



**BOARD OF WATER & LIGHT BOARD OF COMMISSIONERS  
REGULAR BOARD MEETING  
January 24, 2023 - 5:30 p.m.  
1201 S. Washington Ave., Lansing, Michigan  
REO Town Depot**

**AGENDA**

BWL full meeting packets and public notices/agendas are located on the official web site at <https://www.lbwl.com/about-bwl/governance>.

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Approval of Minutes**
  - a. Regular Board Meeting Minutes of November 15, 2022
- 4. Public Comment on Agenda Items**

*Members of the public are welcome to speak to the Board on any agenda subject. Anyone wishing to comment on any matter **not** on the agenda may do so immediately prior to adjournment.*
- 5. Communications**
  - a. Electronic mail from Kaori Marikawa re: Tree service and electric lines
  - b. Electronic mail from Heather Douglas re: Environmental questions
  - c. Electronic mail from Jon and Marta Kermiet re: Millett neighborhood groundwater safety
- 6. Committee Reports**
  - a. Committee of the Whole Meeting (January 10, 2023)-Sandra Zerkle, Chairperson
  - b. Finance Committee Meeting (January 10, 2023)-Dusty Horwitt, Chairperson
- 7. Manager's Recommendations**
- 8. Unfinished Business**
- 9. New Business**
- 10. Resolutions/Action Items**
- 11. Manager's Remarks**
- 12. Commissioners' Remarks**

**13. Motion of Excused Absence**

**14. Public Comment**

*Members of the public are welcome to speak to the Board on any Board of Water and Light subject.*

**15. Adjournment**

Agenda posted on web site and building 01-19-23

2023 Board Meetings Notice/Schedule Posted in the Lansing State Journal January 3, 2023



**MINUTES OF THE BOARD OF COMMISSIONERS MEETING  
LANSING BOARD OF WATER AND LIGHT**

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**November 15, 2022**

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The Board of Commissioners met at the Lansing Board of Water and Light (BWL) Headquarters-REO Town Depot located at 1201 S. Washington Ave., Lansing, MI, on Tuesday, November 15, 2022. This meeting was publicly noticed for 5:30 p.m.

Chairperson Semone James called the meeting to order at 5:30 p.m.

The Corporate Secretary, LaVella J. Todd, called the roll.

The following Commissioners were present: Chairperson Semone James, Beth Graham, Dusty Horwitt, Tony Mullen, David Price, Tracy Thomas, and Sandra Zerkle. Also Present: Non-Voting Commissioners Douglas Jester (East Lansing), and Larry Merrill (Delta Township)

Absent: Commissioner DeShon Leek and Commissioner Maggie Sanders

The Corporate Secretary declared a quorum.

Commissioner Horwitt led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

**Motion** by Commissioner Price, **Seconded** by Commissioner Horwitt, to approve the Regular Board Meeting minutes of September 27, 2022.

**Action:** Motion Carried.

**PUBLIC COMMENTS**

Michigan State Representative, Angela Witwer, presented the Board of Commissioners a special tribute for Delta Energy Park signed by Governor Gretchen Whitmer, Lieutenant Governor Garlin Gilchrist, Senator Tom Barrett, and Representative Angela Witwer.

**COMMUNICATIONS**

Electronic Mail received From Averill Woods Neighborhood Association regarding Power Outages. *Referred to Management. Received and Placed on File.*

Electronic Mail received From Jesse Lasorda regarding Tree Removal. *Referred to Management. Received and Placed on File.*

Electronic Mail received From Mallory Wey regarding Utility Deposit Fee. *Referred to Management. Received and Placed on File.*

## COMMITTEE REPORTS

Commissioner Sandra Zerkle presented the Committee of the Whole Report:

### COMMITTEE OF THE WHOLE Meeting Minutes November 8, 2022

The Committee of the Whole of the Lansing Board of Water and Light (BWL) met at the BWL Headquarters-REO Town Depot located at 1201 S. Washington Ave., Lansing, MI, on Tuesday, November 8, 2022.

Committee of the Whole Chairperson Sandra Zerkle called the meeting to order at 5:30 p.m. and asked the Corporate Secretary to call the roll.

Present: Commissioners Sandra Zerkle, Dusty Horwitt, Semone James, DeShon Leek, Tony Mullen, David Price, and Tracy Thomas; and Non-Voting Members: Douglas Jester (East Lansing), and Larry Merrill (Delta Township)

Absent: Commissioner Beth Graham and Non-Voting Commissioner Maggie Sanders (Lansing Township)

The Corporate Secretary declared a quorum.

#### **Public Comments**

There were no public comments.

#### **Approval of Minutes**

**Motion** by Commissioner Thomas, **Seconded** by Commissioner Mullen, to approve the Committee of the Whole meeting minutes of September 13, 2022.

Commissioner James stated that her name wasn't listed in the Roll Call Vote in the Committee of the Whole minutes. Commissioner James added Commissioner Price wasn't included in the excused absence motion.

Commissioner Horwitt requested that environmental be included in the Response to Public Questions in the minutes.

Commissioner Merrill stated that his name was included in the Yea votes in the Roll Call Vote for the Response to Public Questions.

The minutes will be corrected as indicated.

**Action:** Motion Carried.

### **Regular Board Meeting Schedule 2023 Resolution**

Chairperson Zerkle requested the Committee approve the 2023 Regular Board Meeting Schedule.

**Motion** by Commissioner Horwitt, **Seconded by** Commissioner Price, to approve the Regular Board Meeting Schedule 2023 Resolution and forward it to the full Board for consideration.

**Action:** Motion Carried.

### **City of Lansing Lien Ordinance**

General Counsel Mark Matus stated that the Lansing City Charter authorizes the LBWL to impose a lien against a property for unpaid utilities, but a previous request has never been made for the City of Lansing to pass an ordinance. A lien against a property with BWL utility service is a sound collection technique and collection can be made when the property is sold. LBWL Associate Attorney Yolanda Bennett presented the Lien Ordinance for Collection of Unpaid Utility Bills to the Committee of the Whole. The Lien Ordinance is being requested to reduce uncollected utility bills bad debt, starting with Commercial and Industrial properties. Public Notice will be published in a local newspaper, final notice will be sent to the property owner and will become a lien on the property if the bill remains unpaid.

