

City of Battle Creek
ECONOMIC DEVELOPMENT CORPORATION
Zoom Virtual Meeting
Friday, June 5, 2020
12:00 pm

AGENDA

Call to Order

Public Comment

Approval of Minutes from April 29, 2020 Meeting

Rent and Mortgage Assistance Program (action required)

- Authorizing an alternate EDC board member to execute documents on behalf of the Corporation necessary to implement the RMAP COVID-19 Program

Board Comments

Adjournment

Economic Development Corporation Meeting
April 29, 2020
City Hall
Enterprise Video Conferencing
Battle Creek, MI
3:00 P.M.

Present: Rebecca Fleury, Ted Dearing, Brenda Whited, Tom Beuchler, Anmar Atchu, Joe Sobieralski, Lynn Ward Gray and John Gallagher

Absent: Stacy Flathau

Staff Present: Jill Steele, City Attorney, Victoria Houser, City Clerk, John Hart, Downtown Development Director and Sarah VanWormer, IT Director

Call to Order: Mr. Beuchler called the meeting to order at 3:04 P.M.

Public Comment: There were no callers on the line for public comments and no written comments were received in the Clerk's office.

Approval of Minutes:

A motion was made by Comm. Gray, supported by Mr. Dearing, to approve the December 6, 2019 Economic Development Corporation meeting minutes. All yes, none opposed. Motion approved.

Rent and Mortgage Assistance Program

a. Project Updates

Jill Steele, City Attorney, discussed how the City would administer this program, noting the City is limited in using funds to those things set out in State statute or City Charter. Ms. Steele also noted the City did not have the authority to directly set up a program such as this as the funds would come from tax payer dollars. Ms. Steele noted the Economic Development Act does state that there is a legislative finding and purpose, that there is a need for programs to elevate, prevent conditions of unemployment and to assist to retain local and industrial enterprises, noting Section 2 of the Act. Ms. Steele noted Section 7 states that in order to accomplish those public purposes, the corporation may make secured or unsecured loans, can lend, grant, transfer or convey the funds. Ms. Steele noted Section 27 of the Act says any municipality may lend, transfer or contribute funds to the Economic Development Corporation for public purposes. Ms. Steele stated that with those provisions of the Act, it seemed to her best way to have the authority, and have this be an accepted use of public funds, stating the best way would be through the Economic Development Corporation. Ms. Steele noted the program is detailed in 9 pages, with a promissory note to secure the loan and an affidavit that shows the recipient of the funds will abide by the City's anti-discrimination ordinance, Chapter 214.

Committee members discussed the program details, including the listed target areas and credit checks on applicants. Mr. Dearing noted this was strictly intended to be a rent/mortgage assistance program, noting they targeted the areas of the community that had the highest concentration of commercial rental property, noting it is not 100% limited to the target areas, wanting to make sure other qualified candidates could participate. Comm. Gray asked that the language in the document be adjusted to a preference for target areas, not excluding other areas.

As to credit checks, Mr. Hart stated they were not going to do credit checks. Comm. Gray asked that the application clearly state credit checks will not be required. Mr. Hart stated it would be best to reserve the right to do credit checks.

Ms. Steele noted applicants could not be in default of any payments to the City, such as taxes, per the City Charter. Ms. Steele also noted there was a provision for those administering the program to check with

the mortgage company of the applicant, and staff was responsible to ensure the business was viable prior to the Covid-19 epidemic, which was clear in the program documents.

Mr. Sobieralski asked if the promissory note allows the City to pursue payment at a later date if they do not comply with all terms, which was confirmed by Ms. Steele.

Mr. Hart informed the members that the terms and requirements were on the application and within the program policy manual, including the requirement that the applicant was current on their mortgage/rent and information related the business income the last 2 years and last six months and the number of employees prior to the Covid-19 pandemic. Mr. Hart also noted the application asks if the business has received assistance funds from another agency, noting this would not exclude them from receiving these funds.

As to denial of applications, Ms. Steele confirmed an applicant would receive a written denial with the reason for denial.

Ms. Steele reviewed the proposed resolution, noting Mr. Dearing, as the Secretary of the EDC, would approve the applications once all criteria is met.

