

## CITY COUNCIL MEETING MINUTES FROM APRIL 28, 2009

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

Mayor Strazdas introduced Pastor Mike Drew of the First Reformed Church of Portage, who 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, Margaret E. O'Brien, Claudette S. Reid, Terry R. Urban, and Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Ted W. Vlieg 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 the National Children's Mental Health Awareness Day Proclamation, the Silver Star Banner Day Proclamation and the National Day of Prayer Proclamation.

**PETITITONS AND STATEMENTS OF CITIZENS:** Jim McKinney, 1425 Grand Avenue, Kalamazoo, as Communications Coordinator, invited the public to attend the Kalamazoo Valley 2009 CROP Hunger Walk, Sunday, May 3rd, 2009, and indicated that Registration begins at 1:00 p.m., the Walk starts at 2:00 p.m. at Bronson Park, Downtown Kalamazoo. He also indicated that a challenge grant has been received and any walker after 350 allows for a \$90 extra donation to be received and extra parking is available at the First Congregational Church, 129 South Park Street.

**APPROVAL OF MINUTES:** Motion by Sackley, seconded by O'Brien, to approve the April 14, 2009 Regular Meeting Minutes as presented and the April 21, 2009 Budget Work Session Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Councilmember Reid abstaining from the vote on the April 14, 2009 Regular Meeting Minutes.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda Motions as presented. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF CHECK REGISTER OF APRIL 28, 2009:** Motion by Urban, seconded by Reid, to approve the Check Register of April 28, 2009. Upon a roll call vote, motion carried 6 to 0.

### **PUBLIC HEARINGS:**

**LAKE BOARD FOR AUSTIN LAKE:** Mayor Strazdas opened the public hearing and City Manager Maurice Evans provided some background information on the Austin Lake Board by indicating that the City currently has a lake board at Austin Lake that was established under the Inland Lake Improvement Act on April 23, 1996. Mr. Evans pointed out that the Austin Lake Board voted to dissolve itself on July 26, 2001, but no action was ever taken by City Council, as required by State Law, so the Board still exists.

City Manager Evans reviewed the duties of the City Council with regards to governmental lake boards by indicating first, in accordance with Inland Lake Improvement Act, the City Council establishes a governmental lake board by motion or by petition of 2/3 of the freeholders owning lands abutting the lake; City Council appoints two (2) representatives of City Council to serve on the Board which is the only involvement by City Council regarding appointments to the Austin Lake Board; projects relative to a particular governmental lake board must be referred to the Board by City Council; and City Council is the governmental body that dissolves the governmental lake board when certain conditions are met: all outstanding indebtedness and expenses are paid in full; any excess funds are

refunded; that a determination is made that the lake board is no longer necessary for the improvement of the lake because the reasons for the establishment of the lake board no longer exist; and, formal approval of the dissolution of the lake board by City Council.

Mr. Evans advised City Council that if they wish to dissolve the Austin Lake Board, a resolution has been provided; if they do not wish to dissolve the Austin Lake Board, no action is necessary; and, if they wish to dissolve the Austin Lake Board and create a new one, a resolution to establish a lake board would have to be adopted. Mr. Evans recommended that a governmental lake board for Austin Lake be maintained, provided a rationale for his recommendation and explained. He then deferred to City Attorney Randy Brown for a legal perspective. Discussion followed.

City Attorney Brown explained and reiterated that under the Inland Lake Improvement Act, the City Council establishes a governmental lake board by motion or by petition of 2/3 of the freeholders owning lands abutting the lake and that it was up to the Lake Board to take the necessary steps to improve the lake or choose to void the project. Mr. Brown indicated that the membership consists of a member of the county board of commissioners appointed by the chairperson of the county board of commissioners of each county affected by the lake improvement project; two (2) representatives of City Council appointed by the City Council; the county drain commissioner or his or her designee; and a person selected to a term of four (4) years through an organization composed of and representing the majority of lakefront property owners on the affected lake (from a list of up to three (3) names to the governmental board from an organization composed of and representing the majority of lakefront property owners on the affected lake). He explained the powers of the governmental lake board; the process for creation of a governmental lake board, including the requirement that a licensed engineer be retained; the procedures for getting a project approved; and the requirements for holding public hearings, including publication of notices. He mentioned special assessments as a funding mechanism and reiterated the four (4) elements required for dissolution. Discussion followed.

In answer to Councilmember O'Brien, Mr. Brown stated that under the Inland Lake Improvement Act, that the law requires a motion and a resolution of City Council to dissolve a governmental lake board and that it also requires a motion and a resolution of the active lake board to dissolve the lake board. Mr. Brown indicated that in 2001, the Austin Lake Board moved to dissolve itself, but that is not enough for proper dissolution of the Austin Lake Board because the law also requires a motion and a resolution of City Council to dissolve the Austin Lake Board.

