

GRAND HAVEN BOARD OF LIGHT AND POWER
MINUTES
NOVEMBER 16, 2023

A regularly scheduled meeting of the Grand Haven Board of Light and Power was held on Thursday, November 16, 2023, at 6:00 PM at the Board's office located at 1700 Eaton Drive in Grand Haven, Michigan and electronically via live Zoom Meeting.

The meeting was called to order at 6:00 PM by Chairperson Westbrook.

Present: Directors Crum, Hendrick, Knoth, Welling and Westbrook.

Absent: None.

Others Present: General Manager David Walters, Secretary to the Board Danielle Martin, Operations & Power Supply Manager Erik Booth, Finance Manager Lynn Diffell, Distribution & Engineering Manager Rob Shelley, City Attorney Ron Bultje, and Peter Haefner of Vredevelt Haefner, LLC.

Election of Chairperson: Chairperson Westbrook opened nominations from the floor for the position of Chairperson. Director Welling nominated Director Westbrook. Hearing no further nominations, Chairperson Westbrook closed nominations and asked the Secretary to take the vote in favor of Director Westbrook for Chairperson.

Roll Call Vote:

In favor: Directors Crum, Welling and Westbrook; Opposed: Directors Hendrick and Knoth.
Director Westbrook is elected Chairperson.

Election of Vice-Chairperson: Chairperson Westbrook opened nominations from the floor for the position of Vice-Chairperson. Chairperson Westbrook nominated Director Crum. Hearing no further nominations, Chairperson Westbrook closed nominations and asked the Secretary to take the vote in favor of Director Crum for Vice-Chairperson.

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.
Director Crum is elected Vice-Chairperson.

Motion: Director Crum, supported by Director Welling, moved to approve the meeting agenda.

23-16A Director Knoth, supported by Director Crum, moved to add item 10J "Employee Insurance" to the agenda.

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.
Motion carried.

23-16B Director Hendrick, supported by Director Knoth, moved to remove item 8H from the agenda.

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Roll Call Vote:

In favor: Directors Hendrick and Knoth; Opposed: Directors Crum, Welling and Westbrook.
Motion failed.

23-16C Director Crum, supported by Director Welling, moved to approve the meeting agenda as amended.

Roll Call Vote:

In favor: Directors Crum, Welling and Westbrook; Opposed: Directors Hendrick and Knoth.
Motion carried.

Public Comment Period:

Bill Cate, 17468 Dunewood Court, City of Ferrysburg Council Member, commented on agenda item 10B. He stated neighboring communities should not have to pay for a City of Grand Haven project.

Renee Molyneux, 18030 Mohawk Drive, commented on the election outcome and feels the citizens appreciate the work the BLP does. Molyneux is disappointed in Directors Hendrick and Knoth for their involvement in trying to dissolve and organization they were elected to represent and recommends the Board conduct governance training.

Mike Fritz, 225 Clinton, City of Grand Haven Council Member, looks forward to Council and the Board sitting down and having a conversation to move forward in the right way. He is happy to see the Resolution honoring Gerald Witherell on the agenda.

Bob Monetza, 945 Washington, City of Grand Haven Mayor-elect, welcomed Directors Knoth and Welling. He is looking forward to the two bodies working together.

Annette Allen, 15718 Grand Point Drive, stated she is disturbed by the politics of personal destruction. Allen feels the community has spoken and offered her thanks to General Manager David Walters for the work he has done for the utility.

23-16D Director Crum, supported by Director Knoth, moved to receive and file the Fiscal Year 2023 Audit Report.

Peter Haefner of Vredevelt Haefner, LLC provided an audit presentation. It is the auditor's opinion that the financial statements present fairly, in all material respects, the financial position of the utility. A summary of financial highlights was provided. It was noted that the reserve funds established for environmental obligations related to Harbor Island are restricted upon the Board's commitment rather than a legal restriction. The pension fund dropped from 97% funded last year to 86% funded in the current year due to investment losses. The Board continues to consistently put money into this program.

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Mr. Haefner appreciates the staff's preparation for the audit. He stated this was a true audit where the auditor was not required to do accounting work on our behalf.

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.
Motion carried.

