

CITY COUNCIL MEETING MINUTES FROM AUGUST 23, 2011

The Regular Meeting was called to order by Mayor Strazdas at 7:30 p.m.

At the request of Mayor Strazdas, Reverend Barry Petrucci of Chapel Hill United Methodist Church provided the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Cory A. Bailes, Elizabeth A. Campbell, Patricia M. Randall and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Claudette S. Reid was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy L. Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Sackley, seconded by Bailes, to approve the August 9, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Campbell to read the Consent Agenda. Mayor Pro Tem Sackley asked that Item M.3.a, Reminder of the Public Media Network Board of Directors Meeting, be removed from the Consent Agenda as it has been cancelled. Motion by Urban, seconded by Campbell, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 23, 2011:** Motion by Urban, seconded by Campbell, to approve the Accounts Payable Register of August 23, 2011. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARING:

ORDINANCE AMENDMENT 10-E, MIXED-USE ZONING ORDINANCES: Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who reviewed the City Manager Communication dated July 21, 2011, and summarized the process thus far and the proposed mixed-use floating zones for the City Center Area and Commercial Corridor, plus the Work/Live Accommodations Ordinance.

At the request of Councilmember Reid, Mayor Strazdas presented four questions. First, regarding the Work/Live Zoning, specifically states that home occupations can not be performed in the residential unit, Councilmember Reid asked whether this is also true of the other mixed zones? Ms. Georgeau responded that that is true of the Work/Live accommodations because the residential unit is supposed to be accessory to the business use, but in those other zones a home occupation would be permitted.

In response to the Councilmember Reid's second question, Ms. Georgeau responded in the affirmative that two of the zones have minimum land requirements, and this would be applied on a parcel to parcel basis.

With regard to Councilmember Reid's third question, with the floating zoning, what happens if the development wishes to revert back to all commercial after multi-use has been allowed and developed, Ms. Georgeau responded that if the concept plan is approved, and a specific plan has been submitted, but the development has not been started, the applicant could ask to amend the concept plan. She also said that if the development has occurred, either in phases or in a complete development project, a subsequent rezoning would be unlikely because of the process the developer/applicant goes through, but it could also potentially create some non-conforming uses because of underlying zoning districts, so the developer/applicant would probably ask for an amendment to the concept plan.

Regarding Councilmember Reid's fourth question about the definition of "family" in Section 42-1112, the language for those who could live and work in a live/work residential unit would exclude non-married adults, and was this intentional and how would it be enforced, Ms. Georgeau responded that the recommended change before City Council dated August 23, 2011, addresses that. She explained that it was intended to prevent the building to be occupied by unrelated individuals who do not have relationship equivalent to a family such as a group of students or informal roommates not necessarily affiliated with the business on the site; nevertheless it ensures consistency with our definition of family because it does allow people that are functionally equivalent to a family in the recommended change.

In response to Councilmember Urban's question of whether the city center area was the first zoning to allow unlimited building heights, Ms. Georgeau stated that the Planned Development District (PD) also allows unlimited building heights; that it allows flexibility; that the Planning Commission can not waive this requirement; and that the City Council decides when and where this is appropriate.

In response to Councilmember Urban's question regarding the Work/Live Section 42-137©(2)(b), which in effect prohibits a basement apartment with a store above, Ms. Georgeau explained this was because of the impact on residential use such as traffic, hours of operation, disturbances, noise and smells as it relates to restaurants, for example. Discussion followed.

Councilmember Urban had a question regarding the lack of distinct boundaries in the detailed area outlined on the map provided, specifically the west boundary and splits that occurred with the greenhouse areas, and he suggested that the west boundary be moved to Howard Street. Discussion followed. He also pointed out that there is no legal description for the Detailed Plan Area on the map and opined that the ordinance strictly applies to a specific area, so that area should be defined. Discussion followed.

Jim Pearson, 3004 East Shore Drive, concurred with Councilmember Urban that the detailed area is not defined. He defended the proposed height requirement flexibility saying that a common theme in the 2025 Visioning Process was that Portage citizens want something tall in the city center. He pointed out that the City Council has the flexibility to change the acreage or size of the area affected by the ordinance. Finally, with regard to the Work/Live Section, the Planning Commission interjected the concept of employees being included, living above the shop and the required proof using the W-2 Form under Section 42-12. Discussion followed.

Motion by Sackley, seconded by Bailes, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Bailes, to approve Ordinance Amendment 10-E, Mixed-Use Zoning Ordinances, as presented for first reading on July 21, 2011, with a minor revision to Section 42-112, Definitions, Work/Live Building where a period would be added after the word "family" and the rest would be deleted. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Ordinances recorded on pages 185, 191, 199 and 207.