Commissioner Mullen asked what recourse is needed to get the lien ordinance accomplished if the City doesn't approve the ordinance. Ms. Bennett responded that there is no recourse, but other jurisdictions have similar ordinances and there is case law that upholds the collection of unpaid charges by lien ordinances.

Commissioners commented and discussed the effectiveness of the placement of a lien on the property, legal authorities, the cost of placing a lien on a property, and what amount owed would cause a lien to be placed on the property. Ms. Bennett responded that an amount has not been set but is being considered for larger accounts. Ms. Bennett also responded there would be no extra cost in having a lien ordinance but will follow up with finding whether there will be extra cost with enforcing the ordinance. General Manager (GM) Peffley responded that he will follow up with guidelines and procedures for the amount to set for a lien to be placed on a property.

**Motion** by Commissioner Price, **Seconded** by Commissioner James for the Lansing Board of Water & Light to make a request to the City Council to draft the Lien Ordinance to allow LBWL to place liens on property for unpaid utilities.

**Action:** Motion Carried.

Mr. Matus and Ms. Bennett will draft a resolution for the Lien Ordinance to present to the City of Lansing for the full Board to approve at the next Board meeting.

### **All-Source RFP (Request for Proposal)**

GM Peffley gave a brief update on the All-Source Request for Proposal which is the next step in bringing customers clean and affordable energy. Projected proposals are to be received by January 13, 2023 with a target to bring new energy online by June 1, 2025. The evaluation of

the proposals will be based on economics, risk of completing the project in a timely manner, and BWL's strategic alignment. More than 50 proposals have been received.

**Other**

GM Peffley gave a brief update on the recent power outage that affected 13,000 customers.

Commissioner James stated she spoke with Julie Pioch at MSU Extension regarding training for Commissioners on the Robert's Rules of Order. The Corporate Secretary will send an email to the Commissioners for training availability in January.

**Motion** by Commissioner James, **Seconded by** Commissioner Horwitt, to excuse Commissioners Beth Graham and Maggie Sanders from tonight's meeting.

**Action:** Motion Carried.

**Adjourn**

Chairperson Zerkle adjourned the meeting at 6:31 p.m.

Respectfully Submitted  
Sandra Zerkle, Chairperson  
Committee of the Whole

Commissioner Dusty Horwitt presented the Finance Committee Report:

**FINANCE COMMITTEE  
Meeting Minutes  
November 8, 2022**

The Finance Committee of the Board of Water and Light (BWL) met at the BWL Headquarters – REO Town Depot, located at 1201 S. Washington Ave., Lansing, MI on Tuesday, November 8, 2022.

Finance Committee Chairperson Dusty Horwitt called the meeting to order at 6:45 p.m. and asked the Corporate Secretary to call the roll.

Present: Commissioners Dusty Horwitt, Semone James, David Price, and Sandra Zerkle. Also, present: Commissioners Tony Mullen, and Tracy Thomas; and Non-Voting Commissioners: Douglas Jester (East Lansing), and Larry Merrill (Delta Township).

Absent: None.

The Corporate Secretary declared a quorum.

**Public Comments**

There were no public comments.

### **Approval of Minutes**

**Motion** by Commissioner James, **Seconded** by Commissioner Zerkle, to approve the Finance Committee Meeting minutes of September 13, 2022.

**Action:** Motion Carried.

### **September YTD Financial Summary**

CFO Shawa presented the September YTD Financial Summary. The Wholesale Income Actual vs Budget YTD is positive by 100% due to higher market prices and also affects the Net Income. O&M Budget YTD is 18% underspend is due to vacancies and is normal in the first quarter. Capital Budget YTD is positive by 61% due to a carryover payout in the first quarter for a CTG planned outage. The Debt to Total Assets median is not being met due to nonreceipt of unpaid debt. Benefits Cost is low due to receipt of stop loss payments and lower claims.

### **Capital Project Summary**

CFO Shawa presented the Capital Project Summary. The difference between Projected and Budget totals is due to carryover of deferred or delayed projects due to supply chain issues.

Commissioner Zerkle asked Ms. Shawa to identify the carryover projects on the Summary. CFO Shawa responded that she would provide that information to the Commissioners and put those items on future Capital Project Summaries.

CFO Shawa responded that the Steam Annuals Variance was due to I-496 construction and a project exceedance request is being made for it.

### **Steam Annuals Capital Project Exceedance - Resolution**

CFO Shawa requested approval of the Steam Annuals Capital Project Exceedance which is a \$1.4 million opportunity in accordance with the I-496 construction. GM Peffley stated that the project is being moved forward to be completed before the I-496 construction is completed so that ground will not need to be torn up. The project will delay the I-496 construction by one month.

Commissioner James requested that it be stated in the Steam Annuals Capital Project Exceedance Resolution that it is an opportunity. Commissioner Price requested amending the resolution and adding another WHEREAS section because of emergent need due to I-496 construction.

**Motion** by Commissioner James, **Seconded** by Commissioner Price, to approve the Resolution for the Steam Annuals Capital Project Exceedance, with the addition of the project exceedance being an opportunity, and forward it to the full Board for consideration.

CFO Shawa will amend the Resolution and submit it to the full Board for consideration at the November 15, 2022 Regular Board Meeting.

GM Peffley provided Commissioner Jester with an update on the status of switching from steam to hot water. A new contract is being negotiated with General Motors for converting steam to hot water, and 10.5 miles of steam mains and steam barrels are being considered for replacement. The first conversion would be at the Grand River Assembly Plant.

**Action:** Motion Carried.

### **Retirement Plan Committee (RPC) Update**

CFO Shawa reported on the investment and administrative activity from the Retirement Plan Committee. Two in person question and answer sessions will be held at BWL on November 28<sup>th</sup> and December 5<sup>th</sup> and a virtual session will be held on December 12<sup>th</sup>.

### **Internal Audit Department Update**

Internal Auditor Frank Macciocca provided the Internal Audit Department Update.

