

## CITY COUNCIL MEETING MINUTES FROM MAY 22, 2012

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

At the request of Mayor Strazdas, Rabbi Harvey Spivak of the Congregation of Moses gave the invocation and City Council and the audience recited the Pledge of Allegiance.

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

**PROCLAMATION:** Mayor Strazdas issued a Letter of Honor to Portage Northern High School and Portage Public Schools received by Superintendent Ric Perry and School Board Chair Bo Snyder. Discussion followed.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Sackley, to approve the Special and Regular Meeting Minutes of May 8, 2012 as presented. Upon a voice vote, motion carried 5 to 0 with Councilmember Sackley abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Mayor Strazdas removed Item G.4, Greenspire Retail / Sewer Utility Connection Charges, from the Consent Agenda. Discussion followed. Motion by Reid, seconded by Randall, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF MAY 22, 2012:** Motion by Reid, seconded by Randall, to approve the Accounts Payable Register of May 22, 2012. Upon a roll call vote, motion carried 6 to 0.

### COMMUNICATION:

#### PRESENTATION BY LINDA TEETER OF THE KALAMAZOO COUNTY

**TRANSPORTATION AUTHORITY:** City Council received a presentation by Linda Teeter of the Kalamazoo County Transportation Authority (KCTA). She introduced KCTA Member Paul Ekland and KCTA Executive Director Sean McBride. She spoke about the 2011 KCTA Annual Report and the KCTA taking steps towards integrated Countywide Public Transit Services. She mentioned the resultant plan called the "Roadmap" that resulted from the collaboration with key staff from the City and County of Kalamazoo and serves as the guiding strategic document for the KCTA and focuses on: strengthening the governance and the capacity of the KCTA board; recruiting and hiring a strategic leader for the KCTA, Sean McBride; increasing the commitment and ownership of governmental jurisdictions throughout the county; strengthening the vision for a public transportation system throughout the County; and, to look toward achieving financial stability beyond 2012.

Next, she mention the two legislative changes necessary to create a Countywide Public Transit System: the law making it possible to create a second transportation authority in Kalamazoo and to pass and amendment to the incompatible offices statute that allows the members from the first authority to serve on the second authority. She discussed the bipartisan support throughout the process and the successes that resulted from these efforts, financial and governance policies, the grant obtained by the Public Transit and Regional partners, and a financial review of 2011.

She discussed the service to the City of Portage and mentioned that there were 63,513 rides on three routes, now four routes, serving the City of Portage, and thanked Portage Community Center Director Diane Schrock and Mayor Pro Tem Reid for their assistance in the analysis and the process. She thanked City Manager Evans for his assistance in placing a service van in Portage. She disclosed that Kalamazoo Metro Transit operates a community service van program with access to six vans with service to Vicksburg beginning soon.

Ms. Teeter indicated that once the second KCTA board is formed and the Articles of Incorporation are adopted by the Kalamazoo County Board of Commissioners, the boundaries will have to be established and an election for funding of 1 mill would have to take place in May 2013. She then discussed the people who are using public transportation, the travel trainer position created to help people use the system more efficiently, the plan to engage in a visioning process, the end goal of transferring assets and responsibility of operating, overseeing and the governance of the transportation system under the Kalamazoo County Transportation Authority and the responsibilities of the Executive Director in the process. Discussion followed.

In answer to Mayor Pro Tem Reid's question about the length of the millages and, once the goals are completed, what will the millage breakdown be, Ms. Teeter indicated that the proposed 0.6 renewal millage that funds the fixed route within the City of Kalamazoo is being considered for the November 2012 Election. She stated that KCTA has opted to wait for the County Board of Commissioners to form the new KCTA and set the boundaries before asking for the millages as they will be separate issues on the same ballot. Discussion followed.

In answer to Councilmember Sackley, Ms. Teeter agreed to find out where the people who use transit service lives, perhaps by zip code. Discussion followed.