REPORTS FROM THE ADMINISTRATION:

* **DELTA DENTAL CONTRACT RENEWAL:** Motion by Urban, seconded by Campbell, to award a two-year contract renewal to Delta Dental Plan of Michigan and authorize the City Manager to execute all documents related to the contract renewal on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **CONTRACT RENEWAL - OTHER POST EMPLOYMENT BENEFIT TRUST FUND:** Motion by Urban, seconded by Campbell, to award a three-year contract renewal to Michigan Employees' Retirement System (MERS) for the administration and investment of the Other Post Employment Benefit Trust Fund and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **COMPACTOR TRUCK AND OPERATOR RENTAL - CONTRACT RENEWAL RECOMMENDATION:** Motion by Urban, seconded by Campbell, to approve a one-year contract renewal with Republic Services of Michigan Hauling, LLC, dba Republic Waste Services of Western Michigan, to provide up to three compactor trucks with operators at an hourly rate of \$117.75 for the 2011 Fall Leaf Pickup Program in the not to exceed amount of \$38,000 and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **KALAMAZOO COUNTY PUBLIC ART COMMISSION URBAN COOPERATION AGREEMENT:** Motion by Urban, seconded by Campbell, to approve amendment of the 1986 Urban Cooperation Agreement to Establish a Public Art Commission to remove the Kalamazoo Chamber of Commerce from the membership of the commission, add the Kalamazoo County Convention and Visitors Bureau (dba Discover Kalamazoo) to the membership of the commission and authorize the City Manager to execute all related documents on behalf of the City of Portage. Upon a roll call vote, motion carried 6 to 0.

* **JULY 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Campbell, to receive the communication from the City Manager regarding the July 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

* **TRANSFER OWNERSHIP OF 2011 CLASS C LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT FROM RYR PARTNERS KALAMAZOO, INC. TO EOA, LLC (JAC'S PIZZA):** Motion by Urban, seconded by Campbell, to grant the request to transfer ownership of 2011 Class C Licensed Business with Dance-Entertainment Permit, Located at 7638-7640 S. Westnedge, Portage, MI 49002, Kalamazoo County from RYR Partners Kalamazoo, Inc. to EOA, LLC (Jac's Pizza). Upon a roll call vote, motion carried 6 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Campbell, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

COMMUNICATION:

HISTORIC DISTRICT COMMISSION CHAIRPERSON MARK REILE – PROPOSED HISTORIC DISTRICT COMMISSION ORDINANCE AMENDMENT: Historic District Commission Chairperson Mark Reile introduced Historic District Commission Member Attorney Phillip Ellison and indicated that during the April 6, 2011 Historic District Commission Meeting, the Commissioners began expressing an interest in instituting pre-defined time periods and limitations on future Certificates of Appropriateness. Discussion followed. Councilmember Campbell asked whether this change in the ordinance would be retroactive and Mark indicated that there are no real issues at the present time with any of the properties but the Historic District Commission is looking forward. Discussion followed.

Motion by Campbell, seconded by Sackley, to refer the request of the Historic District Commission to the City Administration for further review and development of an ordinance amendment, as appropriate. Mayor Strazdas expressed his appreciation for the Historic District Commission and for Mark, specifically. Upon a roll call vote, motion carried 6 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Park Board of July 6, 2011.

Portage Planning Commission of July 21, 2011.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of August 3, 2011.

BID TABULATIONS:

* **ICE CONTROL SALT PURCHASE:** Motion by Urban, seconded by Campbell, to approve the purchase of ice control salt from Morton Salt Company in the low bid amount of \$54.81 per ton for 3,500 tons at a total cost not to exceed \$191,835 for early delivery; North American Salt Company in the low bid amount of \$65.05 per ton for 1,050 tons at a total cost not to exceed \$68,302.50 for seasonal backup on an as-needed basis; and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **BIKEWAY TRAIL REPAIR – BID RECOMMENDATION:** Motion by Urban, seconded by Campbell, to accept the low bid submitted by J. Allen & Company, Incorporated, in the amount of \$23,477.20 for select bikeway trail asphalt improvements and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **PRIMARY BACKUP AND RECOVERY STORAGE DEVICES:** Motion by Urban, seconded by Campbell, to approve the purchase of two Coraid backup/recovery mass storage devices and related hardware/software components at a cost of \$28,041 and authorize the City Manager to execute all documents related to this purchase on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: City Manager Evans indicated that the tree and limb clean-up after the severe storm was efficiently done; residents were allowed enough time to prepare damaged trees and branches for pick up; and, some lawn repairs were being done to offset damage to curbside areas.

Mayor Strazdas indicated that Kalamazoo Mayor Bobbi Hopewell will be at Portage Central Fire Station, 11 a.m., Saturday, August 27, 2011, to wash a Portage Fire Engine. This is because members of the Portage Police and Fire Departments defeated members of the Kalamazoo Public Safety Officers in a hockey game for charity and the agreement made between the two Mayors. Mayor Strazdas also thanked and congratulated Councilmembers Bailes, Campbell and Randall and Planning Commissioner Pearson for their willingness to do the hard work necessary to run for the Office of Portage City Council. He asked for a good, clean campaign as each of them work through the issues. He also announced that he will serve on the United Way Steering Committee since he will not be campaigning as he is running unopposed for the Office of Mayor of the City of Portage.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:36 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.