### **Other**

There was no other business.

### **Adjourn**

Chairperson Dusty Horwitt adjourned the meeting at 7:25 p.m.

Respectfully Submitted  
Dusty Horwitt, Chairperson  
Finance Committee

Chairperson Beth Graham presented the Human Resources Committee Meeting Report:

### **HUMAN RESOURCES COMMITTEE Meeting Minutes November 15, 2022**

Human Resources (HR) Committee: Beth Graham, Committee Chairperson; Commissioners: DeShon Leek, Tony Mullen, Tracy Thomas, Semone James (Alternate), Sandra Zerkle (Alternate).

The HR Committee of the Lansing Board of Water and Light (BWL) met at the BWL Headquarters-REO Town Depot located at 1201 S. Washington Ave., Lansing, MI, at 4:00 p.m. on Tuesday, November 15, 2022.

HR Committee Chairperson Beth Graham called the meeting to order at 4:03 p.m. and asked the Corporate Secretary to call the roll. The following members were present: Commissioners Beth Graham, Tony Mullen, Tracy Thomas, Semone James (Alternate) and Sandra Zerkle (Alternate).

Absent: Commissioner DeShon Leek

### **Public Comments**

There were no public comments.

### **Approval of Minutes**

**Motion** by Commissioner Thomas, **Seconded** by Commissioner Mullen, to approve the HR Committee meeting minutes of June 21, 2022.

**Action:** Motion Carried.

### **Lansing Board of Water & Light Amended and Restated Cafeteria Plan**

HR Executive Director Michael Flowers presented and requested adoption of the Amended and Restated Cafeteria Plan.



**Motion** by Commissioner Mullen, **Seconded** by Commissioner Thomas, to approve the Adoption of the Amended and Restated Cafeteria Plan and forward it to the full Board for consideration.

**Action:** Motion Carried.

**Other**

Chairperson Graham requested General Manager Peffley ask HR Executive Director Michael Flowers to prepare a compensation study for the Board’s direct reports, Corporate Secretary, Director of Internal Audit, and General Manager. GM Peffley and Mr. Flowers will provide a compensation study to the HR Committee prior to their next meeting.

**Excused Absence**

**Motion** by Commissioner Mullen, **Seconded** by Commissioner Thomas, for an excused absence for Commissioner DeShon Leek.

**Action:** Motion Carried.

**Adjourn**

HR Committee Chairperson Graham adjourned the meeting at 4:15 p.m.

Respectfully Submitted,  
Beth Graham, Chairperson  
Human Resources Committee

Chairperson Semone James presented the Pension Fund Trustee Meeting Report:

**PENSION FUND TRUSTEES COMMITTEE  
Meeting Minutes  
November 15, 2022**

The Pension Fund Trustees of the Lansing Board of Water & Light (BWL) met at the BWL Headquarters in the REO Town Depot located at 1201 S. Washington Ave., Lansing, MI) at 4:30 P.M. on Tuesday, November 15, 2022.

Trustee and Board Chairperson Semone James called the meeting to order at 4:30 p.m.

Corporate Secretary LaVella Todd called the Roll.

The following Trustees were present: Beth Graham, Dusty Horwitt, Semone James, Tony Mullen, David Price, Tracy Thomas, and Sandra Zerkle.

Absent: Commissioner DeShon Leek

The Corporate Secretary declared a quorum.

**Public Comments**

There were no public comments.

## **Approval of Minutes**

**Motion** by Trustee Price and **Seconded** by Trustee Thomas to approve the minutes from the November 16, 2021 Pension Fund Trustees Meeting.

**Action:** Motion Carried.

## **Pension Fund**

Chief Financial Officer (CFO) Heather Shawa provided an overview of the information from the Pension Memo and Pension Dashboard.

Mr. Scott Taylor, BWL Director of Finance, introduced the financial advisory panel. The Panel provided financial plan information followed by a question and answer session.

- 1) Nathan Burk, Director with Asset Consulting Group (ACG); ACG assists in investment allocation, evaluation of investment managers, reporting of investment performance and investment policy statements for the DB and VEBA plans.
- 2) Mark Miller, Principal Consultant with Benassist Retirement Consulting, LLC; Mr. Miller provides actuarial evaluation reports, assists with required annual state filing requirements, and performs calculations for DB employee benefits at retirement.
- 3) Dori Drayton, Principal Financial Advisor with CAPTRUST; CAPTRUST assists with fund line up selection and monitoring, investment performance reporting, fee benchmarking and fiduciary compliance for the DC plans.
- 4) Michael Burkhart, Executive Relationship Manager with Nationwide; Nationwide is the 401 and 457 Plans administrator and provides personalized resources to help employees and retirees reach their financial goals.

Mr. Nathan Burk gave a capital market update for 2022. Mr. Burke stated that interest rates have increased and created volatility; there were strong equities in the fiscal year period but low returns. Mr. Burke noted that the VEBA plan has a 6.5% target return on assets for FY 2022, with a performance of -7.9%; and the DB plan had a target return of 6% with a performance of -10.5%. BWL outperformed about 90% of investors across the country for the VEBA plan and 50% of investors across the country for the DB plan.

Chairperson James asked about the investment fees for the VEBA Plan. Mr. Burk responded the rate fee was 0.5% of total assets and is in the lower quartile of the industry standard for active investing.

Mr. Mark Miller spoke about the actuarial work for the DB and VEBA plans funding. He noted that the funded status for the DB plan is 106% which is about 21% lower than 2021. The funded status for the VEBA plan is 146% which is about 22% lower than 2021. BWL is in the top 6% out of 865 Michigan plans.

Ms. Dori Drayton spoke about the roles of CAPTRUST in investment management, fiduciary process, plan fees, and participant choices for the 401(a) and 457(b) plans.

Mr. Michael Burkhart provided information about the retirement services that Nationwide furnishes.

Commissioner Zerkle asked about the process of borrowing from a retirement fund and the amount in losses. Mr. Burkhart responded that it depends on the investments. The amount borrowed is set aside as a receivable, a loan interest rate is assumed, and the borrowers pay themselves back. Commissioner Thomas asked about the number of loans taken out annually. Mr. Burkhart responded that there are 224 loans outstanding and the number of loans declined by 35 over the course of the year. Mr. Taylor added that there is a cap of \$50,000 on the loan amounts.

