

Written statement provided by David Walters, to the Board of Light and Power, at its meeting on December 21, 2023:

The following is to publicly address questions relating to my statements at and after our October 19<sup>th</sup> Board meeting regarding a proposed settlement between the Board and I to resolve my long-standing breach of employment contract claims and facilitate a mutually agreeable early retirement. The Board continues to meet in closed session with the City Attorney to discuss these issues, including later in this meeting, without having publicly disclosed anything from these deliberations. However, it appears the earlier commitment of the Board Chair and past Vice-Chair to work amicably with me to reach a mutually acceptable, fair and equitable early retirement settlement, is obviously not shared by the Board as a whole. To be clear here again, my statement on October 19<sup>th</sup> was not a voluntary announcement of a decision I made independently to retire, as some have portrayed it; and, as the Board didn't approve of the settlement agreement originally proposed, the effective date associated with any alternative settlement remains unresolved.

It would seem then, after more than 60 days of closed session consideration with no consensus resolution of the Board, it may be time for the Board, to more openly and publicly address these ongoing claims and concerns directly that may then allow me to properly perform my contracted duties, responsibilities, and functions, at least in the interim, in a more positive and cooperative work and governance environment that my employment agreement and BLP employment practices and policies envision, until my retirement, whenever that may now occur (before December 31, 2026, the specified retirement date within my current employment agreement).

I would suggest we begin in the New Year with a more public, open, and transparent, special "hearing" of the concerns I, and others, have raised, including a more in-depth Board review of the established public record of associated BLP actions and activities, including those of individual Board members, over the last two years. Certain BLP activities have no doubt been mischaracterized publicly by some during the campaign leading up to our recent election. Now that the public has spoken in that election, it is clear the venue for this process is the Board room, not the City Council chambers. Joint meetings with the Council, particularly if they include facilitated mediation as the Board has previously requested, may also be appropriate. My position, however, is unequivocally defined as an "employee of the Board" consistent with my employment agreement and Section 14.2 of the City Charter. As such, any administrative reviews or Board actions must be consistent with BLP employment and other policies and my employment agreement with the Board.

Accordingly, as the Board is aware, I placed two items on the Board's November 16<sup>th</sup> consent agenda:

(1) Item 8. G.

**Receive and File:** General Manager Complete Written Statement from October 19<sup>th</sup> Board Meeting (item 5.F.) and Additional Public Statement on October 21<sup>th</sup> Pertaining to Actions Taken By the Board In Its Closed Session of October 19<sup>th</sup>

(2) Item 8.H.

**Receive and File:** MAYOR'S PERSPECTIVE UPON LEAVING OFFICE (By Mayor Catherine McNally)

As the minutes of your November meeting reflect, the Board voted 3-2 to approve the consent agenda that included these items, with the two members who voted in opposition suggesting they were doing so because they did not feel it was appropriate for the Board to receive and file the "slanderous," as characterized by Board Member Hendrick at the time, written perspective of our previous Mayor (item 2

above), which directly addressed the concerns I have been raising to the Board for almost two years and those highlighted in my two written statements at and after the Board's October 19<sup>th</sup> meeting (item 1 above).

As I pointed out at the time to Board Members Hendrick and Knoth, Board action to "receive and file" only acknowledges the item, comment, report, or information and places it in the "public record" of the Board with no additional Board consideration or position being taken. While three members of the Board did place our past Mayor's written perspective into the Board's public record, these two members voted against doing so, because they apparently read the document (in other words they had "received" it) and didn't agree with Mayor McNally's perspective, and as such it was deemed by them to be irrelevant and inappropriate to acknowledge and place in the Board's public record, as the Board routinely does with all other public comments it receives regarding BLP matters, whether Board members, or employees, agree with them or not.

There is no question that inaccurate portrayals of BLP activities have entered into the "public record" in recent months, and into our public debate. Board employees have been told it is not only inappropriate, but it may be illegal during a campaign, to spend public dollars or staff time to present the facts that may contradict such depictions. We are no longer restricted by these limitations.

