

CITY COUNCIL MEETING MINUTES FROM AUGUST 14, 2012

The Regular Meeting was called to order by Mayor Strazdas at 7:32 p.m.

At the request of Mayor Strazdas, Father Robert Creagan of St. Catherine of Siena Catholic Church gave an invocation and City Council and the audience recited the Pledge of Allegiance.

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

APPROVAL OF MINUTES: Upon a voice vote, the July 24, 2012 Regular Meeting Minutes were approved as presented. The vote was 5 to 0 with Councilmember Urban and Councilmember Sackley abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Pearson to read the Consent Agenda. Councilmember Randall asked that Item F.5, Police Vehicle Equipment Changeover, be removed from the Consent Agenda. Motion by Pearson, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 14, 2012:** Motion by Pearson, seconded by Reid, to approve the Accounts Payable Register of August 14, 2012. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

CONCEPTUAL PLAN AMENDMENT FOR TRADE CENTRE HOLDINGS, LLC, 420 AND 750 TRADE CENTRE WAY: Mayor Strazdas asked Department of Community Development Director Vicki Georgeau to review the Conceptual Plan Amendment. Director Georgeau provided an overview of the project and a brief history of the property involved. She also explained the height modification and modified setback requests associated with the project. Director Georgeau reviewed the support of the Planning Commission for the project and that of neighboring properties. She also emphasized the wetland mitigation that has been and will be completed. Councilmembers Sackley and Urban inquired as to the height of the proposed building as it relates to the existing two office buildings. Specifically they inquired about the starting grade for the proposed structures as compared to the starting grade for the existing structures. Director Georgeau explained that the proposed buildings would be in character with current structures and that the height differential would be minimal. She deferred to the developer for exact information.

Mr. Greg Dobson, American Village Builders, 4200 W. Centre Avenue, Portage, spoke in support of the project and emphasized his appreciation for the staff and elected officials of the City of Portage in supporting this development. He also highlighted his appreciation for support in relocating West Fork Crossing and in the wetland mitigation. He then informed City Council that construction of a Courtyard by Marriott would begin on Wednesday, August 15th. The property of the Marriott, he stated, was in the process of being sold to TMI of South Dakota. In response to the height questions posed by Councilmembers Urban and Sackley, Mr. Dobson stated that the starting grade for the existing buildings was 860.5 feet and the proposed buildings would be at 858.7 feet.

Mayor Strazdas expressed support for the development, his pleasure with the transformation of the gateway to the community and inquired as to what is being done to ensure there will be a similar architectural relationship between each building. Mr. Dobson pointed out there are architectural restrictions on the restaurant pads and shared a rendering of the proposed office building. He reassured City Council that any future buildings will stay true to the designs of the existing structures. Mayor

Strazdas then inquired as to the timeframe for development. Mr. Dobson replied that construction of a hotel and related restaurant was imminent, construction of a second hotel is envisioned to begin in about one year and that a related restaurant was likely. Mr. Dobson then said that there was nothing definite related to the construction of a third office building.

Mr. Joe Gesmundo, American Village Builders, spoke in support of the project and was complimentary to City Council and staff for their support and effort in transforming a former unattractive area of the City of Portage into something that the entire Portage and Kalamazoo community can be proud of. Discussion followed.

Motion by Urban, seconded by Randall to close the public hearing. Upon a voice vote, motion carried 7 to 0. Councilmember Urban inquired of Attorney Brown if the various modifications to heights and setbacks needed to be enumerated in the motion. Attorney Brown deferred to Director Georgeau who explained that these requested modifications are considered to be included in the Conceptual Plan. Attorney Brown then stated that, given this, all that is needed is a motion to approve the Conceptual Plan. Motion by Urban, seconded by Sackley, to approve the Trade Centre Holdings, LLC, Conceptual Plan Amendment, 420 and 750 Trade Centre Way. Several members of City Council thanked Mr. Gesmundo, American Village Builders and other developers for working so diligently to implement exciting developments in their home community. They also expressed gratitude that the developments take place in close partnership with all interested parties. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

* **FEMA CORPORATION – PA 198 TAX ABATEMENT:** Motion by Pearson, seconded by Reid, to accept the application for an industrial tax abatement for 1716 Vanderbilt Avenue; and adopt Resolution No. 1-12 setting a public hearing on the expansion of Industrial Development District No. 55 for 1716 Vanderbilt Avenue on August 28, 2012. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 425 of City of Portage Resolution Book No. 44.