**RESOLUTION #2022-11-01**

**ACCEPTANCE OF 2022 AUDITED FINANCIAL STATEMENTS FOR DEFINED BENEFIT PENSION PLAN, DEFINED CONTRIBUTION PENSION PLAN, AND RETIREE BENEFIT PLAN**

Resolved, that the Corporate Secretary receive and place on file the Defined Benefit, Defined Contribution, and Retiree Benefit Plan reports presented during the Pension Trustee Meeting.

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*Staff comments:* All three Plans received clean audit reports.

**Motion** by Commissioner Zerkle, **Seconded** by Commissioner Price to approve the Resolution for the Acceptance of 2022 Audited Financial Statements for Defined Benefit Pension Plan, Defined Contribution Pension Plan, and Retiree Benefit Plan at a Board meeting held on November 15, 2022.

**Action:** Motion Carried.

**Other**

There was no other business.

**Excused Absence**

**Motion** by Trustee Zerkle, **Seconded** by Trustee Price, for an excused absence for Trustee DeShon Leek.

**Action:** Motion Carried.

**Adjourn**

There being no further business, the Pension Fund Trustees meeting adjourned at 5:18 p.m.

**Approved by the Trustees on November 15, 2022**

**MANAGER'S RECOMMENDATIONS**

There were no General Manager recommendations.

## UNFINISHED BUSINESS

There was no unfinished business.

## NEW BUSINESS

### **Easement Grant Over Erickson Property to Consumers Energy Company**

General Management Dick Peffley requested approval of an easement grant over the Erickson property running along south Canal Road to Consumers Energy Company for service to Border States Electric.

#### **RESOLUTION 2022-11-02**

### **Easement Grant Over Erickson Property to Consumers Energy Company**

RESOLVED, that the Board of Commissioners hereby recommends that Lansing City Council grant an easement extending the existing easement to Consumers Energy Company which will be located on property occupied and maintained by the Board of Water and Light, specifically a portion of Erickson Power Plant property; and

FURTHER RESOLVED, the General Manager of the Board of Water and Light is authorized to execute all documents to effectuate this easement grant once approved by the Lansing City Council.

*Staff Comments:* Consumers Energy Company (“Consumers”) intends to construct the new gas pipeline to serve a critical supplier to the area businesses, including General Motors, and Consumers has requested an easement for said pipeline across a portion of the Erickson Power Plant property. The BWL has performed an operational feasibility assessment and negotiated the terms of said easement, which includes only nominal monetary consideration, that are mutually agreeable.

**Motion** by Commissioner Graham, **Seconded** by Commissioner Thomas to approve the Resolution for the Grant Easement over Erickson Property to Consumers Energy Company at a Board Meeting held on November 15, 2022.

**Action:** Motion Carried

## RESOLUTIONS

#### **RESOLUTION 2022-11-03**

### **Regular Board Meeting Schedule 2023**

In accordance with the Lansing Board of Water & Light’s Rules of Administrative Procedure, a schedule of dates, places, and times for each regular meeting of the Board of Commissioners for the calendar year shall be adopted in November.

RESOLVED, that regular meetings of the Lansing Board of Water & Light's Board of Commissioners are hereby set for calendar year 2023 as follows, unless otherwise notified or as a result of date conflicts with rescheduled City Council meetings:

**2023**  
**Lansing Board of Water & Light Board of Commissioners**  
**Regular Board Meeting Schedule**

Tuesday	January 24
Tuesday	March 21
Tuesday	May 23
Tuesday	July 25
Tuesday	September 26
Tuesday	November 14

Meetings will be held in the Lansing Board of Water & Light REO Town Depot located at 1201 S. Washington Ave., Lansing, MI at 5:30 p.m.

RESOLVED FURTHER, that a notice of the meeting schedule shall be published in a newspaper of general circulation in Ingham County the week of January 1, 2023.

**Motion** by Commissioner Graham, **Seconded** by Commissioner Zerkle, to approve the 2023 Regular Board Meeting Schedule at a Board meeting held on November 15, 2022.

**Action:** Motion Carried.

**RESOLUTION 2022-11-04**  
**Requesting A Lien Ordinance for Unpaid Utility Debt**

WHEREAS, the Lansing Board of Water & Light ("BWL") is a municipally owned utility company organized under the Lansing City Charter as permitted by the Home Rule Cities Act, MCL 117.4(f)(c), and governed by the Board of Commissioners ("Board"). The Board, per the Lansing City Charter, is delegated administrative, executive, and policy-making authority over the operation of the BWL, which includes the full and exclusive management of water, heat, steam, and electric services and such additional services of the City of Lansing as may be agreed upon by the Board and City Council.

WHEREAS, the Board's role as the governing body for the BWL includes certain fiduciary duties such as acting in the BWL's best interest, protecting and enhancing the BWL as owned by its ratepayers, exercising reasonable care, loyalty, and good faith in actions and decisions, meeting legal and regulatory requirements, and assuring the BWL is effective by providing adequate support and resources.

WHEREAS, the BWL wrote off approximately \$6,847,696 in uncollectable utility bills between FY2019 - FY2022, and a lawful and reasonable measure should be implemented to diminish uncollectable utility debt.

WHEREAS, Section 506-2 of the Lansing City Charter states, “[u]pon the request of the Board, the City Council shall provide by ordinance for the collection of unpaid charges for public utility services furnished by the Board of Water and Light and for the imposition and enforcement of liens upon property served by the Board of Water and Light.”

WHEREAS, such an ordinance is also supported by the Revenue Bond Act, MCL 141.121 (PA 94 of 1933), and the Municipal Water Lien Act, MCL 123.162 (PA 178 of 1939).

WHEREAS, the Board recognizes that the utility service shutoff and collection process is not a fully effective collection tool and therefore supports the need for a property lien ordinance to collect unpaid electricity and water utility services.