THIS IS TO CERTIFY that at a meeting of the Board of Directors of THE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF BATTLE CREEK, formed under the provisions of Act 338 of the Public Acts of 1974 of the State of Michigan (the "Corporation"), duly called and held on April 29, 2020, as further attested to in the Certification below, the resolution below was unanimously adopted:

WHEREAS, by Resolution of the Commission of the City of Battle Creek (the "City") dated May 21, 1976, the Corporation was formed pursuant to City Ordinance adopted on May 11, 1976;

WHEREAS, by various Resolutions of the City, the following have been duly appointed and established as members of the Board of Directors of the Corporation: Anmar Achu, Rebecca L. Fleury, Ted Dearing; Joe Sobieralski, John Gallagher; Brenda Whited and Stacy Flathau (the "Board of Directors"); and at a meeting of the Corporation on December 6, 2019, the following individuals were elected by the board members to serve as its officers: Tom Beuchler, President; Ted Dearing, Secretary; Lynn Ward Gray, Treasurer; and Anmar Atchu, Vice President.

WHEREAS, the Board heard and considered a presentation regarding a need in the City of Battle Creek for a Rent and Mortgage Assistance Program (RMAP) COVID-19 Emergency Response Initiative ("RMAP COVID-19 Program") and agreed that Section 7 of Act 338 of 1974 ("the Act") permits the EDC to provide financial assistance in the form of loans and/or grants in order to achieve its intended purpose, and this constitutes the performance of essential public purposes and functions for the EDC and City of Battle Creek; and

WHEREAS, the City of Battle Creek has agreed to provide funding to the Corporation as permitted by Section 27 of the Act to carry out the RMAP COVID-19 Program.

NOW THEREFORE, it is duly resolved by the Corporation as follows:

"RESOLVED, that the Corporation has determined that it is in the best interest of the City for the EDC to accept funding from the City of Battle Creek for the RMAP COVID-19 Program and to allow the City's Small Business Development team to administratively carry out the Program as set out in the program manual with revisions as recommended by the Corporation;"

"BE IT FURTHER RESOLVED, that the Corporation authorizes the Secretary of the Corporation to execute documents on behalf of the Corporation necessary to implement the RMAP COVID-19 Program;" and

"BE IT FURTHER RESOLVED that any funds that have not been distributed pursuant to this program or that have been repaid pursuant to the terms of the promissory notes shall be returned to the City of Battle Creek."

A motion was made by Comm. Gray to approve the resolution as stated by the City Attorney, supported by Mr. Gallagher. All yes, none opposed. Motion was approved.

Board Member Comments:

Mr. Atchu expressed appreciation of the work being done, in addition to the programs BCU has provided.

Mr. Sobieralski provided an update on the work occurring at the Arcadia building.

Mr. Beuchler stated construction would be restarted at New Holland once the emergency order is lifted.

Next Meeting: Friday, December 6, 2020 at 8:00 A.M. in Room 302A.

Adjournment: Mr. Beuchler asked if there were any further comments. Hearing none, the meeting was adjourned at 3:54 P.M.

BY-LAWS
OF
THE ECONOMIC DEVELOPMENT CORPORATION
OF BATTLE CREEK, MICHIGAN

ARTICLE I

Purposes, Sources of Funds,
Disposition of Assets, Prohibited Activities

SEC. 1. PURPOSES. This corporation is organized exclusively for charitable, religious, educational, and scientific purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1954, as amended, and to operate as an Economic Development Corporation as provided in Act 338 of the Public Acts of 1974, and in connection therewith, to engage in any activity not otherwise forbidden by the laws of the State of Michigan and with all powers conferred upon non-profit corporations by the laws of the State of Michigan, and all powers conferred or hereafter conferred upon Economic Development Corporations by the laws of the State of Michigan, to accomplish the following purposes:

1. To alleviate and prevent conditions of unemployment in the City of Battle Creek, Michigan.
2. To assist and retain local industries and commercial enterprises in Battle Creek, Michigan.
3. To strengthen and revitalize the economy of Battle Creek, Michigan.
4. To provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating and expanding in Battle Creek, Michigan.
5. To provide and assist in providing needed services and facilities of commercial and industrial enterprises in the City of Battle Creek, Michigan.
6. To perform services for the City of Battle Creek.
7. In general, to promote the general welfare of the City of Battle Creek.

SEC. 2. SOURCES OF INCOME. This corporation is to be financed by contributions, grants and bequests from private, public and federal, state and local sources.

SEC. 3. DISPOSITION OF ASSETS. All property and assets of the corporation remaining after the satisfaction of obligations of the corporation shall belong to the City of Battle Creek, Michigan. Any such assets not so disposed of shall be disposed of by the Circuit Court of Calhoun County exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code, as amended, (or the corresponding provision of any future United States Internal Revenue law).