* **PRELIMINARY PLAT OF OAKLAND FARMS NORTH, 9810 OAKLAND DRIVE:** Motion by Pearson, seconded by Reid, to approve the Preliminary Plat of Oakland Farms North, subject to the conditions identified in the September 9, 2011 Department of Community Development report. Upon a roll call vote, motion carried 7 to 0.

* **TAX EXEMPTION FOR CENTRE STREET VILLAGE APARTMENTS:** Motion by Pearson, seconded by Reid, to accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant Centre Street Village II Limited Dividend Housing Association Limited Partnership a tax exemption, establish a payment in lieu of taxes for the Centre Street Village Apartments located at 2151 East Centre Avenue; and take final action on August 28, 2012. Upon a roll call vote, motion carried 7 to 0.

* **FINAL SITE PLAN FOR VERIZON WIRELESS (MONO-PINE), 8080 OAKLAND DRIVE:** Motion by Pearson, seconded by Reid, to approve the Final Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive. Upon a roll call vote, motion carried 7 to 0.

POLICE VEHICLE EQUIPMENT CHANGEOVER: Councilmember Randall stated that she takes the budget process seriously and recalls asking staff about the types of vehicles that are being purchased and was told that they were sedans, not SUVs. She then stated that the vehicles involved in this changeover are Chevy Tahoe's. She expressed concern about the added operating costs of SUVs versus sedans and the cost of the changeover per vehicle. City Manager Evans explained that the purchases were implemented last October and delivery was only recently made. He stated that he takes the concerns of Councilmember Randall to heart. He continued by stating that quotes were obtained, a low bid awarded and he then reviewed the number of items involved in a retrofit. City Manager Evans

stated that he hoped these vehicles would last longer than more traditional vehicles but that the agenda item for tonight is strictly for a retrofit, not for new vehicles. Councilmember Pearson asked that City Administration be mindful of the concerns expressed regarding vehicle purchases. Motion by Sackley, seconded by Reid, to approve the expenditure for four police vehicle equipment retrofits by Emergency Vehicle Products, in an amount not to exceed \$39,600.48, 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 7 to 0.

* **ELECTION POLLING PLACES AND RATE OF COMPENSATION RESOLUTION:** Motion by Pearson, seconded by Reid, to adopt the Resolution Designating Polling Places and Rate of Compensation for the November 6, 2012 General Election. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 429 of City of Portage Resolution Book No. 44.

COMMUNICATION:

RESOLUTION AGAINST FRACKING: Mayor Strazdas asked City Manager Evans if he had any comments. Mr. Evans stated that he had no comments related to the topic but that, in the future, City Administration would simply bring similar communications to City Council without a specific recommendation.

Elizabeth Chiaravalli, 412 Elm Street, Kalamazoo, commended City Council on their focus on environmental health and wellness. She then stated that a ban on fracking would be a continued demonstration of this commitment. Ms. Chiaravalli reviewed the process of fracking, the potential hazards involved and the importance of communities taking a stand. She asked City Council to support a ban on fracking in Portage.

Mr. Tim Earl, 6862 Shallowford Way expressed concern about local government weighing into what he considers to be a national debate. He stated that the federal government has asked the Environmental Protection Agency to look into fracking and questioned the expertise of a local government to make a sound policy decision. Mr. Earl suggested that the scientific community is looking into fracking and has yet to come to a consensus and stated that the group behind the requested ban is trying to use local communities as pawns in a larger debate.

