

CITY COUNCIL MEETING MINUTES FROM JUNE 26, 2012

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

Mayor Strazdas called for a moment of silence for former Mayor Pro Tem and Councilmember Dottie Sutter. At the request of Mayor Strazdas, Pastor Mike Drew of Workplace Chaplains 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 Jim Pearson, Patricia M. Randall, Edward J. Sackley and Terry R. Urban, Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. Councilmember Elizabeth A. Campbell was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

PROCLAMATIONS: Mayor Strazdas issued a Firefighters Boot Drive Weekend for Muscular Dystrophy Proclamation.

APPROVAL OF MINUTES: Motion by Reid, seconded by Sackley, to approve the June 12, 2012 Special and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Sackley to read the Consent Agenda. Mayor Strazdas removed Items F.1, City of Portage 2010 Census Liquor License Availability, and F.5, Permit to Conduct Fireworks Display, from the Consent Agenda. Councilmember Randall asked that Item F.3, Amendment to Code of Ordinances – Purchasing, be removed from the Consent Agenda. Discussion followed. Councilmember Randall indicated that she wished the record to reflect that she abstained from voting on Item F.2, FY 2012-13 Community Development Block Grant and General Fund Contracts, but to leave the item on the Consent Agenda. Discussion followed. Motion by Sackley, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 26, 2012:** Motion by Sackley, seconded by Reid, to approve the Accounts Payable Register of June 26, 2012. Upon a roll call vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

CITY OF PORTAGE 2010 CENSUS LIQUOR LICENSE AVAILABILITY: Mayor Strazdas deferred to City manager Maurice Evans, who asked Community Development Director Vicki Georgeau to provide a history of the process. She reviewed the communication from Mr. Evans dated June 18, 2012, which outlines the requirements and criteria to be considered from Chapter 6, Alcoholic Liquor, of the Portage Code of Ordinances, and the applications filed by the interested parties who wish to qualify for the one available 2010 Census Liquor License.

Ms. Georgeau concluded by indicating that The Repertoire Coffee House and Theatre, Inc., most closely met the criteria as specified in the ordinance as it involves a unique concept to Portage that includes live Blues and Jazz music, a seating capacity of 231 with an outdoor patio capacity of 40, and applicants who have relevant experience for the proposed business. She also recommended that additional important project information was necessary for consideration of conditional approval on September 25, 2012, including: a more fully prepared development plan of the proposed restaurant and live music venue to obtain zoning and permitting approval from the city; cost estimates for the

buildings, furnishings and fixtures; estimates of the number of employees for the operation of the facility; information regarding the management of the facility; information regarding planned entertainment and dancing; and answers to any related questions regarding improvements or operation of the facility. Discussion followed.

Attorney Tom King from Kreis, Enderle, Hudgins and Borsos, representing the Riviera Maya, Inc., applicant, argued that the location of their proposed restaurant was in an area where City Council has worked hard to enhance over the years, the Downtown Development District Area (DDA). He pointed out that it was the original site proposed for The Repertoire Coffee House and Theatre, Inc., but Riviera Maya, Inc., had the lease rights to that location. He also noted that their original seating capacity at 5036 South Westnedge Avenue would have been less than the 231 with an outdoor patio capacity of 40 that is proposed at the 129 West Centre Avenue location. He distinguished the Census 2010 Liquor License from one that is available in a DDA since the DDA liquor license does not have the same value and is not moveable. He further argued that the concept of the Riviera Maya, Inc., restaurant is unique, "tried and true" and the applicant has successfully operated a number of restaurants in the area, including Los Amigos on South Westnedge Avenue. Discussion followed.

Wayne Deering, 1004 Northampton Road, Kalamazoo, representing The Big Burrito, Inc., applicant referred City Council to the model used by the Department of Labor and Economic Growth where most hotels would be eligible for the hotel liquor license since it is available as a Resort "C" license with an investment of one million dollars, and the redevelopment liquor license is available at a lower cost of \$20,000 for businesses such as Riviera Maya, Inc. He argued that the Census 2010 Liquor License or "quota" license is made available because of growth and is issued at the discretion of City Council and argued that issuance should be based upon need and not constrained by criteria contained in a local ordinance. He indicated that liquor licenses used to be valued at \$90,000 to \$100,000, but now are selling for \$40,000 to \$50,000, so consideration should be given to an applicant of a smaller restaurant or concern where the need factor is high. Discussion followed.

Marty Ray, owner of The Big Burrito, 5036 West KL Avenue, Oshtemo Township, indicated that he has eighteen years of experience in the restaurant business, has an Accounting Degree in Business, and has the experience of working with a liquor license for three years. Discussion followed.