SEC. 4. PROHIBITED ACTIVITIES. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distribution in furtherance of the purposes set forth in Article I hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954, as amended.

SEC. 5. SURPLUS EARNINGS. Surplus earnings remaining after adequate provision has been made for all obligations of the corporation shall belong and be paid to the City of Battle Creek, Michigan.

ARTICLE II

Powers and Limitations

SEC. 1. POWERS. The corporation, in addition to any other powers it may have as provided in the Articles, these By-Laws, or otherwise, may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects and acquire the necessary lands for the site therefor.

(b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.

(c) Borrow money and issue its bonds or notes to finance part or all of the cost of the acquisition, purchase, construction, reconstruction, or improvement of a project or any part thereof, the cost of the acquisition and improvement of the necessary sites therefor, the acquisition of machinery, furnishings, and equipment therefor, and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for such purpose.

(d) Enter into leases, lease purchase agreements, or installment sales contracts with any person, firm, or corporation for the use or sale of the project.

(e) Mortgage the project in favor of any lender of money to the corporation.

(f) Sell and convey the project or any part thereof for a price and at a time as the corporation determines.

SEC. 2. LIMITATIONS. Before acquiring property or incurring obligations for a specific project, other than the acquisition of an option, the corporation shall prepare a project plan and secure the approval of the local public agency and the governing body of the City of Battle Creek, Michigan, as provided in Section 8 of Act 338 of the Public Acts of 1974.

ARTICLE III

Members

Membership in this corporation is limited to those persons who, for the time then being, are members of its Board of Directors, and election as a director shall also constitute election to membership. Membership of any member shall cease upon that person ceasing to be a director or upon his death or resignation. Membership or any interest in this corporation shall not be assignable inter vivos by any member nor shall membership or any interest in this corporation pass to any personal representative, heir or devisee or any deceased member.

ARTICLE IV

Meeting of Members and Election of Directors

SEC. 1. ANNUAL MEETING. The annual meeting of the members of the corporation shall be held at its registered office in the City of Battle Creek, Michigan, or

at such other place as may from time to time be designated by the President, at such time during the month of July as may be designed at the President or Secretary, or by majority of the Board of Directors, commencing with the annual meeting to be held during the year 1977, for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting.

SEC. 2. SPECIAL MEETINGS. Special meetings of the members may be held upon call of the President or Secretary or of a majority of the Board of Directors at the registered office of the corporation in the City of Battle Creek, Michigan, or at such other place within or without the State of Michigan, as may be stated in the notice thereof, and at such time and for such purpose as may be stated in the notice.

SEC. 3. NOTICE OF MEETINGS. Notice of the time, place and purpose of each meeting of the members, signed by the President or a Vice-President or the Secretary or an Assistant Secretary shall be served either personally or by mail upon each member of record entitled to vote at such meeting not less than ten (10) days before the meeting; provided, that no notice of adjourned meetings need be given. If mailed, the notice shall be directed to each member entitled to notice at his address as it appears on the membership book of the corporation unless he shall have filed with the Secretary a written request that notices intended to him be mailed to some other address, in which case it shall be mailed to the address designated in such request. Such further notice shall be given as may be required by law. Meetings may be held without notice if all members entitled to vote thereat are present in person or by proxy or if notice of the time, place and purpose of such meeting is waived by telegram, radiogram, cablegram or other writing, either before or after the holding thereof, by all members not present and entitled to vote at such meeting.

SEC. 4. QUORUM. A majority of the members of this corporation entitled to vote thereat, present in person or by proxy shall constitute a quorum at all meetings of the members; if there be no such quorum, a majority of such members present or represented may adjourn the meeting from time to time to a further date without further notice other than the announcement at such meeting, and when a quorum shall be present upon such adjourned day, any business may be transacted which might have been transacted at the meeting as originally called.

SEC. 5. CONDUCT OF MEETINGS. Meeting of the members shall be presided over by the President, or if he is not present, by a Chairman to be chosen at the meeting.

SEC. 6. PROXIES. No proxy shall be deemed operative unless and until signed by the member and filed with the corporation. In the absence of limitations to the contrary contained in the proxy, the same shall extend to all meetings of the members and shall remain in force one (1) year from its date, and no longer.