NOW, THEREFORE, BE IT RESOLVED, pursuant to Section 506-2 of the Lansing City Charter and state law, the Board requests the Lansing City Council provide an ordinance for the collection of unpaid charges for public utility services furnished by the BWL and for the imposition and enforcement of liens upon property served by the BWL.

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**Motion** by Commissioner Price, **Seconded** by Commissioner Graham, to approve the Motion to request the Lansing City Council implement a lien ordinance for the collection of unpaid utility debt at a Board meeting held on November 15, 2022.

**Action:** Motion Carried.

GM Peffley provided a follow up on the cost for placing a lien on property for the collection of unpaid utility debt.

**RESOLUTION 2022-11-05**

**Capital Project Exceedance: AS – Steam Annuals**

WHEREAS, Lansing Board of Water & Light’s (BWL) Policy F1-13, entitled Capital Project Exceedance Approval, requires BWL Board of Commissioners approval for annual capital projects that are expected to exceed their previously approved aggregate total budget amount by both 15% and \$200,000 prior to completion of the project; and

WHEREAS, the previously approved budget for Capital Project AS – Steam Annuals was \$1,245,900; and

WHEREAS, as a result of MDOT’s I-496 reconstruction project, steam vaults which normally cannot be accessed for inspection have been made accessible and BWL has discovered that these vaults are in very poor condition and should be rehabilitated or replaced while the freeway is closed, and the work must be done before MDOT can complete the reconstruction project; and

WHEREAS, the projected final total cost for Capital Project AS – Steam Annuals is \$2,680,360, should the project be completed; and

WHEREAS, BWL staff and management reviewed the project cost in detail, which includes but is not limited to the rationale and circumstances for the increased budget projection; and

WHEREAS, BWL staff and management recommends that the Capital Project AS – Steam Annuals projected spending be approved; and

RESOLVED, the BWL Board of Commissioners approve projected spending for Capital Project AS – Steam Annuals with a projected final total cost of \$2,680,360.

**Motion** by Commissioner Thomas, **Seconded** by Commissioner Horwitt, to approve the Resolution for the Capital Project Exceedance: AS – Steam Annuals at a Board meeting held on November 15, 2022.

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Staff Comments: Due to the discovery of the current conditions of the steam vaults exposed by the MDOT construction project, staff recommends immediate rehabilitation/replacement of these vaults to extend the life of the system and allow the MDOT construction to continue. The existing vaults were installed in 1984 with an estimated useful life of 50 years but the I-496 project presents an early and singular opportunity for repair while the freeway is already closed for repairs.

#### **RESOLUTION 2022-11-06**

#### **Adoption of the Amended and Restated Cafeteria Plan**

WHEREAS, the Lansing Board of Water and Light (“BWL”) maintains the Lansing Board of Water and Light Cafeteria Plan (“Cafeteria Plan”) for the benefit of certain employees and retirees; and

WHEREAS, the BWL desires to amend and restate the Cafeteria Plan for certain technical regulatory changes and for certain plan design changes for consistency with Plan operations and administration.

NOW, THEREFORE, BE IT RESOLVED, that the amended and restated Cafeteria Plan effective as of December 1, 2022 is hereby approved and adopted; and

FURTHER RESOLVED, that the officers of the BWL, and their designee(s), are hereby authorized and directed to take such actions and to implement and execute such documents and instruments (including the amendment referenced above as well as ancillary documentation) as necessary or desirable to effectuate the intent of this resolution.

**Motion** by Commissioner Horwitt, **Seconded** by Commissioner Graham to approve and adopt the Amended and Restated Cafeteria Plan at a Board meeting held on November 15, 2022.

**Action:** Motion Carried

**RESOLUTION 2022-11-07**

**Acknowledgement of Acceptance of 2022 Audited Financial Statements for Defined Benefit Pension Plan, Defined Contribution Pension Plan, and Retiree Benefit Plan**

Resolved, that the Corporate Secretary receive and place on file the Defined Benefit, Defined Contribution, and Retiree Benefit Plan reports presented during the Pension Trustee Meeting.

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*Staff comments:* All three Plans received clean audit reports.

**Motion** by Commissioner Thomas, **Seconded** by Commissioner Price, to acknowledge the Resolution for the Acceptance of 2022 Audited Financial Statements for Defined Benefit Pension Plan, Defined Contribution Pension Plan, and Retiree Benefit Plan at a Board meeting held on November 15, 2022.

**Action:** Motion Carried.

**RESOLUTION 2022-11-08**

**Appointment of Chairperson as Signatory for Trustee Appointments and Removals**

**RESOLVED**, that the Board of Commissioners hereby appoints the following individual as signatory for appointments and/or removal of Co-Trustees, or until a successor is appointed, whichever last occurs.

Semone James, Chairperson of the Board

**FURTHER RESOLVED**, that the Chairperson of the Board of Commissioners is authorized to execute any and all contractual documents which reflect appointment or removal of an individual Co-Trustee.

**Motion** by Commissioner Horwitt, **Seconded** by Commissioner Thomas to approve appointment of Chairperson as signatory for trustee appointments and removals at a Board meeting held on November 15, 2022.

**Action:** Motion Carried.

**MANAGER'S REMARKS**

GM Peffley remarked on the following:

- GM Peffley met with Secretary of Labor, Marty Walsh and BWL HR Executive Director Mr. Flowers regarding BWL's Apprenticeship program. Mayor Andy Schor was also in attendance.
- Six utility payment kiosks have been installed in Quality Dairy stores and are in test and tracking mode to determine how much the kiosks will be used. Quality Dairy employees have been trained to answer any questions customers may have.



- The re-opening of the walk-in payment center is still on schedule for the first week of December 2022.

Commissioner Zerkle asked whether kiosks were located at Meijer and when would a customer's power be restored after payment. GM Peffley responded that there weren't kiosks at Meijer. Breina Pugh, Interim Communications Manager, responded that power would be restored within an hour to a customer that paid at Quality Dairy and that there were no fees for those kiosks.

Commissioner Thomas requested a public notice for the walk-in payment center opening in December. GM Peffley responded that news media coverage and a formal announcement would be made after kiosks and the walk-in payment center were tested.