23-16E The Board discussed organizational items. Updated documents were provided for member's informational binders and a review of the Bylaws was conducted. Chairperson Westbrook advised the Bylaws need to be updated to better reflect current Open Meetings Act provisions. Board members can send additional comments to the Secretary by November 27th for the Board's consideration at its December meeting. Board members all signed the GHBLP Conflict of Interest and Ethics Declaration.

No formal action taken.

23-16F Director Crum, supported by Director Welling, moved to approve the consent agenda. The consent agenda includes:

- Approve Minutes of the October 19, 2023 Regular Meeting and Closed Session
- Receive and File: October Financial Statements, Power Supply and Retail Sales Dashboards, and FY 2024 Budget and Forecast Comparison MWh and Retail Revenue Graphs/Charts
- Receive and File: October Key Performance Indicator (KPI) Dashboard
- Receive and File: MPPA Energy Services Project Resource Position Report (dated 10/31/2023), including Updated Graph Displaying Energy Hedged CY 2023 to 2032
- Receive and File: Constellation Energy Market Update Graphs (dated 11/07/2023)
- Receive and File: MMEA Summary of SB 271 and SB 273
- Receive and File: General Manager Complete Written Statement from October 19th Board Meeting (item 5.F.) and Additional Public Statement on October 21st Pertaining to Actions Taken By the Board In Its Closed Session of October 19th
- Receive and File: MAYOR'S PERSPECTIVE UPON LEAVING OFFICE (By Mayor Catherine McNally)
- Approve payment of bills in the amount of \$1,982,628.18 from the Operation & Maintenance Fund
- Approve payment of bills in the amount of \$194,624.16 from the Renewal & Replacement Fund

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- Approve Confirming Purchase Order #22241-2 to the City of Grand Haven in the amount of \$426,775 for HDR Change Order 001 associated with Task Order 003 for CCR compliance activities including ground water monitoring, testing, reporting, and other engineering services

Roll Call Vote:

In favor: Directors Crum, Welling and Westbrook; Opposed: Directors Hendrick and Knoth.

Motion carried.

23-16G Director Westbrook, supported by Director Knoth, moved to approve the Purchase Orders. The Purchase Orders include:

- Purchase Order 22838 to Power Line Supply Company in the amount of \$15,205 for LED flood lights for substations and Service Center
- Purchase Order 22854 to Landis & Gyr Technology Inc. in the amount of \$30,000 for AMI annual command center software subscription 2024
- Purchase Order 22856 to Brown Wood Preserving Company Inc. in the amount of \$21,518 for 37 wood distribution poles for BLP stock
- Purchase Order 22860 to Rehmann Technology in the amount of \$52,092 for network servers and storage hardware for IT upgrade project
- Purchase Order 22861 to Rehmann Technology in the amount of \$63,857 for engineering and professional services for IT upgrade project
- Purchase Order 22863 to Power Line Supply Company in the amount of \$18,234 for 2 x 69 kV switches for Morford Substation Project

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.

Motion carried.

23-16H Director Crum, supported by Director Knoth, moved to approve the Resolution in Honor of Board Service for Gerald Witherell (attachment A).

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.

Motion carried.

Motion: Director Crum, supported by Director Welling, moved to pass a Resolution of the Grand Haven Board of Light and Power to reimburse all customers the snowmelt cost that was billed

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beginning January 2023 after \$259,287.75 is collected from the City of Grand Haven. And also, to discontinue any further charges until this matter is resolved.

A letter from Attorney Brook Bisonet dated November 6, 2023 was read aloud. The letter states under the Franchise Agreement, the BLP is not authorized to increase the rates for Ferrysburg residents to recover the cost of snowmelt equipment and that snowmelt equipment is not a necessary operating expense to the distribution of electricity. The City of Ferrysburg is requesting that all fees collected under this 5% charge since January of 2023 be returned to City of Ferrysburg rate payers and this fee be removed from all future bills to the City of Ferrysburg rate payers.

Attorney Bultje advised his written opinion, provided to the Board in Closed Session in September 2020, was based on expectation of the BLP's continued involvement in the snowmelt process. In 2022, when plans for a natural gas plant on Harbor Island were out of consideration, Attorney Bultje gave an opinion in open session. At that time, he advised the Board must use its discretion, within the limits of the Charter, to determine if the snowmelt system contributes to a vibrant downtown which in turn contributes to the health of the BLP. The Board was provided with the September 2020 written opinion and additional December 2022 correspondence with Attorney Bultje in the package for today's meeting.