SEC. 7. INDEMNIFICATION. The corporation shall indemnify each member, director and officer and his legal representative against all claims, liabilities, costs, and expenses imposed upon or reasonably incurred by him in connection with any action, suit, or proceeding, or the settlement of compromise thereof (other than

amounts paid to the corporation itself), in which action, suit, or proceeding he may be involved by reason of his being or having been a director or officer of the corporation, or, at the request of the corporation, of another corporation in which the corporation owns shares of capital stock or of which it is a creditor; provided, however, that no indemnification shall be made in relation to matters as to which such director or officer shall be finally adjudged in such action, suit, or proceeding to have been wilfully negligent in the performance of his duties as such director or officer, or to have engaged in wilful misconduct in connection therewith.

ARTICLE V

Directors

SEC. 1. NUMBER, QUALIFICATION, TERM OF OFFICE AND QUORUM. The property, business and affairs of this corporation shall be managed by its Board of Directors. The Board of Directors shall consist of nine (9) members, not more than three (3) of whom shall be an officer or employee of the City of Battle Creek and at least two (2) of whom shall be representative of the neighborhood residents likely to be affected by the activities of the corporation. The terms of the directors of this corporation shall be for six (6) years, except for the original Board of Directors who shall have the following terms: four (4) shall be for six (6) years, one (1) for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year.

The term of office of each director shall commence on the date of election at the annual meeting of the members, or the delayed annual meeting, whichever shall first occur, and shall end as of the annual meeting of members held during the year in which the term expires as provided above, or until such time as their successors shall be elected and qualified in their stead. A majority of the directors, present in person or by proxy, shall constitute a quorum for the transaction of business and the act of a majority of the directors present at the meeting at which a quorum is present shall be the act of the Board of Directors; provided, however, that action of the Board of Directors may be taken by the unanimous written consent of all directors without a meeting and such action shall be as valid an act of this corporation as though it had been authorized at a meeting of the Board of Directors at which a quorum was present. If, at any meeting of the Board of Directors, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum shall have been obtained. No proxy shall be deemed operative unless and until signed by a director and filed with the corporation; in the absence of limitations to the contrary contained in the proxy, the same shall extend to all meetings of the directors and shall remain in force for one (1) year from its date, and no longer.

SEC. 2. APPOINTMENT, VACANCY, REMOVAL, DISCLOSURE OF INTEREST. The Mayor of the City of Battle Creek, with the advice and consent of the City Commission, shall appoint the members of the Board of Directors of this corporation. A director whose term of office has expired shall continue to hold office until his successor has been appointed with the advice and consent of the City Commission. A director may be reappointed to serve additional terms. If a vacancy is created by death or

resignation a successor shall be appointed with the advice and consent of the City Commission within thirty (30) days to hold office for the remainder of the term of office so vacated. A director may be removed from office for inefficiency, neglect of duty or misconduct or malfeasance by a majority vote of the City Commission of the City of Battle Creek. A director who has a direct interest in any matter before the corporation shall disclose his interest prior to the corporation taking any action with respect to the matter, which disclosure shall become a part of the record of the corporation's official proceedings.

SEC. 3. POWER TO MAKE BY-LAWS. The Board of Directors shall have power to make and alter any By-Law or By-Laws, excluding the fixing and altering of the number of the directors, provided, that the Board shall not make or alter any By-Law or By-Laws fixing the qualifications, or term of office of any member or members of the then existing Board.

SEC. 4. MEETINGS. The meetings of the Board of Directors shall be held at the principal office of the corporation in the City of Battle Creek, Michigan, or at such other place or places within or without the State of Michigan as may from time to time be determined by a majority of the Board. Regular meetings of the Board shall be held at such time and place as shall from time to time be determined by resolution of the Board of Directors. Special meetings may be held at any time upon the call of the President or Vice-President or of not less than a majority of the directors then in office. All meetings of the Board of Directors shall be public.

SEC. 5. NOTICE OF MEETINGS. Notice of the time and place and, in the case of special meetings, the purpose, of every meeting of the Board shall be given by telephone, personally or in writing, to each director not less than three (3) days before the meeting, except that a regular meeting of the Board may be held without notice immediately after the annual meeting of the members at the same place as such meeting was held, for the purpose of electing or appointing officers for the ensuing year, and except that the Board may establish regular periodic meetings during the year which may be held at the times and places designated without notice; provided, that no notice of adjourned meetings need be given. Meetings may be held at any time without notice if all the directors are present, or if those not present waive notice of the time, place and purpose of such meeting by telegram, radiogram, cablegram or other writing, either before or after the holding thereof.