Matt Bastos, 261 East Kalamazoo Avenue, Kalamazoo, spoke on behalf of The Repertoire Coffee House and Theatre, Inc., and encouraged City Council approval of their application.

Theophlis "Ted" Duckett emphasized that his proposal is unique and indicated that negotiations for the 5036 South Westnedge Avenue location had taken place with the owners and a seating capacity of 230 plus outdoor options was a part of the plan at that location. He stressed the experience of his Manager, Steve George, and the balance offered by the team assembled by The Repertoire Coffee House and Theatre, Inc., in order to provide a safe, friendly, enjoyable experience for patrons with good food and entertainment. Discussion followed.

In answer to Mayor Strazdas, Ms. Georgeau responded that because The Big Burrito is a smaller operation, job creation and economic development would be about the same with the other applicants. She also provided some history of the 2000 Census License experience and discussion followed.

In answer to Councilmember Sackley of whether City Council would have legal standing to deviate from the City of Portage Code of Ordinances, City Attorney Randy Brown indicated that the ordinance lists "just about any criteria under the sun" and total discretion lies with City Council to determine what is felt to be an important reason under the ordinance and what weight to provide each item or criteria in their comparison. He also favored citing a reason in the motion for the selection. Discussion followed.

Motion by Urban, seconded by Reid, to acknowledge receipt of all of the submitted liquor license applications, select the Repertoire Coffee House and Theater, Inc., application and request additional information from this applicant for consideration of conditional approval "above all others" on September 25, 2012, for the reasons of the uniqueness of the venue proposed, and the size and the investment of the venue. Discussion followed.

City Attorney Brown indicated that Mayor Pro Tem Reid thought that the applicant satisfied the criteria, “tends to provide a service, product or function not presently available in the general public residing in the community” and offered that if Councilmember Urban agreed, it could be added to the motion as another reason for selecting Repertoire Coffee House and Theater, Inc. Councilmember Urban agreed to amend the motion to include that the applicant satisfied the criteria, “tends to provide a service, product or function not presently available in the general public residing in the community” and Mayor Pro Tem Reid agreed. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Discussion followed.

* **FY 2012-13 COMMUNITY DEVELOPMENT BLOCK GRANT AND GENERAL FUND CONTRACTS:** Motion by Sackley, seconded by Reid, to approve the Fiscal Year 2012-13 Community Development Block Grant Fund contracts and General Fund Human/Public Services contracts and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 5 to 0 with Councilmember Randall abstaining.

AMENDMENT TO CODE OF ORDINANCES – PURCHASING: Councilmember Randall expressed her concern that at the Budget Session in the Spring, a purchase amount had not been determined; that her concern for a fleet reduction was still important to her; that the cars within the fleet cost less than \$20,000; so, she asked whether the checks and balances are still in place. City Manager Maurice Evans assured her that the checks and balances were still in place. Discussion followed and Mr. Evans pointed out that all purchases are reviewed and approved under Item C.1, Accounts Payable Register.

Councilmember Pearson expressed his concern whether new vehicle purchases would still be discussed at the Budget Session each year and Mr. Evans assured him that vehicle purchases will still be a part of the Budget Session discussion. Discussion followed.

Motion by Sackley, seconded by Urban, to accept the amendment to Article 5, Finance, Division 2, Purchases and Sales, Section 2-171, Purchasing procedures; bids generally; 2-173, Change orders to construction contracts; and 2-175, Sale of personal property in the City of Portage Code of Ordinances for first reading and set a second reading with final adoption for July 10, 2012. Upon a roll call vote, motion carried 6 to 0.

* **THE MEADOWS AT WOODBRIDGE HILLS STREETScape ENHANCEMENT:** Motion by Sackley, seconded by Reid, to approve replacement of The Meadows at Woodbridge Hills sign located in the Churchill Lane median island and authorize the City Manager to execute the Streetscape Enhancement Agreement. Upon a roll call vote, motion carried 6 to 0.

PERMIT TO CONDUCT A FIREWORKS DISPLAY: Mayor Strazdas pointed out that Saugatuck /Douglas discontinued fireworks based on cost, and Stockton, California, a city of over 300,000 people, is considering bankruptcy. Mayor Strazdas then asked Mr. Evans to distinguish Portage and comment on what measures the city has in place to allow citizens to sleep at night in safety and quiet, considering the new laws in place regarding fireworks in the State of Michigan. Mr. Evans expressed his appreciation to the Portage Rotary for their fundraising efforts to provide the fireworks.

Mr. Evans deferred to Public Safety Director Richard White and asked him for comment on the Act 256, enforcement and what do we have in place to protect citizens.