The General Manager expressed concerns over whether the cost being charged to customers is a tax or a user fee. He stated if the money is returned to the customers, but not recovered from the City of Grand Haven, the customers still pay in the end.

23-16I Director Crum, supported by Director Knoth, moved to amend the Resolution by adding "The Board of Light and Power is committed to work with City Council to develop fair and equitable payment terms".

Roll Call Vote:

In favor: Directors Crum, Knoth, Welling and Westbrook; Opposed: Hendrick.
Motion carried.

23-16J Director Crum, supported by Director Welling, moved to approve the Resolution as amended (attachment B).

Roll Call Vote:

In favor: Directors Crum, Knoth, Welling and Westbrook; Opposed: Hendrick.
Motion carried.

23-16K Director Crum, supported by Director Hendrick, moved to deny the appeal of David Walters August 16, 2023 FOIA request.

Attorney Bultje advised this appeal is for an untimely response to the August 16, 2023 FOIA request. The requested documents include correspondence from Director Hendrick who is represented by Attorney Sarah Riley-Howard. Riley-Howard informed Bultje her client claimed the documents were personal and not public records. After a conference call with representatives from the City and BLP, Bultje agreed to allow Riley-Howard to collect the documents from her client and provide them for his review and determination of applicability. If Riley-Howard

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disagreed with the City Attorney's opinion that a document should be disclosed, she would be given an opportunity to contest his determination in court. Similarly, if the requestor disagreed with the City Attorney's opinion that a document was exempt, the requestor could contest such a determination in court.

The BLP took the permitted ten-day extension on August 22, 2023 and responded to the request on September 6, 2023. In its response, the BLP informed Mr. Walters his request would be partially granted and partially denied, with the denied portion being documents subject to exclusion under the Act. On September 29, 2023 Mr. Walters was provided with the documents agreed by both attorneys to be non-exempt public documents. Riley-Howard provided an estimated timeline of 3-4 weeks from today for her to respond to Bultje's determinations on the remaining documents.

Bultje advised that the BLP responded to the request within the timeframe required under the Act. Courts have held that there is a distinction between granting and fulfilling a request. Bultje advised the BLP is in compliance with the law because it is making the effort to fulfill the request in a reasonable time. Bultje recommends the Board deny the appeal and continue with the established process, working as quickly as possible.

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, and Welling; Opposed: Director Westbrook.
Motion carried.

23-16L Attorney Bultje provided a review of the Board's October 19, 2023 Closed Session.

The Board went into Closed Session on October 19th to discuss Bultje's written opinion on a draft separation agreement for David Walters. Bultje stated he raised questions on the legality of certain provisions which led to a discussion on how the Board could edit the document to make it legally defensible. Bultje provided guidance on appropriate edits and the Board came to a consensus on a modified agreement. Bultje stated no action was taken during the Closed Session and the Board followed the requirements of the Open Meetings Act.

No formal action taken.

23-16M Chairperson Westbrook notified the Board that on October 20, 2023 the General Manager rescinded his 90-day notification of retirement. The Chairperson asked the General Manager to explain what this means.

The General Manager referred to his statements from October 19th and 20th provided in the Board's meeting packet. His contract has three provisions governing his termination including termination for cause, voluntary retirement, or a termination of the contract by action of the Board for any or no reason. The revised separation agreement presented to him following the Board's October 19th Closed Session does not indicate any of these three options being enacted. The General Manager is still interested in retiring upon mutually agreeable separation terms.

By consensus, the Board scheduled a special meeting for November 29th at 4:00PM to go into Closed Session to discuss a written opinion Attorney Bultje will provide regarding the Board's options moving forward.

No formal action taken.

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23-16N Chairperson Westbrook stated the Board will need to have a succession plan in place for when the General Manager's separation date is determined. The Board was provided with a draft Request for Proposal (RFP) for executive search services. The Board will discuss the RFP on November 29th before going into Closed Session.

No formal action taken.