## **PUBLIC HEARING:**

**REZONING APPLICATION #11-03, ROMENCE ROAD PARKWAY:** Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who provided a review and summary of the request to approve Rezoning Application #11-03 and rezone: 1901 Romence Road Parkway to OTR, office technology and research, with the exception of the northwest area that is to remain R-1B, one family residential, and the southwest area that is to be rezoned to OS-1, office service; 2301 Romence Road Parkway, 6710, 6718 and 6726 Portage Road and 2328 and 2402 Lansing Avenue to OTR, office technology and research; and 6646 Portage Road and 6941, 7013 and 7019 Lovers Lane to OS-1, office service. She analyzed the proposed zoning change for each parcel in detail using three zoning maps that reflected the proposed changes; she explained the process of the Planning Commission thus far, including requests from local neighborhoods; and, she introduced the new zoning category, Office Research Technology (OTR).

In answer to Councilmember Campbell, Ms. Georgeau indicated that, at the request of the Planning Commission, Community Development staff did "reach out" to all of the property owners in the corridor and got their input, that none of the property owners provided anything in writing, nor did they attend any of the Planning Commission meetings to provide input.

Mayor Strazdas opened the public hearing for public input. There being no discussion, motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Reid, to approve Rezoning Application #11-03 and rezone: 1901 Romence Road Parkway to OTR, office technology and research, with the exception of the northwest area that is to remain R-1B, one family residential, and the southwest area that is to be rezoned to OS-1, office service; 2301 Romence Road Parkway, 6710, 6718 and 6726 Portage Road and 2328 and 2402 Lansing Avenue to OTR, office technology and research; and 6646 Portage Road and 6941, 7013 and 7019 Lovers Lane to OS-1, office service. Councilmember Pearson expressed his

appreciation to the Planning Commission and Community Development staff for bringing this rezoning to fruition. At the suggestion of City Attorney Randy Brown, motion by Sackley, seconded by Reid, to amend the original motion to include the language “as further described in the Ordinance” to ensure that the “areas” language in the motion was specifically defined. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 229 of City of Portage Ordinance Book No. 12.

**PETITIONS AND STATEMENTS OF CITIZENS:** Portage Community Center Board Chair Mike Ortega, 5539 Green Pine Land, Texas Township, expressed his appreciation for the continued support of City Council on behalf of the Portage Community Center Board, the Director Diane Schrock, the Portage Community Center Staff and the people who receive service from the Portage Community Center. Discussion followed.

### **REPORTS FROM THE ADMINISTRATION:**

**FISCAL YEAR 2012-2013 BUDGET APPROVAL:** At the request of Mayor Strazdas, City Manager Evans indicated that the proposed Fiscal Year 2012-2013 proposed Budget is \$61.4 million, and is a sound, conservative financial plan that does several different things: it meets the service demands with a reduction in curbside recycling levy; it provides for maintenance of the city streets; and it has a tax rate of 10.7778 mills which keeps Portage in the lowest 25% of Michigan cities with population greater than 25,000. He indicated that the Administration is recommending an increase in the Fund Balance from the 13% fund balance as prescribed by City Council to 25% to assist the city in the future because of the uncertainties with all of the various revenue sources and the Budget supports economic development with \$10.9 million in infrastructure improvements through the Capital Improvement Program (CIP); and, it continues a balanced cost containment approach by providing a high level of both municipal and privatized services.

Mr. Evans had great praise for the excellent Budget Team of Deputy City Manager Brian Bowling, Financial Services Director Bob Luders, Finance Director Dan Foecking and Deputy Finance Director Pat Fitnitch; also, Community Development Director Vicki Georgeau, who helps out with the CIP. Discussion followed.

Motion by Sackley, seconded by Reid, to approve the Fiscal Year 2012-2013 Budget. Discussion followed.

Motion by Pearson, seconded by Randall, to amend the motion to reduce the City Council prescribed Fund Balance from 25% to 13%. Discussion followed.

Councilmember Pearson explained that some Councilmembers wanted the 25% Fund Balance to pay for uncertainties instead of using the funds to pay down some debt and, after some very good discussion in a public workshop, there was an agreement to disagree.

