware a complaint has been filed against her, she has never requested a closed session. (See Clerk's Notes 1 & 2) Council Member Helke said at the three previous city council meetings in which this complaint was discussed, she did not object to the complaint being handled in a closed session because she was unaware she had the right to object.

Council Member Helke said the act of investigating the complaint against her in a closed session should never have been undertaken unless she requested it and she said she did not request it (See Clerk's Notes 1 & 2).

Council Member Helke said that because she is now aware of her right to have the complaint against her discussed in open session, she is exercising her right to rescind further consideration of that complaint in closed session. Council Member Helke said that according to the Open Meetings Act, the complaint can be considered after the rescission only in open session.

Council Member Helke said that Resolution 2016-31, the incident referenced in the complaint against her occurred on August 10, 2016.

Council Member Helke said that on August 16, 2016 during an unrequested closed session of the Walled Lake City Council, Resolution 2016-31 was introduced and unanimously passed (See Clerk's Notes 1 & 2). Council Member Helke said that she would like to request that this resolution be read aloud. Council Member Helke asked if this was acceptable. Mayor Ackley corrected Council Member Helke stating the resolution was read at the open meeting it was introduced. Council Member Helke said it was read in closed session (See Clerk's Notes 1 & 2)

City Manager Whitt reminded council member that the resolution 2016-31 had already passed and could not be tabled. Mr. Whitt explained that by the passage of the resolution, the Mayor had already been instructed by City Council to conduct an investigation. Mr. Whitt explained that the discussion was taken into closed session because employees have a right to a closed session. Council Member Helke disagreed with Mr. Whitt's opinion on the closed session.

City Manager Whitt stated that if Council Member Helke wants to tell the world she has a complaint filed against her that's fine. Council Member Helke said she still has the floor and she was not done speaking.

City Manager Whitt explained that Council Member Helke is trying to embarrass the complaining employee and put a personnel issue on the floor.

Council Member Helke said in an unrequested closed session (See Clerk's Notes 1 & 2) of the Walled Lake City Council held on September 20, 2016 the Mayor inquired as to whether she was willing to submit a letter of apology to Ms. Miranda Gross, the complainant. She said she was willing to apologize to Ms. Gross, had already written said apology and at the close of the meeting she gave a copy of the written apology to the Mayor to forward to Ms. Gross.

She read the letter of apology into the record.

Ms. Miranda Gross
City of Walled Lake

Dear Ms. Gross,

After reading your complaint to City Council concerning my interaction with you on August 10, 2016 following the trailway council meeting I understand you felt harassed and bullied. I would like to apologize to you for my actions. I want to assure that at no time did I intend to appear as though I believed you had acted inappropriately regarding the events in question. In your complaint you wrote that I "became agitated and annoyed during the meeting and it seemed she disagreed with the City Manager's remarks". You are correct in your observation that I was agitated and annoyed. This in no way excuses my interaction with you. I should've waited until I calmed down and then addressed my objections with the person involved in a more appropriate setting. I can only say in my defense that I am new, new to the political arena and I susceptible to making mistakes that might have been less egregious had I been a private

citizen. You also stated in your complaint "...that when the City Manager stated to Council Member Helke that I had made a complaint about the way she had confronted me, Council Member Helke's first statement was good I don't give a expletive". This must have sounded flippant and uncaring to you but I would like to say at the time that an attempt was being made to intimidate me. In addition I was under the mistaken belief that the interaction in City Manager L. Dennis Whitt's office was private. It is true that Chelsea Rodgers was present but again I believed this was a private interaction and she was there strictly as a witness for the protection of City Manager Whitt. I had been at city hall in order inquire about an unrelated matter and was standing in line with other residents when I was summoned into City Manager Whitt's office and confronted. The interaction occurred without warning and I was unprepared. I reacted without thinking. I can only imagine the way my response must have sounded to you, coming as it did from a second party. Again I want to apologize for any discomfort my reaction must have caused you. When I posed my question to you I prefaced it with "this is nothing against you". I understand that you feel I was insincere and I was following up with an insult. I want to say that I was absolutely sincere and that at no time did I feel you did anything wrong. I was seeking an answer to my question. I admit that I was wrong to have sought it the way I did and you were obviously made to suffer because of my error. Finally, much of what you have written in your complaint is extremely negative information that other members of this City Hall staff have told you. Although I have never been confronted with any of these allegations before your complaint and have no recollection of any of them, I am truly sorry, truly sorry that I seemed to have such a poor reputation among the staff. I would like to assure you that I will never again address you or any of the staff members directly for anything other than what is required of me as a city council person. If you would prefer an apology in person from me I will do my best to comply at a time and place of your choosing. I don't how this could be arranged to your satisfaction but I'm sure that someone at city hall can assist you.