23-16O Chairperson Westbrook provided an update on the Whistleblower Investigation being conducted at City Council's direction. The Varnum law firm has been retained by BLP's insurance carrier. Varnum has made contact twice with the independent investigator, but the investigation is still in the very early stages. Director Crum expressed frustration that the Board has not been told what the allegations are.

No formal action taken.

23-16P Director Crum, supported by Director Welling, moved to move the January 18th meeting to the 25th.

Roll Call Vote:

In favor: Directors Crum, Hendrick, Knoth, Welling and Westbrook; Opposed: None.
Motion carried.

23-16Q The proposed date for Respectful Workplace training, approved by the Board at its September meeting, of December 7th did not work for all members. Danielle Martin will see what dates the trainer has available in early 2024.

No formal action taken.

23-16R Director Hendrick reported she has received calls from employees regarding changes in employee health insurance. The General Manager stated the Board approved waiving State requirements at its last meeting. Following that meeting, staff proceeded through the renewal process as they have every year. As a self-insured plan, the employer must pay whatever is not collected through employee premiums. For the plan year 2023 to date, the BLP has paid \$120,000 above what was expected.

When BLP staff met with our insurance consultant, we were informed renewing the same plan would cost 38% more than the current year; well above the average increase of 15-20% seen across their book of business. Our consultant made the recommendation to change the plan to bring cost increases in line with other employers. BLP staff felt the proposed changes were too severe and asked for more options. The selected plan has higher deductibles and co-pays will apply to more services than the current plan but is still substantially better than competitive employers. In making this selection, staff worked to mitigate cost increases, not reduce costs from the current year. The Board has not been involved in plan selection in the past.

It is too late in the year to make any changes that could be effective January 1, 2024. However, as the General Manager and our consultant recommended, staff will be looking at switching to a fully insured option next year. The initial changeover from a self-insured to fully insured option will likely cause a spike in costs for the first year but stabilize costs in the long term. There are a variety of resources available for employees to utilize to help keep their out of pocket costs down.

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No formal action taken.

Public Comment Period

Julie Norkoli, Grand Haven Township, expressed concerns over the handling of David Walters August 16, 2023 FOIA request. She questioned if the attorneys involved have the Board's best interests at heart.

Adjournment

At 9:21PM by motion of Director Hendrick, supported by Director Knoth, the November 16, 2023 Board meeting was unanimously adjourned.

Respectfully submitted,

A handwritten signature in black ink that reads "Danielle Martin". The script is cursive and fluid.

Danielle Martin
Secretary to the Board

DM

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Attachment A

**RECOGNITION OF
EXEMPLARY PUBLIC SERVICE
GERALD WITHERELL**

WHEREAS, Gerald Witherell, has faithfully and capably served the Grand Haven Community as a Board Director of the Grand Haven Board of Light & Power since April 2005; and,

WHEREAS, during this time he has provided valuable guidance and leadership to the Grand Haven Board of Light & Power and,

WHEREAS, his activities in Public Power exemplify his dedication to serve his community and protect the benefits of community-ownership, local control, and not-for-profit service, provided by the Grand Haven Board of Light & Power to the greater Grand Haven area;

NOW, THEREFORE, BE IT RESOLVED, that the Grand Haven Board of Light & Power hereby recognizes Gerald Witherell for eighteen and a half years of outstanding service to the Grand Haven Board of Light & Power and its customer-owners; and,

BE IT FURTHER RESOLVED, that the Board of Directors of the Grand Haven Board of Light & Power extends its heartfelt thanks to Gerald Witherell for faithfully and capably discharging the duties of Board Director for the past eighteen and a half years.

Adopted this 16th day of November 2023.

Chairperson

Vice Chairperson

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Attachment B

RESOLUTION OF THE GRAND HAVEN BOARD OF LIGHT & POWER TO REIMBURSE ALL CUSTOMERS THE SNOWMELT COST THAT WAS BILLED BEGINNING JANUARY 2023 AFTER \$259,287.75 IS COLLECTED FROM THE CITY OF GRAND HAVEN. AND ALSO, TO DISCONTINUE ANY FURTHER CHARGES UNTIL THIS MATTER IS RESOLVED. THE BOARD OF LIGHT & POWER IS COMMITTED TO WORK WITH CITY COUNCIL TO DEVELOP FAIR AND EQUITABLE PAYMENT TERMS.