In answer to Councilmember Reid, Mr. Brown indicated that there is no problem having a "sitting" governmental lake board without a project and that there is nothing in the Inland Lake Improvement Act that requires that City Council dissolve a governmental lake board; rather, the City Council may choose to dissolve the lake board, or not.

In answer to Councilmember Urban, Mr. Brown indicated that the Inland Lake Improvement Act requires that a project come before City Council and City Council directs the governmental lake board, so the process is project-driven.

City Manager Evans cited Section 30908 of the Inland Lake Improvement Act and indicated that the lake board, when instructed by resolution of the local governing body, shall determine the scope of the project and shall establish a special assessment district, including within the special assessment district all parcels of land and local units which will be benefited by the improvement of the lake.

Mayor Pro Tem Sackley asked the City Attorney to explain that the notice for the public hearing was specific to the issue of maintaining or dissolving the governmental lake board and City Attorney Brown did so.

Councilmember O'Brien asked for the advantages of having a "sitting" lake board, and City Manager Evans indicated that it takes away one step in the process with the board in place with the thought being that the board would be versed on the law and on the requirements for a proposed project. City Attorney Brown pointed out that the question becomes one of having a board with nothing to do versus having to create a board when a project comes before City Council. Discussion followed regarding the timeframe required to create a governmental lake board and/or to process a project request.

City Attorney Brown expressed his opinion that the intent of the Inland Lake Improvement Act is to create another public body to handle lake issues. Discussion followed.

Mayor Pro Tem Sackley pointed out that the City Council could act on any petition submitted without going through a governmental lake board and City Attorney Brown concurred. At the request of Mayor Pro Tem Sackley, Mr. Brown analyzed lake board membership under the Inland Lake Improvement Act in more detail. Discussion followed and Mayor Strazdas opened the public hearing for public comment.

The following individuals expressed opposition to maintaining a governmental lake board at Austin Lake and discussion followed: John Crago, 9728 East Shore Drive; Vicki Locke, 2627 Romence Road; John Zull, 416 Barberry Avenue; Tim Wenzel, 3630 East Shore Drive; Joyce Poling, 10235 Woodlawn Drive; Jill Dudley, 9212 East Shore Drive; Don McCreery, 10319 Woodlawn Drive; Jim Pearson, 3004 East Shore Drive; Sharon Kuruoglu, 9220 East Shore Drive; and Jim DeHaan, 10107 Woodlawn Drive, via separate communication. John Crago also submitted a Recommended Proposal, "That the City of Portage will not form a Governmental Lake Board unless the request is accompanied with a petition signed by 2/3 of the lake property owners, or it becomes necessary to protect the environment or protect the public health, safety or welfare."

Also, City Clerk James Hudson received a petition in opposition to maintaining a governmental lake board at Austin Lake signed by Ken and Faith Akert, 9702 East Shore Drive; Jeff Daane, 9918 East Shore Drive; Andrew and Julie Lenczycki, 9833 Woodlawn Drive; Dave Stiemsma and Gail Tinker-Stiemsma, 9542 East Shore Drive; Jerry and Lori Mohny, 2812 East Shore Drive; Cathleen Dervan, 9644 East Shore Drive; and Kathy and James Kuk, 9714 East Shore Drive.

The following individual spoke in favor of a compromise regarding maintaining a governmental lake board at Austin Lake and discussion followed: Lynn Elliot, 9724 East Shore Drive.

The following individuals spoke in favor of maintaining a governmental lake board at Austin Lake and discussion followed: Don Mordas, 10505 Woodlawn Drive and Brian Johnson, 2215 Woody Noll Drive.

Motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 6 to 0. The following City Councilmembers spoke further regarding maintaining a governmental lake board at Austin Lake and discussion followed: Councilmembers O'Brien, Campbell and Reid, Mayor Pro Tem Sackley and Mayor Strazdas.

Motion by Sackley, seconded by O'Brien, to maintain a (governmental) Lake Board for Austin Lake. Upon a roll call vote, motion carried 6 to 0. Discussion followed.

**2009 UTILITY RATE FINANCIAL STUDY:** Mayor Strazdas opened the public hearing and Utilities Engineer Kendra Gwin, who explained that a comprehensive financial analysis of the utility rate model utilized by staff was again completed in preparation of the 2009 Utility Rate Financial Study and presented to the City Council Water and Sewer Rate Study Committee for review. Ms. Gwin indicated that the purpose of the public hearing was to review the recommendations of the Committee and provided an overview of the proceedings and an analysis of the increases. City Council thanked her for the updated pie chart as an easily understood representation of the water and sewer rate increases, the Kalamazoo Rate increase, the True Up Cost, and the other rates. Discussion followed.