Mr. White reviewed the Noise Ordinance, the after 10 p.m. rule, the intent of Act 256, the reasonable approach of the Public Safety Department, enforcement action, warnings, citations and referral of violations to the City Attorney’s Office. He discussed the options being considered for the Portage Rotary Fireworks Display to ensure fire safety owing to the dry conditions because of a lack of rain. Discussion followed.

Councilmember Pearson asked for volunteers beyond Members of Portage Rotary to assist in hosting the 4th of July Fireworks Display.

Councilmember Urban asked whether the permission can legally be withdrawn if the application is approved at this time for safety reasons and City Attorney Brown indicated that the Portage Fire Marshall has the power to prohibit or stop an activity that in his opinion it would cause a fire hazard or violate the International Fire Code. Discussion followed.

In answer to Councilmember Randall, Public Safety Director White deferred to the Portage Rotary should the date of the display have to be moved and the fireworks set off later. Councilmember Sackley revealed that he was involved with Battle Creek fireworks displays for twenty years and indicated that once the equipment is set up in the field, it probably can not be taken apart because the risk is too high. He asked Mr. White whether the risk to fire attributable to fireworks is greater in the approved, permitted, controlled display in a public area with public safety personnel all around, or is the real risk in the non-permitted areas where people are going to be setting off fireworks all around the city. Mr. White responded the general public would receive the same warnings and safety precautions which gave rise to the cancellation of the Portage public display of fireworks and discussion followed.

City Attorney Brown indicated that, under a section of the new law, municipalities can indeed prohibit the discharge, ignition and use of fireworks except that the municipality cannot regulate by passing an ordinance under that subsection to prohibit the use of fireworks. However, he indicated that an existing noise ordinance is not a new ordinance and is not enacted under that section of Act 256; therefore, it does not fall within that exception and, similarly, fire code sections also do not fall under such a restriction and still apply.

At the request of Mayor Strazdas, motion by Urban, seconded by Sackley, to approve a permit for a proposed fireworks display on July 4, 2012, sponsored by the Portage Rotary Club. Upon a voice vote, motion carried 5 to 0 with Councilmember Pearson abstaining as he is an incoming Portage Rotary Board Member. Discussion followed and Mayor Strazdas requested use of common sense and a list of safety guidelines for the community.

* **POLICE UNIFORM CLEANING CONTRACT EXTENSION:** Motion by Sackley, seconded by Reid, to extend the contract with Kal Clean, Inc., dba Paris Cleaners, for police uniform cleaning through December 31, 2012, in the approximate amount of \$8,000 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

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

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

UNFINISHED BUSINESS:

CITY COUNCIL BEST PRACTICES ON FORMATION OF COMMITTEES AND RESPONSIBILITIES: Mayor Strazdas introduced the item and Councilmember Pearson revealed that there were a number of proposed drafts as changes to the original draft from the Administration and that he is awaiting feedback from outside sources, including City Attorney Randy Brown, who called him one and one-half hours before the meeting with some suggestions. He also expressed his opinion that there is no rush to pass the document; that the whole team is not present at the meeting tonight as Councilmember Campbell could not be present; therefore, in the spirit of team unity and the agreement

of a new start, he moved to table this item until all of the team is present at our regularly scheduled July 24, 2012 meeting for discussion and consensus agreement on the document to be referred to staff for final form approval at the August 7, 2012 Regular City Council Meeting. Councilmember Sackley supported the motion. Councilmember Urban pointed out that he will not be at the July 24, 2012 Regular City Council Meeting. Councilmember Sackley withdrew his support of the motion. Discussion followed.

Motion by Pearson, seconded by Sackley to table this item until all of the team is present at the August 14, 2012 Regular City Council Meeting for discussion and consensus agreement on the document to be referred to staff for final form approval at the August 28, 2012 Regular City Council Meeting. Discussion followed. Councilmember Sackley withdrew his support of the motion. Discussion followed regarding Roberts Rules of Order and Councilmember Sackley reinstated his support for the motion. Upon a roll call vote, motion failed 3 to 3: Yeas: Councilmembers Pearson, Randall and Mayor Strazdas. No: Councilmembers Urban, Sackley and Mayor Pro Tem Reid. Discussion followed.