Councilmember Randall indicated that for months City Council has been receiving information about the Budget, including excellent graphs and hypothetical situations because of the future always being uncertain. Next, she indicated that one of the uncertainties was the proposed elimination of the Personal Property Tax and recently the Bill was passed by the Senate and instead of the Michigan Municipal League and the County Governments actively opposing the measure, they are now neutral, so she felt that the immediate fear of losing \$4 million is not going to happen this fiscal year. She pointed out that there are no cuts, no lay-offs and no reduction of services; there is only a question of what to do with excess “cash.” She reflected that City Council has had a 13% Fund Balance for 27 years, and this year it is 34%. She indicated that the City has \$94 million in outstanding debt and recognized that Portage has excellent bike trails, parks and services that now have to be “paid for.” She referred to the legally required 7% allocated for the CIP bond for Fiscal Year 2012-13 and reflected that there are Portage municipal bonds currently paying 5.5%, yet the City of Portage interest income is only 0.0012%, so she said that the city has an “opportunity cost” of \$240,000 in interest and opined that it is a significant amount and the 13% is preparation enough for “rainy day” expenses.

Mayor Pro Tem Reid corrected Councilmember Randall indicating that the Fund Balance is currently 26% and not 34% with the projection being 26 to 27% by the end of this fiscal year. She indicated that the reason for the increase in savings is the result of the efficiencies and efforts of the City staff which have come primarily from not filling positions as they become vacant through attrition, rearranging and restructuring duties, and requiring more from staff. She pointed out that the City of Portage can not keep cutting employee positions in order to generate more revenue without reducing services; and, if the funds are used to reduce debt, those funds are no longer available, so the prudent measure to take is to increase the Fund Balance in order to anticipate the many unknowns in the economy with the cuts in the Personal Property Tax as only one of those uncertainties. She pointed out that of the other indicators show that revenues continue to go down; that there are no increases coming; and, the 25% only provides the funds to run the city for only three months which is problematic since revenue only comes in two times a year. She noted that the Fund Balance is set aside for emergencies and indicated that she is not in support of the amendment to the original motion, but is in support of the original motion and the increase in the Fund Balance to 25% at least for this fiscal year.

Councilmember Campbell indicated that because of the uncertainties, debt costs associated with the building of the infrastructure of the city, deficiencies in the water fund, and the possibility of a disaster such as the straight line wind storm in October 2001 that cost \$1.2 million for only a portion of the city that was affected. She viewed this as a one-time opportunity that would probably not be available again, and indicated that she is not in support of the amendment to the original motion.

Mayor Strazdas indicated that he had respect for everyone's position; that this is a wonderful problem to have, the question of what to do with a Fund Balance at the end of the year of 26 to 27%. He repeated the two options, buy down debt or increase the fund balance, and indicated that all Councilmembers agreed at the earlier work session that the city needs to have a fund balance; however, as a policy-making board, the question remains of what kind of policy do we want to have this year and with the unknowns, the use of these funds needs to be protected by the policy. He indicated that there are no right or wrong answers, only the question of what is in the best interest of the city. He indicated that this year the best choice is to set the funds aside and let future City Councils determine how to use the Fund Balance in the future, and he cited some comparisons among other cities and Kalamazoo County at 25% or higher. He thanked City Council for their professional approach to the question and expressed his opinion that 25% is prudent at this time and he is not in support of the amendment to the original motion. Upon a roll call vote, the motion on the amendment failed 4 to 2. Yeas: Councilmembers Pearson and Randall. No: Mayor Strazdas, Councilmembers Campbell and Sackley and Mayor Pro Tem Reid. Mayor Strazdas asked for any other amendments.

Councilmember Randall recused herself from the Catholic Charities portion of the Community Development Block Grant (CDBG) segment of the Fiscal Year 2012-2013 Budget. Discussion followed. Motion to approve the Fiscal Year 2012-2013 Budget carried 6 to 0. Discussion followed.