Mayor Strazdas stated that Portage City Council has not historically taken a position on national and state issues instead focusing on issues that are local. Councilmember Sackley shared that this is a topic being actively discussed in the local community and that there is a wealth of local information and resources on which to draw related to this topic. Motion by Sackley, seconded by Urban, to receive the communication from Theresa Lockhart requesting consideration of a Resolution Against Fracking. Councilmember Urban reiterated that this City Council has not historically taken a stance on political issues instead focusing on the local community and sees no reason to change. He also expressed concern about some of the language used and positions taken in the requested resolution. Mayor Pro Tem Reid thanked Ms. Chiaravalli for raising the issue and agreed with other comments that it is not appropriate for City Council to take on this resolution. Upon a roll call vote, motion carried 7 to 0.

Ms. Chiaravalli spoke and shared that the Michigan Department of Natural Resources is holding an auction of mineral rights in October and that fracking may quickly be coming to Portage. She shared a letter from the DNR to surface owners that the mineral rights under their homes and properties could be auctioned and highlighted a sale of mineral rights in Yankee Springs in Barry County as an example. She then asked City Council to educate themselves and to better understand the topic of fracking.

UNFINISHED BUSINESS:

* **REZONING APPLICATION #11-04, EAST CENTRE AVENUE BETWEEN LAKEWOOD DRIVE AND GARDEN LANE – CITY COUNCIL RECONSIDERATION:** Motion by Pearson, seconded by Reid, to accept reconsideration of Rezoning Application #11-04 for

first reading and set a public hearing for September 11, 2012, at 7:30 p.m. or as soon thereafter as may be heard; and subsequent to the public hearing, consider approving Rezoning Application #11-04 and rezone 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service, with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential. Upon a roll call vote, motion carried 7 to 0.

CITY COUNCIL BEST PRACTICES ON FORMATION OF CITY COUNCIL

COMMITTEES AND RESPONSIBILITIES: Mayor Strazdas opened the discussion and asked City Council to begin reviewing the document and offering suggested changes. City Council reviewed the document one section at a time. Councilmember Pearson highlighted the statement “committee meetings must take place in City Hall” and suggested that it be changed to “committee meetings must take place in a public place, normally in Portage City Hall.” Councilmember Pearson then reviewed the rationale for his suggestion. Councilmember Sackley expressed concerns with holding meetings at a location other than City Hall and discussed how such a meeting could be arranged. City Attorney Brown opined that wherever a meeting is held it must be properly noticed. There was a question of accessibility and Attorney Brown stated that most public places should be accessible and that, if not a specific legal requirement, it should be taken into consideration and included. There was debate as to whether a meeting could or should be held in a “public place” or a “publicly owned place.” Mayor Pro Tem Reid and Councilmember Urban expressed support for holding committee meetings in City Hall. Councilmember Randall expressed support for committees being able to meet in publicly owned locations and that this flexibility would be a service to residents. Councilmember Campbell expressed support for holding meetings at locations other than City Hall.

Councilmember Pearson restated his suggestion by offering that “committee meetings must take place in a publicly owned location, fully ADA accessible, but normally Portage City Hall.” Discussion followed regarding transparency, the use of City Hall conference rooms, any potential confusion and how City Council and the public could be notified of meetings outside of City Hall.

Councilmember Sackley suggested that the language state something similar to “committee meetings must take place at City Hall unless otherwise approved by City Council.” Mayor Strazdas asked each Councilmember for their opinion on the topic and summarized that there is consensus that most every meeting would be in City Hall. However, Mayor Strazdas stated that one proposal offers more flexibility in meeting outside of City Hall and the other is more forceful in holding meetings at City Hall. Mayor Strazdas asked City Council to work toward a final consensus. Discussion followed on how both City Council and the public could be notified of a meeting outside of City Hall and what role City Council could or should have with approving such a meeting.

Councilmember Pearson provided an example of a situation in which a committee meeting might need to be held at a location other than City Hall. Mayor Pro Tem Reid highlighted the need for appropriate notice and how that might be achieved. Mayor Strazdas stated that his position is that a committee should not need permission from City Council to meet outside of City Hall but emphasized the importance of providing as much notice as possible. Discussion followed on the matter of ensuring the public is properly noticed of committee meetings especially if a meeting date and time should change.