Commissioner Zerkle asked whether the 1<sup>st</sup> STEP Program was discussed with the Secretary of Labor. GM Peffley responded that the 1<sup>st</sup> STEP Program was discussed and the recent events BWL held for local students during Energy week.

Commissioner Graham thanked BWL for the new LED lights in the neighborhoods. Commissioner Mullen added that the new lighting made the Stillwell area brighter.

Chairperson James asked what the fees were for the kiosks in locations other than Quality Dairy and, if there were fees, asked if the fees could be adjusted. GM Peffley responded he would follow up on the fees from the other third-party vendors.

### **COMMISSIONERS' REMARKS**

Commissioner Thomas expressed his thanks to Smiljana Williams for the DEI Program's Black Panther movie event and the Veteran's breakfast. GM Peffley responded that Ms. Williams has also provided 12 items from the DEI Roundtable which BWL can address.

Chairperson James thanked GM Peffley and his staff for an outstanding year, especially with the rate increases and Commissioner Price and his Pipe Band for their performance at the Veteran's Day Breakfast.

Commissioner Thomas thanked Rob Hodge for his work on the Delta Energy Plant.

**Motion** by Commissioner Zerkle, **Seconded** by Commissioner Graham, to excuse Commissioners DeShon Leek and Maggie Sanders from tonight's meeting.

**Action:** Motion Carried

### **PUBLIC COMMENTS**

There were no public comments.

## **ADJOURNMENT**

Chairperson James adjourned the meeting at 6:01 p.m.

LaVella J. Todd, Corporate Secretary

Preliminary Minutes filed (electronically) with Lansing City Clerk 11-18-22

Approved by the Board of Commissioners: 01/--/23

Official Minutes filed (electronically) with Lansing City Clerk: 01/--/23

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Submitted on Mon, 12/26/2022 - 10:02 AM

Submitted values are:

**Select a Commissioner:**

All Commissioners

**Name**

Kaori Marikawa

**Street Address**

Lansing, Michigan

**Message**

I have requested via phone call since 12/19/2022 to move your electric line to other poles to avoid the lines touching my tree. The tree service still refuse to do anything. Your electric line endangers my house and bothers me to do tree care.

Your customer service is very slow and negligent. Only told me will have a manager call me back but until now no one has called me. If you do not move the electric line away from my tree as soon as possible within this week, I will exercise my rights to complain to the city about your company service.

Dear Dusty,

I would like the following questions to be addressed at the next LBWL COW meeting:

1) How is LBWL planning on using its decommissioned coal plant sites, given their excellent grid connectivity? Are there plans to use the sites for renewable energy generation and/or short term battery storage?

2) How is LBWL planning on taking advantage of the provisions of the Inflation Reduction Act (IRA), passed this fall?

Best,  
Heather

Heather Douglas  
Associate Professor  
Department of Philosophy  
368 Farm Lane, Room 503  
Michigan State University  
East Lansing, MI 48824  
Office: 510 South Kedzie Hall

**From:** [LaVella Todd](#)  
**Subject:** Questions for the next LBWL COW meeting  
**Date:** Wednesday, January 4, 2023 8:04:09 AM  
**Attachments:** [image001.png](#)

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***Good morning Commissioner Horwitt,***

***Please see the communication below sent on behalf of GM Peffley. Note – the responses will be included in the January 10, 2023 COW meeting packet.***

***Thank you.***

Good morning LaVella,

Please see responses below to be included in the packet for the upcoming COW meeting.

1. How is LBWL planning on using its decommissioned coal plant sites, given their excellent grid connectivity? Are there plans to use the sites for renewable energy generation and/or short term battery storage?

**Response:** The substation and switchyard at Eckert Station are still in operation and will be for some time but there are currently no plans for adding new generation at the site. Erickson Station has a good deal more space for development than the Eckert site and an the BWL's All-Sources Request for Proposals, [2023 All-Source RFP for Capacity & Energy | lbwl.com](#), could yield some renewable and battery storage proposals for the site.

2. How is LBWL planning on taking advantage of the provisions of the Inflation Reduction Act (IRA), passed this fall?

**Response:** The IRA makes federal energy tax incentives available for the first time to municipal power companies like the BWL and we are exploring how to best take advantage of this new opportunity.

LaVella J. Todd  
Corporate Secretary  
Lansing Board of Water & Light  
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Submitted on Wed, 01/18/2023 - 1:41 PM

**Select a Commissioner:**

All Commissioners

**Name**

Jon & Marta Kermiet

**Address**

Lansing, Michigan

**Message**

TO: The BWL Board and Management

FROM: Neighbors of the (closed) Erickson Coal Burning Power Plant

oi: January 17cbv, 2023

Below are questions and concerns from some neighbors of the above plant regarding the safety of the groundwater that feeds private wells in the area surrounding the plant's unlined coal ash ponds now and into the future. These concerns were based on conversations with some residents of the Millett neighborhood, some who received water testing by the BWL and some who did not. We understand that the BWL Board was told that alternative water was offered to all residents. This does not seem to be the case. One neighbor heard that a water dispenser was given to someone on the next street and was only given the dispenser after calling to request it. (The 50 gallon weight of the jug requires that a grown son drive across town every week to replace this for older parents). Another was told his well water couldn't be tested because of where it was located.

A third neighbor, with boron levels well above the safe standard for children and a bit under the safe level for adults, purchased a Culligan water delivery and a reverse osmosis system at her own expense. She was never offered any type of alternative water source.

After reading the testing result reports and the May update letter from the Water Quality Administrator, researching the risks of unlined coal ash to groundwater, and reviewing the two recent City Pulse articles, we ask the BWL Board of Commissioners to address the following:

1. Though other toxic substances (other than the four tested for) are known to be in coal ash ponds, we have been told these were not part of the recent well testing because they were tested for and not found “on the plant's property”. How and where on the property were these evaluated? At what depth were the plant's wells that were tested? One resident mentioned that she was told there “might” be higher levels of boron the deeper the well (which was the case when we compared the test results of two neighbors with wells at different depths). How far from the ponds and from residential areas are the BWL wells that were used to determine there was no risk or need to test for other substances? Mercury, selenium, lead, sulfur dioxide, nitrogen oxide, cadmium, arsenic, or other heavy metals are typically found in coal ash ponds. When and over what period of time were the BWL wells monitored for contamination given that the ponds, especially the unlined collection ponds (from 1974) with only a foot of earth as a barrier between the pond and the groundwater, would likely be a risk to leach down over time?