Mayor Strazdas asked how Portage compares with other cities in the region and Ms. Gwin assured him that Portage rates are low for municipalities comparable in size and Mayor Strazdas thanked her for her report.

Mayor Strazdas opened the public hearing to the citizens. There being no further comment, motion by Reid, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by O'Brien, to adopt the 2009 sewer and water rate resolutions establishing sewer and water utility rates, sewer and water franchise area fees and service fees and

charges as outlined in the 2009 Utility Rate Financial Study and as recommended by the Administration and the City Council Water and Sewer Rate Study Committee. Upon a roll call vote, motion carried 6 to 0. Resolutions recorded on pages 295 and 299 of City of Portage Resolution Book No. 43.

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

\* **PUBLIC HEARING ON 2009-2010 BUDGET:** Motion by Urban, seconded by Reid, to adopt the resolution setting a public hearing for May 12, 2009, at 7:30 p.m. or as soon thereafter as may be heard, on the Fiscal Year 2009-2010 Proposed City Budget and the proposed 2009 tax levy as computed in accordance with Public Act 5 of 1982. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 303 of City of Portage Resolution Book No. 43.

\* **FINAL PLAN FOR GREAT LAKES PLASTIC & HAND SURGERY, 7971 MOORSBRIDGE ROAD:** Motion by Urban, seconded by Reid, to approve the Final Plan for Great Lakes Plastic & Hand Surgery, 7971 Moorsbridge Road. Upon a roll call vote, motion carried 6 to 0.

\* **STRENGTHS DISCOVERY TRAINING AND DEVELOPMENT:** Motion by Urban, seconded by Reid, to authorize the expenditure of an amount not to exceed \$20,000 for the presentation of the Strengths Discovery training and development program. Upon a roll call vote, motion carried 6 to 0.

\* **MARCH 2009 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the March 2009 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

\* **MONTHLY REPORTS:** Motion by Urban, seconded by Reid, 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 of the:

Portage Zoning Board of Appeals of March 9, 2009.

Portage Environmental Board of March 11, 2009.

Portage Construction Board of Appeals of March 16, 2009.

Portage Board of Education Regular of March 23, Special of March 30 and Policy Development of April 2, 2009.

Portage Human Services Board of April 2, 2009.

Portage Planning Commission of April 2, 2009.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of April 7, 2009.

#### **BID TABULATIONS:**

\* **PAVEMENT MARKING CONTRACT RENEWAL - RECOMMENDATION:** Motion by Urban, seconded by Reid, to award a one-year contract renewal to provide pavement marking services to Michigan Pavement Markings, LLC, of Wyoming, Michigan, in an amount not to exceed \$97,780 and authorize the City Manager to execute all documents related to this contract renewal. Upon a roll call vote, motion carried 6 to 0.

\* **COMPACTOR TRUCK RENTAL - CONTRACT RENEWAL RECOMMENDATION:** Motion by Urban, seconded by Reid, to approve a two-year contract renewal with Premier Truck Sales

& Rental, Incorporated, to provide four compactor trucks to be utilized for the Fall Leaf Pickup Program in the amount not to exceed \$33,000 per year for Fiscal Years 2010-2011 and 2011-2012 and authorize the City Manager to execute all documents related to this contract renewal on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITIZENS:** Mayor Strazdas referred the request from Seth Giem, 10234 East Shore Drive, to investigate trespass and congestion issues on Austin Lake in front of his home to the Administration for review.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember O'Brien announced that the Susan G. Komen Race for the Cure (of Breast Cancer) takes place 8:30 a.m., Saturday, May 16, 2009, at the Arcadia Creek Festival Place in downtown Kalamazoo.

Councilmembers Reid and Urban encouraged voters to vote for the Kalamazoo County Transportation Authority Public Transit Millage Issue at the Countywide Election, Tuesday, May 5, 2009.

City Manager Evans invited citizens to attend the City Council Budget Review Session, Tuesday, May 5, 2009, Conference Room No. 1, City Hall, beginning at 6 p.m.

Mayor Pro Tem Sackley thanked City Manager Maurice Evans and Utilities Engineer Kendra Gwin for providing a simplified graphic representation of the results of the 2009 Utility Rate Financial Study. He also mentioned that an article in *The Detroit Free Press* indicated that a person has not "been to Michigan" until he or she has visited Celery Flats, Portage.

Mayor Strazdas expressed his appreciation that area youth programs continue general American traditions in Portage, especially the Little League and soccer programs.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 10:16 p.m.

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James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.