Why then was it deemed appropriate by these two Board members to treat the Mayor's public comments and opinions differently than any another member of the public? What did Mayor McNally's "perspective" suggest that was so troubling to these two Board members, that they felt it necessary to vote against the entire consent agenda to prevent the Board from simply "receiving and filing" these comments into the public record?

I believe it was entirely appropriate for the Board to "receive and file" this document as it did, but it would seem to me, thereafter, the Board should spend a bit more time to consider and investigate the Mayor's claims, as they corroborate long-standing claims of my own, that I have called for the Board to review and address for some time. That is why I brought the document to the Board's attention.

Here are a few quotes from this document that is now in the Board's public record, despite efforts to prevent the Board from "receiving and filing" it:

**"In my opinion, (Bord Member) Hendrick, (and Council Members) Cummins, McLaughlin and Lowe have not honored their oaths to support the Grand Haven Charter."**

**"For the last two years, they have done everything possible to undermine the working relationship between Council and the BLP. They've made public, gratuitous, disparaging remarks at Council meetings. They've embraced the most one-sided version of "Council Good/BLP Bad" sanctimony, with no room for honest disagreement and no interest in good faith discussion or compromise. They've openly criticized the BLP's (General Manager), blocked him from speaking at Council meetings and refused to attend other meetings if he participated. Elizabeth Pell, McLaughlin's domestic partner, filed a human relations complaint about the BLP's treatment of Hendrick; the City's Human Relations Commission found Pell's charge of gender-based discrimination unproved, but saw plenty of discord among BLP Directors and between the BLP and Council, and recommended remedial measures for both."**

***"I am saying, from what I've observed, that Hendrick, Cummins, McLaughlin, and Lowe have cooperated in a years-long public BLP-bashing exercise that is mean-spirited and unfair. And not calculated to inspire cooperation, honestly inform the public or advance City interests. In my opinion, the four were intent on breaking and re-shaping our current system as they took office, despite their oaths to uphold our Charter."***

***"As I write this, Dave Walters, the BLP's (General Manager), a highly dedicated and gifted manager and a nationally recognized expert in the power industry, has just announced his retirement, having been the particular target of their rancor."***

*"I know many voters in our City have been alarmed by the ongoing political battle to control the Ottawa County Commission. I think about Ottawa Impact's far-right agenda and steps they've taken to advance it: conducting campaigns financed with outside money, meeting behind closed doors to make decisions, **vilifying dedicated employees personally and trivializing their professional expertise, frightening our public workforce and causing employee morale to plummet,** ignoring ethical obligations, fasttracking friends' issues and dealing in political favors. **And it all sounds familiar, though this Grand Haven alliance operates at the opposite end of the political spectrum.**"*

To paraphrase and summarize what I believe Mayor McNally is saying in these regards, a Board Member, and three City Council Members have made it their mission over the last two years to create a "toxic work and governance environment" for the management and employees at the BLP to work under, a work environment under which I have been unable to perform my contracted duties and responsibilities established within my employment agreement. Isn't this exactly what I have brought to the Board's attention during my last two annual performance appraisals?

As we all know, these elective City officers have worked cooperatively with each other, surrogates, and political allies, at times inappropriately (if not illegally) from my perspective, to dissolve the Board and eliminate my position, as established in the City Charter. They have no doubt tried to conceal the level of their involvement in such matters from the public. City voters and our township customers have now weighed in on their support, or lack thereof, of such activities or their objectives.

One must ask why two Board Members feel it is not relevant for the Board and the public to acknowledge statements from a then sitting Mayor that raise significant concerns regarding the actions of four of the ten current "elective officers" of the City, regardless of when in her term she was saying them. These comments cannot simply be dismissed as "sour grapes" for losing a primary election, and from my perspective they are far from "slanderous." Quite the contrary, the Mayor's statement points to "slanderous" comments regarding the BLP by these elective officers. There is already substantial evidence in the public record to validate most, if not all of these claims.

I think we all know that Catherine McNally was a respected attorney in the Coast Guard for many years. I can't believe she didn't fully understand the gravity of her allegations.