2. What is the plan to monitor for leakage of these ponds into residential wells over time? In the City Pulse article of January, 2022 the Earth Justice lawyer, Lisa Evans is referenced as saying that the plan to remove the ash ponds (to a lined landfill?) was incomplete, that BWL had not chosen a remedy, and were “relying on modeling that they haven't developed yet”. What is the status of the plan and it's timetable for implementation so that ongoing leakage won't occur?

It is clear from talking with staff from the EGLE office, that cleaning up toxic sludge from coal ash ponds:

- a) Is a multiple step process requiring adherence to state and federal regulations
- b) Presents a number of possible procedural options for on or off site storage or treatment
- c) Requires time consuming bidding of contracts for work to be done

One EGLE staffer said this process had not begun as yet and then five EGLE staff will need to address each step along the way. This person commented “I'll likely be retired before it gets to this desk.”

3. Will the BWL share the analysis of the testing that was done with the nearby residents, Delta township and the EPA in addition to EGLE? What, if any, final takeaways can be drawn regarding the path of the plume of contamination? Does the data show any pattern that indicates groundwater levels at which certain areas & wells appear to to be at more risk?

4. This would be useful into the future as residents do sometimes find they must re-drill new wells.

With no known to the public plan to offer city water or any other solution to many homes now dependent on wells, and with no known timetable to eliminate the ponds, this is a major ongoing health concern.

5. What is the plan to remove or treat contaminated groundwater?

6. Will the BWL test for the other toxic substances that are typically found in coals ash? Has the method used to determine there was no need for this been approved by outside regulators or experts? Who?

7. \*\*\* Most importantly, what are the more immediate options to provide clean water (as mentioned in the May 25th letter from the Water Quality Administrator) to those neighborhoods which are now or in the future found to be effected by this contamination? The Water Quality Administrator's letter to residents stated that "testing indicated a wide variability of concentrations in very close proximity to each other". She also wrote in May, 2022 that BWL "began evaluating options to find a permanent solution (to the need for clean water) for the area of focus." From our small sample of residents, the options have not been presented to residents as yet.

8. What about those neighbors not yet tested? (Ex. Very elderly woman with dementia, those who did not respond to BWL's contact, and the man BWL told his well was not testable).

We somewhat understand that the BWL did not want to encourage undue concern until the facts were in. We just do not understand whether the data is all in, whether the necessary substances were evaluated according to scientific best practice, and when the correction plan and it's timetable will be implemented. It has not been encouraging to see that EPA and minimal State requirements for building and monitoring coal ash ponds have not been followed for years. Disjointed and conflicting messages to different neighbors and even to the Board itself leads us to ask for the BWL Board to address these specific questions in it's public & non public meetings. We understand these are complex issues. Where our health and our children's health is concerned, we reasonably expect to be kept informed of the plans and progress over the next months. Thank you in advance.

Sincerely,

Emma & David Campbell, Cynthia Courter, Lois Courter,  
Marta & Jon Kermiet, Phil & Bonnie Kleis, Jamie Roy, and Alan West

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## COMMITTEE OF THE WHOLE

### Meeting Minutes

January 10, 2023

The Committee of the Whole of the Lansing Board of Water and Light (BWL) met at the BWL Headquarters-REO Town Depot located at 1201 S. Washington Ave., Lansing, MI, on Tuesday, January 10, 2023.

Committee of the Whole Chair Sandra Zerkle called the meeting to order at 5:30 p.m. and asked the Corporate Secretary to call the roll.

Present: Commissioners Sandra Zerkle, Beth Graham, Dusty Horwitt, Semone James, DeShon Leek, Tony Mullen and Tracy Thomas, and Non-Voting Members: Larry Merrill (Delta Township) and Maggie Sanders (Lansing Charter Township)

Absent: Commissioner David Price and Non-Voting Commissioner Douglas Jester (East Lansing)

The Corporate Secretary declared a quorum.

#### **Public Comments**

There were no public comments.

#### **Approval of Minutes**

**Motion** by Commissioner Mullen, **Seconded** by Commissioner Thomas, to approve the Committee of the Whole Meeting minutes of November 8, 2022.

**Action:** Motion carried. The minutes were approved.

#### **Energy Risk Management Presentation**

General Manager Dick Peffley called upon Dave Bolan, Executive Director of Operations, who provided a brief review of the Energy Risk Management Program which has been in operation since 2013. Mr. Bolan introduced Mr. Dan Conrath, Senior Vice President at StoneX Financial Inc., who presented an Energy Risk Management overview presentation. Q&A followed with questions from Commissioners Zerkle, Thomas and Horwitt.

#### **Security Threat Assessment**

Commissioner Zerkle called for a Closed Session to discuss an attorney-client privileged memorandum, which General Counsel Mark Matus provided to the Committee of the Whole as permitted by the Open Meetings Act, MCL 15.268(h) and MCL 15.243(g).

**Motion** by Commissioner Graham, **Seconded** by Commissioner Horwitt, to go into closed session for the purpose of reviewing the contents of the attorney-client privileged memorandum as permitted by the Open Meetings Act, specifically MCL 15.268(e).

**Action:** Motion Carried.

The Corporate Secretary called the Roll Call Vote:

**Yeas:** Commissioners Sandra Zerkle, Beth Graham, Dusty Horwitt, Semone James, Deshon Leek, Tony Mullen, and Tracy Thomas.

**Nays:** None.

**Action:** Motion Carried.

Commissioner Zerkle declared a quorum to go into Closed Session, welcomed Non-Voting Commissioners to join Closed Session, and asked General Manager Dick Peffley, General Counsel Mark Matus, Executive Director of Human Resources Michael Flowers, Health Safety and Security Manager Ryan Cressman, and Corporate Secretary LaVella Todd to join the Closed Session.

