

**SPECIAL MEETING**

The HBPW Board of Directors met  
**December 19, 2022**  
at 4:00 p.m.  
625 Hastings Ave.  
Holland, Michigan

**Chair Thompson called the meeting to order at 4:00 p.m.**

**Members Present:** PJ Thompson, Tim Hemingway, Carolyn Maalouf, Paul Lilly, Beth Snyder, City Council Liaison Nathan Bocks, and Ex Officio Members Dave Couch and Keith Van Beek

**Members Absent:** *None*

**Staff Present:** Dave Koster, Janet Lemson, Joel Davenport, Becky Lehman, Chuck Warrren, Ted Siler, Pete Hoffswell, Tracy York, Julie DeCook

Guest: Ron VanderVeen

23.127 **Approval of Agenda**

*Board Member Hemingway made a motion to approve the agenda. The motion was seconded by Board Member Snyder.*

23.128 **Communications from the Audience**

**SPECIAL ACTION ITEMS** **District Thermal Rate S Rate Adjustment**

23.129 At their February 6, 2017, meeting, the HBPW Board approved a capital recovery amount to recover the \$2,425,632.32 expended on the 2017 expansion of the snowmelt system. The original recovery amount, \$11,872.96/month, was based on a 20-year amortization at 1.65% interest. The Board's approval called for a recalculation of the recovery amount effective January 1, 2023. The recalculated amount recovers the capital amount remaining on December 31, 2022, over a new 20-year period beginning January 1, 2023, at the interest rate applicable for 20-year AA rated municipal bonds (currently 3.93% per Moody's). The new recovery amount is \$11,339.84/month.

*Recommendation: The Board of Directors approved the adjusted District Thermal Rate S Rate 2017 Expansion Capital Recovery amount of \$11,339.84/month, to be effective January 1, 2023.*

<i>Motion to approve recommendation</i>	<i>Hemingway</i>
<i>Second</i>	<i>Snyder</i>
<i>Favor</i>	<i>5</i>
<i>Oppose</i>	<i>0</i>

23.130 **Settlement of the Condemnation Litigation Against HDC Real Estate Holdings, LLC**

During late 2020 and 2021, the HBPW determined that it needed a substation in the area of 48th Street, 40th Street, and S. Waverly Court. Staff determined that the vacant parcel known as 782 S. Waverly Court, owned by HDC Real Estate Holdings, LLC, was the best site for a number of reasons. We had an appraisal performed, which showed the value as \$190,000.

*\* Red italics indicate information or discussion added during the meeting and/or action taken.*

We made an offer of just compensation to the owner based on the appraised value plus 10%. The owner rejected the offer and refused to give a counter-offer. Thus, on March 21, 2022, we filed a condemnation action on behalf of the City/HBPW in the Allegan County Circuit Court.

The Court entered a “vesting” order declaring that title to the property passed to the HBPW as of the March 21, 2022, leaving the sole issue of just compensation for the owner. Pursuant to the condemnation statute, the \$190,000 was paid to HDC. We later obtained an updated appraisal for the value as of March 21, 2022, at \$210,000. HDC obtained an appraisal indicating that the “taking” negatively impacted the property at 785 S. Waverly Court and that the total value for just compensation was \$1,400,000.

After consulting with experts and engaging in discovery, depositions and mediation and a preliminary hearing, the HDC agreed to settle as follows:

- 1.The City will pay \$350,000 as just compensation, less the \$190,000 already paid, for a net payment of \$160,000
- 2.The City will provide a complete release of its claims against HDC.
- 3.HDC will provide complete releases of all claims against the City by HDC and its related companies: Global Concepts Enterprise, Inc. and GC Holdings, LLC.

The City Attorney's office recommends that this settlement be approved in order to (a) justly compensate HDC and its related companies (who are taxpayers and ratepayers in the City), (b) mitigate risks of litigation and (c) mitigate the cost of litigation.

*Recommendation: The City Attorney's office recommends that the HBPW Board (i) approve settlement of the condemnation litigation against HDC Real Estate Holdings, LLC with payment of \$160,000 (in addition to the \$190,000 already paid) the releases outlined below and (ii) recommend that City Council also approve the settlement, with the settlement agreement to be signed by the Mayor and Clerk. The Board approved this recommendation.*

<i>Motion to approve recommendation</i>	<i>Lilly</i>
<i>Second</i>	<i>Maalouf</i>
<i>Favor</i>	<i>5</i>
<i>Oppose</i>	<i>0</i>

**STUDY TOPIC**

**Broadband Utility Issues Discussion**

23.131

Staff continues up a four-month series of presentations on the HBPW's electric, water, wastewater, and broadband utility operations. Staff will highlight major issues that affect the current operations and future planning.

Plans to address short- and long-term broadband build as well as the Holland City Fiber Initiative will be discussed, along with high-level summaries of the capital plans.

*Study topic. No Board action required.*

23.132

**General Manager Comments**

- Next meeting is January 9, 2023, a regular meeting; January 23, 2023, is Study Session – Quarterly monitoring reports and utility issues (water)
- Offices closed this Friday and the following Monday and again Monday January 2 for holidays
- Exciting news! We've earned Envision Certification for our biodigester at the gold level.

23.133

**Board Comments**

- Lilly found three interested parties to potentially serve on the WSAC. He will give BOD members more details and provide a recommended candidate.

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ADJOURNMENT

A motion to adjourn the meeting of *December 19, 2022*, was made by *Hemingway* supported by *Lilly* and agreed upon by the Board of Directors present.

The Board Meeting of December 19, 2022, adjourned at *5:47 p.m.*

Minutes respectfully submitted by,

Janet Lemson, Secretary to the Board