I will also point out here, two additional past Mayors, other prominent community members, and present BLP employees and retirees, have also raised similar criticism of these Board and City Council members over the last six months, echoing concerns I have brought to the Board's attention for almost two years.

The now concurring actions of a second Board member, Kurt Knoth, who was recently re-elected, on almost all such issues since he was appointed in the fall of 2022 by City Council, is also troubling to me, and to others as well.

As I stated in my October 21 statement, ***"It is no secret that both (Board Members Hendrick and Knoth) have openly expressed their desires to replace management leadership (at the BLP) since the day they were sworn into office on the Board,"*** and ***"divisive, dysfunctional, and non-transparent Board action of this nature, driven by two Board members who suggest they are advocates for "positive change" at the utility are the reason for..... my desire to pursue early retirement before the conclusion of my contract."***

Other members of the Board and City Council who are well aware of the associated facts involved here should further review and investigate the extent of the alleged misconduct, as is now being called for publicly. It is not my responsibility to conduct such an administrative internal investigation or, if necessary, take these matters to court to resolve them. I, as well as others on my staff, would be pleased, however, to fully cooperate, providing historical public records in our possession pertinent to such an internal investigation.

In the near term, we will also be receiving an investigative report concerning "whistleblower" claims against the BLP, initiated by this same group of elective city officers. Was this investigative measure initiated to divert the public's attention away from their own behavior during a campaign in which some of them were running for office, and all of them were supporting the charter amendment that ultimately failed?

Was this measure too, part of the so-called mean-spirited and unfair ***"years-long BLP-bashing exercise,"*** by Council Members Cummins, McLaughlin, and Lowe, with the cooperation of Board Member Hendrick, as observed and pointed out by Mayor McNally in her recent "perspective?" Is this why the Mayor at the time voted against the resolution initiating the investigation that she expressed at the time was premature? Or was this investigation potentially initiated by these elected officers in retaliation for raising long-standing "whistleblower" claims of my own against the Board, and my outstanding FOIA request for documents from Board Member Hendrick. As I alluded to at the time, I believe the Council inappropriately usurped the Board's responsibility and authority in such BLP employment matters.

I was assured by these same elective officers that all such "whistleblower" type allegations of misconduct by others in our organization will be taken very seriously by the City and BLP

administration and their governing bodies. It would seem, however, that some claims or allegations have been treated quite differently, and potentially discriminatorily, and have been summarily dismissed without sufficient review by the very public officers accused or potentially involved in the misconduct being alleged.

I am also totally confused by the latitude being afforded a public official, and their private attorney, by the BLP and the City Attorney, to delay the process of turning over documents the City Attorney has now determined are public records under the FOIA. The Board has already spent over \$10,000 on legal fees and four months reviewing responsive documents and making these determinations. Why is the City Attorney still withholding these public documents more than a month after completing his review, contrary to commitments the BLP made to requesters of this information.

At this point, it is time for the Board to come out from behind closed doors and publicly address and resolve these issues. As you all now know, I am not the only one calling for the Board, and City Council, if necessary, to do so. And for those that have previously accused the Board and its management of not complying with the OMA, inappropriately deleting e-mails, and not providing public documents as required by the FOIA, let's hold all elective and appointed officers to that same standard.

The public's interest in these matters was evidently heightened because of the recent campaign and election where these elective officers made their positions, opinions, mischaracterizations and outright lies regarding the Board and its management quite clear. Let's now more fully review the historical public record in light of these campaign statements and activities.

Again, if Board and I cannot agree to terms that appropriately and fairly terminate my employment agreement and facilitate an early retirement as had been our mutual intent, it would seem the Board has a continuing contractual responsibility and an obligation under its approved employment policies and procedures, the City Charter, and established employment law, to finally address the toxic work and governance environment that has necessitated my request. Further acquiescence, delay, dismissive responses, and tacit acceptance of known Board, and City Council, member misconduct, by the Board as a whole, under the direction of City Council and the City Attorney, is no longer an acceptable option.