City Attorney Brown pointed out that the policy under discussion was adopted at the last meeting but that eventually a motion will need to be made to alter the policy. Mr. Brown clarified what constitutes a “publicly owned building” and offered the following language for consideration by City Council: “committee meetings shall take place at City Hall except that a meeting may take place at a publicly owned location in the City after notice is given at a regularly scheduled City Council Meeting.” Discussion on the proposed motion followed. Councilmember Sackley inquired how City Council would be notified. Attorney Brown stated that it could be included as an agenda item or in the “Reminder of Meetings” but would not be subject to approval by City Council. Motion by Pearson, seconded by Sackley, to modify the language of the *City Council Best Practices on Formation of City Council Committees and Responsibilities* by replacing the language “committee meetings must take

place in City Hall” with “committee meetings shall take place at City Hall except that a meeting may take place at a publicly owned location in the City after notice is given at a regularly scheduled City Council Meeting.” Upon a voice vote, motion carried 7 to 0.

Mayor Strazdas asked City Council for their thoughts on other parts of the policy. Councilmember Randall expressed concern with the language “use of city staff” in the sentence “Committees will not be empowered to make final decisions on any governmental policy, nor any matter involving the expenditure of city funds, resources and/or the use of city staff.” She stated that city staff must be used to be able to provide committees with information they need to conduct their business. City Manager Evans stated that it is the duty of the City to provide committees with the staff they need to conduct their work. Mayor Strazdas stated that City Administration has gone on record that they would provide committees with the resources needed to conduct their business unless the request is too onerous and that, if the request is deemed onerous, would communicate this fact back to the committee. Councilmember Pearson suggested that the phrase “use of city staff” be replaced with “and/or the direction of city staff.” There was discussion on the definition of “use” and “direction.” Mayor Strazdas suggested the phrase “that city staff must provide reasonable resources” be worked into the policy. Attorney Brown pointed out that a committee of three councilmembers cannot direct City Administration to do anything unless empowered by City Council. After discussion, no change was made to the language as there was consensus that City Administration would provide committees with reasonable support.

Councilmember Pearson inquired of City Attorney Brown whether a committee was limited specifically to their charge because oftentimes unanticipated yet related issues come up. Attorney Brown said that it becomes a judgment call because related issues will always come up. He continued by stating that it would be too limiting for a committee to focus exclusively on a particular charge. Councilmember Sackley agreed and provided examples but suggested that whenever issues overlap it would make sense for the committee chairmen to come together to address the matter and, if necessary, to bring the matter back to City Council for resolution.

There was no other discussion on the *City Council Best Practices on Formation of City Council Committees and Responsibilities*. Mayor Strazdas thanked City Council for the discussion.

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

Portage Human Services Board of May 3, 2012.
Portage Environmental Board of June 13, 2012.
Portage Senior Citizens Advisory Board of June 20, 2012.
Portage Park Board of July 11, 2012.
Portage Youth Advisory Committee of July 16, 2012.
Portage Construction Board of Appeals Draft of July 30, 2012.

AD HOC COMMITTEE REPORT:

CITY MANAGER EVALUATION AND COMPENSATION COMMITTEE:

Councilmember Urban stated that this committee has had two meetings and that a recommendation on compensation would be forthcoming at the next City Council Meeting. He then shared the reasons why the recommendation is a little later than usual. Attorney Brown stated that reports of committees must be accepted by a motion. Councilmember Randall inquired if, under the *City Council Best Practices on Formation of City Council Committees and Responsibilities* policy, written notes must be taken from committee meetings and submitted to the City Clerk for inclusion in the agenda. Discussion followed. Attorney Brown stated that reports should only be given if notes are part of the agenda packet so therefore there is written communication. Mayor Strazdas thanked Attorney Brown and stated that, based on this, no report was given. Councilmember Urban withdrew his report. Councilmember Pearson shared that he recalled City Attorney Brown opining that if a committee held an initial meeting

and no decisions were made, an oral report would be acceptable. He expressed that it is good to know publicly that a committee had met. Attorney Brown stated that a report like the one just given would be acceptable except that notes of the meeting would need to be provided to the Office of the City Clerk for inclusion in the agenda. Councilmember Sackley, who is on the City Manager Evaluation and Compensation Committee, stated that information about their meeting would be included in the next City Council Agenda Packet in order to comply with the policy.