Motion by Sackley, seconded by Reid, to adopt the Resolution to adopt the Salary and Wage Schedules for the Fiscal Year July 1, 2012, to June 30, 2013. Upon a roll call vote, motion carried 6 to 0. Discussion followed. Resolutions recorded on page 401 and 403 of the City of Portage Resolution Book No. 44.

**ADOPTION OF BOND RESOLUTIONS:** Mayor Strazdas asked if these resolutions should be taken separately and City Attorney Brown indicated that it was up to the discretion of City Council. City Manager Maurice Evans indicated that this is the initiation of the legal process required for the city to issue bonds. Motion by Reid, seconded by Sackley, to adopt the: Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2012, in the amount of \$2,135,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2012. Upon a roll call vote, motion carried 6 to 0. Resolutions recorded on pages 405 and 417 of Resolution Book No. 44.

\* **KALAMAZOO AREA TRANSPORTATION STUDY IN-KIND SERVICE CONTRIBUTIONS FOR 2013:** Motion by Reid, seconded by Randall, to support the 2013 In-kind Service Commitment for the City of Portage portion of the Kalamazoo Area Transportation Study budget. Upon a roll call vote, motion carried 6 to 0.

**GREENSPIRE RETAIL / SEWER UTILITY CONNECTION CHARGES:** Mayor Strazdas indicated that because Joe Gesmundo was out of town, he asked that City Council defer this matter until a future meeting so he can be a part of the conversation. Councilmember Randall said she agreed with Mr. Gesmundo and moved to defer the matter to the Special Meeting, to be held on Thursday, May 31, 2012, at 2 p.m. The motion was seconded by Councilmember Pearson. Discussion followed.

Councilmember Sackley expressed confusion as to why this matter was set for a Special City Council Meeting in the middle of the day when the last time it was before City Council, it was at a Regular City Council Meeting, plus the Special Meeting was called for a specific purpose with an outside facilitator. He pondered why a Regular Meeting was not the appropriate forum and also interjected that no one knew when Councilmember Urban would be back into Portage. He expressed a preference to have the matter addressed at a Regular Meeting unless Mr. Gesmundo asks that the matter be handled as expeditiously as possible. Mayor Strazdas indicated that Mr. Gesmundo did not make any of these requests, only a request for dialogue and explained that it would take an hour to understand the complexities and details of this matter.

Mayor Pro Tem Reid concurred and offered that the motion could perhaps contain a proviso that the developer be available and can be at the Special Meeting.

Councilmember Randall indicated that she was in phone contact with Mr. Gesmundo, who said he would make himself available for the Special Meeting, May 31, 2012.

Councilmember Campbell expressed her concern that she had allowed herself her lunch hour to attend the workshop as it was scheduled for one and one-half hours, but she had not planned for a two and one-half hour session of City Council. Mayor Strazdas asked for an early meeting before the next regularly scheduled meeting on Tuesday, June 12, 2012, at 5:15 p.m. Councilmember Randall suggested 6 p.m. to 7:30 p.m. since dinner is always rushed and not a good dining experience. Motion by Randall, seconded by Pearson, to amend the motion to be Tuesday, June 12, 2012, from 6 p.m. to 7:30 p.m.

Councilmember Sackley advocated addressing the item of business at a Regular City Council Meeting; he indicated a concern that any time an order of business calls for lengthy discussions, the City Council would be in the practice of anticipating that and would set a special work session or meeting instead of addressing these matters at a regular meeting day and time. Discussion followed.

Councilmember Pearson expressed his preference for the meeting prior to the Regular City Council Meeting because of the large amount of time and detail to be covered and did not want to put the public through that.

Councilmember Sackley pointed out that Regular City Council Meetings are broadcasted with proper notice and citizens expect these types of things to be discussed at this type of meeting. Also, one of the reasons this matter is being discussed at this time is because there was a question about how the matter was discussed at the committee meeting and the City Attorney said a recommendation to do nothing was in essence a recommendation. He proposed that if a citizen came forward to the podium with a petition, the City Council would most likely discuss it at the Council Meeting, and expressed his frustration that he could not figure out how this matter was different than any other order of business. He indicated that he would not be supporting the motion as he preferred that the matter be discussed on a normal agenda at a Regular City Council Meeting.