*The Committee of the Whole Meeting went into closed session at 5:51 p.m.*

**Motion** by Commissioner Thomas, **Seconded** by Commissioner James, to return to open session.

**Action:** Motion Carried.

Commissioner Zerkle asked the Corporate Secretary to call the roll.

Present: Commissioners Sandra Zerkle, Beth Graham, Dusty Horwitt, Semone James, DeShon Leek, Tony Mullen and Tracy Thomas. Non-Voting Members: Larry Merrill (Delta Township) and Maggie Sanders (Lansing Charter Township) were also present.

The Corporate Secretary declared a quorum.

*The Committee of the Whole Meeting reconvened to open session at 6:11 p.m.*

### **Other**

Commissioners did not have any further questions regarding the environmental questions provided to General Manager Peffley by Ms. Heather Douglas, East Lansing, MI.

General Manager Peffley provided an update on a discussion with representatives of Siemens regarding a jet engine design flaw located at the Delta Energy Park, and the assistance of General Counsel and outside counsel to recoup \$30,000,000 lost revenues due to the design flaw, corresponding project interference and the loss of market opportunities.

General Manager Peffley shared an update on the December 24, 2022 storm which resulted in one outage causing a six-hour service interruption to forty BWL customers in East Lansing, MI, due to a car hitting a utility pole.

General Manager Peffley gave an update on a \$45,000,000 State of Michigan grant opportunity for new energy with Michigan Public Service Commission. The grant funds will be used to start work on an energy complex at the Delta Energy Plant. Mr. Peffley stated BWL applied for \$20,000,000 of the

available grant funds by the deadline of January 6, 2023. The grant opportunity will be publicly posted for public comment for 45-days on January 13, 2023, with proposal modifications available through March 14, 2023. The grant is to be awarded in May or June of 2023.

**Motion** by Commissioner James, **Seconded** by Commissioner Graham for an excused absence for Commissioner David Price and Commissioner Douglas Jester.

**Action:** Motion Carried.

**Adjourn**

Chairperson Zerkle adjourned the meeting at 6:27 p.m.

Respectfully Submitted  
Sandra Zerkle, Chairperson  
Committee of the Whole

**FINANCE COMMITTEE**  
**Meeting Minutes**  
**January 10, 2023**

The Finance Committee of the Board of Water and Light (BWL) met at the BWL Headquarters – REO Town Depot, located at 1201 S. Washington Ave., Lansing, MI on Tuesday, January 10, 2023.

Finance Committee Chairperson Dusty Horwitt called the meeting to order at 6:38 p.m. and asked the Corporate Secretary to call the roll.

Present: Commissioners Dusty Horwitt, Semone James, Sandra Zerkle, Tony Mullen and Tracy Thomas; also present: Commissioners Beth Graham and DeShon Leek, and Non-Voting Commissioners Larry Merrill (Delta Township) and Maggie Sanders (Lansing Charter Township)  
Absent: Commissioner David Price and Non-Voting Commissioner Douglas Jester (East Lansing)

The Corporate Secretary declared a quorum.

**Public Comments**

There were no public comments.

**Approval of Minutes**

**Motion** by Commissioner James, **Seconded** by Commissioner Zerkle, to approve the Finance Committee Meeting minutes of November 8, 2022.

**Action:** Motion Carried.

**November YTD Financial Summary**

CFO Shawa presented the November YTD Financial Summary. In response to Commissioner Zerkle, Ms. Shawa reported that the Budget YTD for O&M is \$5 million underspent. In response to Commissioner Mullen, Ms. Shawa reported that the debt to total assets ratio improves as we pay down Delta Energy Park debt. In response to Commissioner Zerkle, General Manager Peffley reported the cost of preparing for the storm, including employees, crews, lodging and meals, was a quarter of a million dollars.

**Retirement Plan Committee (RPC) Updates**

CFO Shawa reported on the investment and administrative activity from the Retirement Plan Committee. There will be an investment manager change in the DB and VEBA Plans, and a portfolio rebalancing in the real assets in the VEBA plan. In the Defined Contribution 401(a) and Deferred Compensation 457(b) Plans there has been a fund change and two fund share class changes. In the DB and VEBA Plans there will be changes to payment information and there was one more informational session planned in January that was held on January 6th. In response to Chairperson Horwitt, Ms. Shawa and GM Peffley reported that there was input provided and questions asked after the outreach letters were sent and during informational sessions conducted.

### **Bi-Annual Internal Audit Open Management Responses Update**

BWL Internal Control Supervisor, Elisha Franco, presented on the internal control risk assessment completed by Plante Moran including how it relates to the Baker Tilly outside audit overview of internal controls and talked about the risk assessment results of key financial areas. She also talked about the next steps to follow up on the PA-95 internal audit.

In response to Commissioner Thomas, Ms. Shawa reported that she would provide the difference in control deficiencies from previous risk assessment results. In response to Chairperson Horwitt, Ms. Franco provided an example of a control deficiency that was remediated: a user access review was conducted on the SAP Financial system. There was no formal policy and procedure for the user access review and that was a deficiency.

### **PA-95 Audit Report**

Director of Internal Audit Frank Macciocca presented the Internal Audit Report FY 2023-2 which included the decision by Customer Experience to forward to the Board the recommendation to opt into PA-95. In response to Commissioner Zerkle, Mr. Macciocca reported that the final result of the PA-95 audit report is that the recommendation to the Board is reasonable. GM Peffley added that the results of the distribution of the funds by agencies and the benefits to the customers will be evaluated. In response to Commissioner Zerkle and Commissioner Thomas, Mr. Macciocca provided information on the tasks and audits completed by the Internal Audit Department.

### **Other**

**Motion** by Commissioner James, **Seconded** by Commissioner Zerkle for an excused absence for Commissioner David Price and Non-Voting Commissioner Douglas Jester.

**Action:** Motion Carried.

### **Adjourn**

Chairperson Dusty Horwitt adjourned the meeting at 7:04 p.m.

Respectfully submitted  
Dusty Horwitt, Chairperson  
Finance Committee