SEC. 6. COMMITTEES. The Board of Directors may, by resolution passed by a majority of the whole Board, designate committees of their members, officers, employees, agents or other persons, to conduct such business as may be set forth in said resolution; provided, however, that such committees shall be responsible to the Board of Directors and have no authority to exercise any power of the Board of Directors.

SEC. 7. COMPENSATION. Directors shall serve without salary, but may be reimbursed their actual expenses incurred in the performance of their official duties and the corporation is authorized and empowered to pay reasonable compensation for services rendered to the corporation by a director outside the course of performance of their official duties.

ARTICLE VI

Officers

SEC. 1. ELECTION OR APPOINTMENT. The Board of Directors, as soon as may be after the annual election of the directors in each year, shall elect from their number a President, Vice President, Secretary and Treasurer. The same person may not hold two offices. The Board may also appoint such other officers and agents as they may deem necessary for the transaction of the business of the corporation.

SEC. 2. QUALIFICATIONS. All officers must be members of the Board of Directors.

SEC. 3. TERM OF OFFICE. The term of office of all officers shall be one (1) year or until their respective successors are chosen, but any officer may be removed from office at any meeting of the Board of Directors by the affirmative vote of a majority of the directors then in office, whenever in their judgment the business interests of the corporation will be served thereby; provided, however, that officers elected prior to the first annual meeting of the members of the corporation shall hold office only until such annual meeting and thereafter until their successors shall have been elected and shall have qualified. The Board of Directors shall have power to fill any vacancies in any offices occurring from whatever reason.

SEC. 4. POWERS AND DUTIES. The officers of the corporation shall respectively have such powers and perform such duties in the management of the property and affairs of the corporation, subject to the control of the directors, as generally pertain to their respective offices, as well as such additional powers and duties as may from time to time be conferred by the Board of Directors.

SEC. 5. GENERAL POWERS AS TO NEGOTIABLE PAPER. The Board of Directors may, from time to time, prescribe the manner of the making, signature or endorsement of bills of exchange, notes, drafts, checks, acceptances, obligations and other negotiable paper or other instruments for the payment of money and designate the officer or officers, agent or agents who shall, from time to time, be authorized to make, sign or endorse the same on behalf of the corporation.

SEC. 6. GENERAL POWERS AS TO CONTRACTS AND CONVEYANCES. The Board of Directors may, from time to time, prescribe the manner of executing any contract, conveyance or other instrument, but when the execution of any contract, conveyance or other instrument has been authorized without specification of the executing officers, the President, or any Vice-President and the Secretary, or Assistant Secretary, may execute the same in the name and behalf of the corporation and may affix the corporate seal thereto.

SEC. 7. DELEGATION OF POWERS. For any reason deemed sufficient by the Board of Directors, whether occasioned by absence or otherwise, the Board may delegate all or any of the powers and duties of any officer to any other officer or director, but no officer or director shall execute, acknowledge or verify any instrument in more than one capacity.

SEC. 8. POWER TO REQUIRE BONDS. The Board of Directors may require any officer or agent to file with the corporation a satisfactory bond conditioned for faithful performance of his duties.

ARTICLE VII

Fiscal Year - Seal

SEC. 1. FISCAL YEAR. The fiscal year of this corporation shall begin on July 1st of each year and shall end on June 30th of the following year.

SEC. 2. CORPORATE SEAL. The Board of Directors may hereafter provide for a suitable corporate seal for use by this corporation.

ARTICLE VIII

Amendments

The By-Laws of the corporation may be amended, added to or repealed, or other or new By-Laws may be adopted in lieu thereof by the affirmative vote of a majority of either the members or the Board of Directors of the corporation, provided that the Board of Directors shall not make or alter any By-Laws fixing their qualifications, classifications, or term of office.

ARTICLE IX

Compliance with Act 338 of the Public Acts of 1974

Anything in these By-Laws or the Articles of Incorporation to the contrary notwithstanding, this corporation in its organization and operation shall at all times comply with the provisions of Act 338 of the Public Acts of 1974 as now existing or as may be hereafter amended.

CERTIFICATE

I, Patricia Perry, the duly appointed, qualified and acting Secretary of The Economic Development Corporation of Battle Creek, Michigan, hereby certifies

that the foregoing are the By-Laws of said corporation adopted by the Directors at their meeting held the 24th day of May, 1976.

Dated: November 4, 1976.

Patricia Perry
Secretary