NEW BUSINESS:

CLOTHING DONATION BOXES: Councilmember Pearson raised the topic of the various large and colorful clothing/donation boxes that are appearing at numerous locations around Portage. He asked Councilmembers to comment on whether city staff should be asked to look at these boxes, not necessarily the charities behind them, as to whether they comply with city ordinances and, if so, whether some type of regulatory framework should be put in place. Councilmember Urban stated that when this issue was initially raised there was only one in Portage and now there are many more. He stated that he would like to see, not only the boxes, but the owners of the boxes investigated, especially those owned by for-profit companies. Mayor Strazdas stated his support and asked City Administration to provide a report on where these boxes are located, what ordinances may be applicable and, if this is happening elsewhere, are there any best practices that can be utilized. Mayor Pro Tem Reid asked, in addition to the three tasks raised by the Mayor, if the report could include information on what the traffic patterns around these boxes are from an access and safety standpoint.

Councilmember Sackley shared a conversation he had with a local non-profit about the matter. He also shared that he recently asked City Administration for research on this topic and that Administration indicated that the City is limited on what can be done to regulate the boxes. He stated that, from an ordinance standpoint, perhaps those operated by for-profit organizations or non-profit boxes that have advertising could be regulated as signs. He then discussed the various business relationships involved in placing the boxes on a property and expressed support in City Administration looking into this topic. Motion by Pearson, seconded by Randall, “that City Council have staff study multiple fundraiser donation boxes appearing on properties in Portage and report back to Council. The report will include existing box locations, applicable regulations, ordinances and traffic flow concerns and staff recommendations.” Councilmember Sackley asked that staff work with other governmental units on the topic. Upon a voice vote, motion carried 7 to 0.

BID TABULATIONS:

*** MAJOR STREET ASPHALT CRACK SEALING REPAIR – BID**

RECOMMENDATION: Motion by Pearson, seconded by Reid, to accept the low bid submitted by Interstate Sealant & Concrete of Waukesha, Wisconsin, in the amount of \$27,720 for select major street asphalt crack sealing repairs 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 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Elizabeth Chiaravalli, 412 Elm Street, Kalamazoo, stated that she would like to see City Council provide as much discussion and consideration on fracking as it provided to the topic of where City Council committees should meet or the presence of charitable donation boxes. She then implored City Council to conduct a study of fracking just as it proposed a study of the charitable donation boxes.

STATEMENTS OF CITY COUNCIL: Councilmember Urban reminded the community of the upcoming meeting of the Long Lake Governmental Lake Board. He stated that this meeting is to determine whether to continue forward with a weed management plan.

Mayor Strazdas asked City Manager Evans to review the plan for the vacancy on the Planning Commission during his closing comments. City Manager Evans stated that a report has been provided regarding a vacancy on the Planning Commission and whether City Council would like to hold a special meeting to make the appointment. Mayor Strazdas asked City Administration to advertise the vacancy and for Councilmembers to solicit applicants and that an interview time be determined at the meeting of August 28th. Councilmember Sackley emphasized the importance of attendance at the meetings of the boards and commissions. He asked that the importance of attendance be emphasized to the members of the Planning Commission. Mayor Strazdas stated that this has not been an on-going issue for the Planning Commission but that there was a recent incident in which there was not a quorum. He concluded by asking that an interview time be determined at the next City Council Meeting.

Mayor Pro Tem Reid informed the public that she had the honor of representing the Mayor and City Council at a recent Eagle Scout Court of Honor ceremony and expressed gratitude for being able to witness the leadership and dedication of the youth at the ceremony. She also announced that the Arts Council has selected the Public Media Network for recognition for their contribution to arts in the community.

Mayor Strazdas shared that he recently attended the Great Lakes Center for Autism and Research and that we are blessed to have such a world-class facility in Portage. He also shared that he recently attend an Eagle Scout Court of Honor for an individual who has struggled with autism and that he is proud to have such youth in the community.

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

Adam Herringa, Deputy City Clerk

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