Sincerely,
Susan P. Helke

Council Member Helke said because of the unexpected death of one of her sisters on September 18, 2016, she was unavailable for several days for any investigation of the complaint by the Mayor. On September 26, 2016 she wrote the following email message to the Mayor:

Subject: Follow up to executive session

Dear Mayor Ackley,

I still have family from out of town staying at my home. They will be leaving as of tomorrow. I just want to let you know I am available Wednesday or anytime thereafter at your and Ms. Gross' convenience as required.

Thank you for your understanding.
Sue Helke

Council Member Helke said that on September 28, 2016 the Mayor responded:

Council Person Helke, I gave your letter of apology to Ms. Gross. She asked to have time to review and discuss the letter with her family. Ms. Gross and I met today and she unwilling to accept the letter of apology. She is writing a response which will detail her reasons. The response was not complete at the time of our meeting. I'm going out of town tomorrow on Friday and will be back around October 10th. At that time, I will make contact with Ms. Gross. I will then decide how to proceed and advise you of my decision.

Council Member Helke said she did not hear anything further from the Mayor or anyone else regarding the complaint against her until the next Walled Lake City Council meeting. In an unrequested closed session of the Walled Lake City Council held on October 18, 2016, the Mayor reported to Council that Ms. Gross had refused to accept Council Member Helke's apology.

Council Member Helke said that the Mayor also reported that Ms. Gross had expanded on her original complaint resulting in seven pages to replace the original five pages. Council Member Helke stated the Mayor provided the Council copies of the revised and expanded complaint. Helke said the Mayor then stated she would conduct further investigation into the complaint.

Council Member Helke said as of that night, November 15, 2016, she had not been asked by anyone connected with or employed by the City of Walled Lake to provide a report, explanation, or defense of her action on August 10th. Council Member Helke said that no one had sought to hear her side of the incident and as of this time, she was unaware of any investigation inquiry, interview of witnesses, production of books, papers, or other evidence, summons or any progress in this investigation regarding the complaint which originally contained 24 points, 7 of the points actually refer to the incident of August 10, 2016.

Council Member Helke said that all except one of those 7 points contained opinion and hearsay. Helke said that the remaining 17 points were not related to the incident at all, contained hearsay and or allegedly occurred with unidentified persons other than Ms. Gross in the distant past.

Council Member Helke stated she had not committed any of the following as listed in the model Ethics Ordinance for Local Units of Government: She said she had not accepted banned gifts as listed section 2-1, she had not accepted gifts which are deemed acceptable as listed in 2-2, she had not disposed of gifts as described in section 2-3, she had not divulged confidential information as described in section 2-4.

Council Member Helke explained that she would continue if council wanted her to continue.

Council Member Helke characterized the complaint stating that she had only been accused by Ms. Gross of being rude. Council Member Helke said she freely admits that she was rude to Ms. Gross. Council Member Helke stated that Ms. Gross perceives her actions as bullying.

Council Member Helke said she has never spoken to Ms. Gross before or since the incident and Ms. Gross can be assured that she will never address her again.

Council Member Helke said she had some difficulties understanding why Ms. Gross believes that her apology was insincere but she will state again, in front of the public, that she never meant to challenge or intimidate Ms. Gross.

Council Member Helke explained her displeasure rested on the actions of another person in attendance during the incident. Council Member Helke said she was seeking the answer to one question. Council Member Helke said she only addressed Ms. Gross because after having posed her question to the other person, that person, had walked out of the room, leaving Ms. Gross and her facing each other across the table.

Council Member Helke said she wanted to again state publically that her words directed towards Ms. Gross on August 10, 2016 clearly caused discomfort and for that she is truly sorry. Council Member Helke said that it had been more than 90 days since the incident of August 10, 2016 took place and a significant portion of that time has been devoted to the discussion and investigation of Resolution 2016-31 with no apparent results. Council Member Helke said she has waited, anticipated, and hoped that someone from the City would offer her an opportunity to express her side of the incident. She said that no one has. Council Member Helke said that she would like to suggest that nothing can be gained from further investigation of the Ms. Gross' complaint against her.

Council Member Helke then moved that Resolution 2016-31 instructing and authorizing the Mayor to conduct an investigation of the complaint against her be tabled indefinitely.

Council Member Lublin asked for clarity of what yes or no means for the motion.

City Manager Whitt explained that a resolution that had already been adopted cannot be tabled. Manager Whitt explained that another resolution has to be created to cancel the Mayor's authority to investigate under resolution 2016-31. Manager Whitt stated he thought the Mayor was near her completion with investigation. Manager Whitt explained that he thought the reason the Mayor was held up was because he had refused to give the Mayor his testimony because he did not want to provide an affidavit against a sitting council member.