Mayor Pro Tem Reid spoke as Chairperson of the Committee and pointed out that the discussion was on whether the handling of this issue was consistent with the policy; the discussion at this point is whether there is a need to change the policy, so there is a need to understand the discussion up to this point to determine whether there is a need to change the policy and if so, how would City Council do that.

Councilmember Sackley conveyed his appreciation for the clarification as the discussion was about the policy, but he expressed his understanding that Mr. Gesmundo does not believe the policy is fair or should be applied, and as City Attorney Brown has said, since it is Council Policy and not an Ordinance that City Council has the ability to grant exceptions or adjustments to the policy; and if at a special or prior meeting, there is discussion to change the policy itself, it is a good use of our time, but if it is specific to the application of the policy to Mr. Gesmundo's situation and the concerns that he has as to applicability of that, he indicated that he would rather see that decision in Council Chambers at a Regular City Council Meeting. Mayor Strazdas concurred. Discussion followed.

City Attorney Brown asked what purpose would be stated in the Notice for the Special Meeting, and Mayor Strazdas indicated that it would be as stated in Item G.4, the appropriateness of unassessed sewer utility connection charges in accordance with the 1991 Special Assessment Policy and the application of this charge to the Greenspire Retail Development at 3201 West Centre Avenue.

City Attorney Brown commented that the Special Meeting is to confirm the appropriateness; it is not to make changes and vote on the changes, so any discussion of how we are going to change this or motions making changes would not be a part of the Special Meeting; and, the specifics of the Greenspire Development will be discussed at the Special Meeting in relation to the established policy. Mayor Strazdas expressed his intent to weigh into the details with no action taken. City Attorney Brown indicated that that can happen, but it is also possible that a motion can be made at the Special Meeting because it is a meeting open to the public, properly noticed under the City Charter, so a motion can be made to confirm the appropriateness of the policy and to determine the application of that policy to the Greenspire Development without coming out to the Regular City Council Meeting. He also stated that if City Council chooses, it can go either way, but he did not want City Council to believe that it had to be done at the Regular City Council Meeting and not at the Special Meeting.

After discussion of whether City Council can approve the appropriateness of the policy or not, Councilmember Randall asked for a clarification, and Mr. Brown indicated that City Council has the authority to alter the policy, but not under this reading of the notice of the Special Meeting because it is not noted to make changes, so it has to be either noted in the motion, and therefore the notice, or City Council must make the changes at the Regular City Council Meeting.

Mayor Strazdas called for the question. Upon a roll call vote, motion carried 6 to 0.

\* **APRIL 2012 SUMMARY ENVIRONMENTAL ACTIVITY REPORT - INFORMATION ONLY:** Motion by Reid, seconded by Randall, to receive the communication from the City Manager regarding the April 2012 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

\* **DEPARTMENT MONTHLY REPORTS:** Motion by Reid, seconded by Randall, to receive the Department Monthly Reports. 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 Zoning Board of Appeals of April 9, 2012.

Portage Environmental Board of April 11, 2012.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of May 1, 2012.

Portage Planning Commission of May 3, 2012.

#### **OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Pearson invited everyone to participate in the Memorial Day Parade and the Veterans Memorial Ceremony afterwards.

Councilmember Sackley congratulated Portage Northern High School Senate President Nathan Novaria, for becoming the latest Portage Eagle Scout from Scout Troop 205.

Mayor Pro Tem Reid congratulated all of the graduating high school and college seniors and invited everyone to the Memorial Day Parade.

Mayor Strazdas asked for one surrency for City Council to use in the Memorial Day Parade and invited everyone to participate.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 9:00 p.m.

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James R. Hudson, City Clerk

**\*Indicates items included on the Consent Agenda.**