Councilmember Randall questioned the unwillingness to wait for the entire City Council as a team to deliberate on this "team" document in the spirit of the team approach agreed upon. She advocated waiting for everyone to be present and to put off the decision to a future City Council meeting. Mayor Pro Tem Reid responded that business matters are addressed in a timely manner with less than a full City Council all of the time and cited Item F.1, City of Portage 2010 Census Liquor License Availability, as an example of a serious decision made tonight with only six members. Councilmember Sackley indicated that Councilmembers are actively engaged in committee meetings currently and advocated a 70% consensus as suggested by Facilitator David Wheatley at the May 31, 2012 Special Meeting. He pointed out that it is important not to continue to postpone this matter any longer as this policy can be changed at any future meeting and expressed a desire for guidance for the eminent committee meetings that take place throughout the summer. Mayor Strazdas asked that the draft document of the Administration be approved with the proviso that it can be changed as soon as the next meeting, and he promised that he would bring the item forward at the August 14, 2012 Regular City Council Meeting when all City Councilmembers would be present. Discussion followed.

Motion by Sackley, seconded by Urban, to adopt the Attachment Number One to the Communication from the City Manager dated June 19, 2012, *City Council Best Practices on Formation of City Council Committees and Responsibilities* by City Manager Maurice Evans/City Attorney Randy Brown as a starting point and a base for discussion and modification. Discussion followed. Upon a roll call vote, motion carried 4 to 2. Yeas: Mayor Pro Tem Reid, Councilmember Sackley, Mayor Strazdas and Councilmember Urban. No: Councilmembers Pearson and Randall.

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

Portage Historic District Commission of May 2, 2012.
Portage Environmental Board of May 9, 2012.
Portage Zoning Board of Appeals of May 14, 2012.
Portage Board of Education Regular Business of May 21, 2012.

AD HOC COMMITTEE REPORT:

HOUSING AND NEIGHBORHOODS COMMITTEE: Mayor Pro Tem Reid summarized and read from the minutes of the June 26, 2012 Housing and Neighborhoods Committee Meeting that took place at 3 p.m. that the City Clerk archived with the City Council Agenda Packet for the Regular City Council Meeting of June 26, 2012. She indicated that Public Safety Director Richard White and Community Development Director Vicki Georgeau reported on the significant activities being

performed by the respective departments with regard to the committee priorities of: 1) maintaining and or improving property maintenance and neighborhoods; and 2) crime pocket identification and action plans. Activities cited were: a renewed emphasis on the Recurring Complaint Address Program (RECAP); continued activities of the Neighborhood Watch Program and assistance received from Jaqua Realtors; renewed effort in the “Broken Windows” Program; continued submission of a semi-annual Performance Measures Report, including GIS mapping enhancements; continued periodic, proactive inspections of long-term foreclosed properties for potential community quality concerns; collaborative efforts between the Departments of Public Safety and Community Development. She indicated how impressed she was with how much various departments are working together and the current efforts to maintain neighborhoods.

With regard to the third priority of the Housing and Neighborhoods Committee, Housing and property maintenance, owner versus rental housing trends, rental housing registration and rental housing inspection programs, Mayor Pro Tem Reid reviewed the discussion regarding the increase, though insignificant, in single-family houses being rented trend; the potential for crime and neighborhood blight issues with regards to unoccupied homes; that upon review, mandatory registration or registration and inspection of rental properties is not warranted at this time, although continued monitoring of this option will take place. Discussion followed. Mayor Pro Tem also reported that the Community Development Department will consider the development of a brochure for new landlord in order to inform them of responsibilities under the City of Portage Code of Ordinances and programs and supports available to landlords. Motion by Reid, seconded by Pearson, to receive the report of the Housing and Neighborhoods Committee, accept the recommendation to take no action and to dissolve the Committee. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmembers Sackley, Urban, Mayor Pro Tem Reid and Mayor Strazdas expressed their sympathies for the family of deceased Mayor Pro Tem and Councilmember Dorothy M. Sutter, recounted some of their fond memories of her and their respect for her fine service to the community.

Councilmember Pearson indicated that the gates to McCamley Field open at 6 p.m., Wednesday, July 4th for the Fireworks Display sponsored by the Portage Rotary.

City Manager Evans reminded everyone of the Special Meeting of City Council, Wednesday, June 27, 2012, at 6:30 p.m. regarding the tree removal by Midwest Energy Cooperative along Angling Road.

Mayor Pro Tem Reid warned the public to be careful setting off fireworks because of the dry conditions and invited everyone to attend the Rotary Fireworks Display.

Councilmember Sackley indicated that Emil J. “Bud” Popke, who passed away recently, served on the Suburban Kiwanis Club and was initially responsible for providing fireworks for the City of Portage many, many years ago.

Mayor Strazdas noted that the local businesses were paying for fireworks, that no tax dollars were being utilized and expressed his appreciation for Rotary volunteers.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 10:10 p.m.

James R. Hudson, City Clerk

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