Manager Whitt explained that based on what he heard, Council Member Helke had lied at this to the council at this meeting. City Manager Whitt explained that because of this he will now provide a statement to the Mayor.

Manager Whitt said what was stated by Council Member Helke was completely inappropriate and the incident could have been handled with a decent apology. Manager Whitt said what he heard from Council Member Helke at this meeting is not true; it is all self-centered and self-

serving. Manager Whitt said he will give a statement to the Mayor and it will contradict what was stated by Council Member Helke and Council will need to decide. Manager Whitt said this was inappropriate, the employee is here, and Ms. Helke has created another problem for him, the City and herself. Manager Whitt stated that is because Council Member Helke wants to be right all the time.

Manager Whitt said that it was wrong what Council Member Helke said. Mr. Whitt stated the facts will show that, Council Member Helke has said the same kind of nasty stuff to more than one city employee and they are present at tonight's meeting as well. Manager Whitt said he had witnessed it before; it was not just Ms. Gross. Manager Whitt spoke to Council Member Helke and said it was her pattern of bad behavior against professional young women; "Not every woman in this room is a 'Silly f'ing Twit'" and "you know you did say that because a document exists."

Mayor Ackley said, "This is a very unfortunate situation which is now been made worse." The Mayor expressed sincere apologies to city staff.

City Manager Whitt explained that if something is tabled it suggests it had not passed to begin with, however Manager Whitt explained that the resolution already passed, the Mayor has the authority and is in the midst of the investigation of the complaint against Council Member Helke. Manager Whitt said he thought a report would be provided tonight but that was not going happen now.

Council Member Helke said she withdraws her original motion based on the fact that it is an improper motion.

**CM 11-11-16 MOTION TO CANCEL RESOLUTION 2016-31 ELIMINATING
THE MAYOR'S POWERS FOR INVESTIGATION AGAINST
SITTING CITY COUNCIL MEMBER HELKE AND CLOSE OUT
INVESTIGATION WITHOUT ISSUING REPORT**

Motion by Helke, no seconded: MOTION DIES DUE TO LACK OF SUPPORT

Mayor Ackley said she will continue the investigation and will provide her report.

NEW BUSINESS:

**1. Capital Improvement Purchase for replacement of Street Light Control
Enclosure**

Finance Director Coogan explained the DPW has repaired and patched this enclosure over time and no more repairs can be done it needs to be replaced.

**CM 11-12-16 APPROVE NEW ENCLOSURE AND ACCEPT BID FROM CRG
ELECTRIC NOT TO EXCEED \$3,200**

Motion by Ambrose, seconded by Loch, CARRIED UNANIMOUSLY: To approve new enclosure and accept bid from CRG Electric not to exceed \$3,200.

AUDIENCE PARTICIPATION:

Kenneth Kolke, 179 Spring Park – asked what happened to Elis Brothers. Mayor Pro Tem Ambrose said they are closed for a refitting of a new concept.

Mr. Kolke asked who they address their concerns to about Maher. City Manager Whitt said it has been noted and will be reviewed.

Dennis Burks, 206 Spring Park – spoke again.

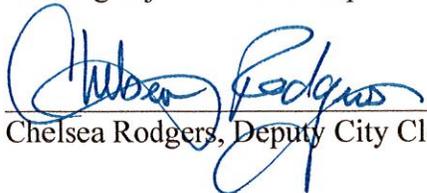
Gabe Costanzo – said he is here on behalf of the Parks and Recreation Commission. He said the Commission has questions about Market Day, if it will take place next year. City Manager Whitt explained that was a budget issue and budgets are put together with proposals. He explained a proposal from the Commission is necessary and January is the start time for this discussion. He asked if Mr. Costanzo is speaking for the Commission or just himself. Mr. Costanzo said he is here from the Commission.

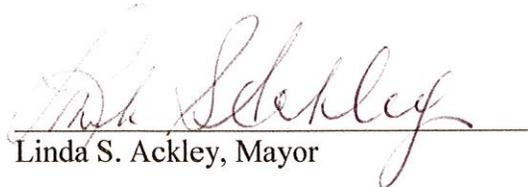
COUNCIL COMMENTS:

Council Member Helke said she anticipated a lot of comments from tonight's meeting.

Mayor Pro Tem Ambrose said the icon of Big Boy was taken down and all the other signage. Mayor Pro Tem Ambrose explained that it had been there since 1967. He explained he spoke with the general manager there will be minor improvements and the restaurant will be open again soon.

Meeting adjourned at 8:51 p.m.


Chelsea Rodgers, Deputy City Clerk


Linda S. Ackley, Mayor