

CITY COUNCIL MEETING MINUTES FROM JULY 28, 2009

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

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 Ted W. Vliek, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Sackley, seconded by Reid, to approve the July 14, 2009 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Mayor Strazdas and Councilmember O'Brien abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Mayor Pro Tem Sackley asked that Item F.2, City of Portage Industrial Tax Abatement Policy, be removed from the Consent Agenda. Councilmember Reid asked that Item F.1, Stryker Corporation Tax Abatement Application and Resolution to Set a Public Hearing, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda Motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF JULY 28, 2009:** Motion by Urban, seconded by Reid, to approve the Check Register of July 28, 2009. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

RESOLUTION TO SET PUBLIC HEARING ON STRYKER TAX ABATEMENT APPLICATION: Councilmember Reid commented that Public Act 198 as passed in 1974 addressed traditional manufacturing that included heavy duty equipment that lasted decades which is different from current day, advanced manufacturing with the pervasive use of computer components within the equipment and the manufacturing process. With that, she asked for more information regarding the equipment including, what is the useable life span of the computer hardware and software components within the equipment and the manufacturing process. Discussion followed. Motion by Vliek, seconded by O'Brien, to accept the application for an industrial tax abatement submitted by The Stryker Corporation for 6300 Sprinkle Road and to adopt Resolution No. 3-09 setting a public hearing on August 11, 2009, at 7:30 p.m. or as soon thereafter as may be heard, for the issuance of an Industrial Facilities Exemption Certificate for real and personal property improvements by The Stryker Corporation at 6300 Sprinkle Road in the amount of \$4.97 million. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 339 of City of Portage Resolution Book No. 43.

CITY OF PORTAGE INDUSTRIAL TAX ABATEMENT INCENTIVE POLICY: Mayor Pro Tem Sackley commented that he appreciated the basis for the recommendation from the City Manager, and indicated that the City Council adopted a policy, but has not followed the policy, but do use it as a starting point and cited the approval of the Eliason Corporation application as a recent example that was not consistent with the policy and The Stryker Corporation of 2006 as an exception that was justified because there were exceptional, different circumstances. He indicated that the Michigan State Legislature promulgated the law and the State Legislature should deal with this rather than pit communities against each other. He then expressed an interest in rescinding the policy since the policy was established to provide a guide and understanding to applicants from City Council as a policymaking body. He referred to Councilmember Reid's comments that Public Act 198 as passed in

1974 addressed traditional manufacturing that included heavy duty equipment that lasted decades, that it does not reward companies that are creating jobs in our community now, so it is not fair and looked forward to broadening the discussion. Finally, he queried whether the policy was the issue or should City Council proceed with all requests on an ala carte basis.

Mayor Strazdas expressed his frustration that Public Act 198 provides an advantage for only one sector of the economy, manufacturing, as an unfair advantage over other types of industries and invited comment from the City Administration.

City Manager Evans indicated that the Administration is recommending approval of a one-year modification to the policy language and allow 12-year abatement periods for applications considered by City Council between July 1, 2009, and June 30, 2010, as City Council has done in the past. He advocated this as an incentive during the current downturn in the economy in order to be competitive with other states. He then asked Community Development Director Jeffrey Erickson if he wished to provide input.

As Mr. Erickson approached, Mayor Strazdas recognized Councilmember O'Brien, who pointed out that the Administration has suggested a public hearing and final action at the Regular City Council Meeting, Tuesday, August 11, 2009; that she was not prepared to share her thoughts on this issue at this time; and, if this is approved, she recommended having a dialogue on a different night.

Discussion followed whether or not it is appropriate to address the policy and an application at the same time, and City Attorney Brown indicated that there was nothing illegal about it, although it may not be the best thing to do.

Mr. Erickson spoke in support of the comments made by City Manager Evans; that there are economic issues to be considered; that putting the matter before City Council as a policy is appropriate; and, the matter was reviewed in 2008 with information on both sides of the issue, including information from the Michigan Municipal League.

Mayor Pro Tem Sackley asked that City Council discuss the application and not the policy. Discussion followed regarding the negotiated discussion with Eliason Corporation, the application of City Council policy to the request and the ultimate 6-year abatement for real property improvements in the total amount of \$1.47 million and, if the applicant meets the requirements of the City of Portage Industrial Tax Abatement Incentive Policy as adopted by City Council April 29, 2008, in the fifth year of the abatement period, an additional three (3) years would be granted. Discussion followed regarding the current policy and the need to focus on the applicant at the public hearing.

Councilmember Urban clarified that the public hearing is on the application on August 11, 2009, but the expectation at this meeting is to make the decision on the policy recommendations by the Administration. He indicated that it would be inappropriate to consider the first option, to reaffirm the policy language and (emphasis added) approve The Stryker Corporation application for six years for the real property and three years for the personal property, per the policy, prior to the public hearing. He also explained that it would be inappropriate to consider the second option, to waive the policy language and approve a 12-year abatement period for this application as requested by The Stryker Corporation, as this action should be taken after the public hearing. With regard to the comment made by Mayor Pro Tem Sackley to rescind the policy, Mr. Urban indicated that the policy worked previously, with the exception of The Stryker Corporation as it was a unique situation and explained the reasons for his position. He then summarized the options: to reaffirm the policy language; to approve a one-year modification to the policy language and allow 12-year abatement periods for applications considered by City Council between July 1, 2009, and June 30, 2010; or, to rescind the policy. Finally, he expressed his skepticism regarding whether these tax abatements ever really influence the decision of the company and explained.

Mayor Strazdas concurred and asked City Attorney Brown whether the policy can be modified without public comment. Mr. Brown indicated that it is up to the City Council to determine the

appropriateness of modifying a policy without public comment. In answer to the legal question by Mayor Strazdas, Mr. Brown indicated that it is legal to modify the policy without public comment since it is on the agenda; the agenda has been posted; it is an open meeting; and, there is no requirement for advance notice on this issue as there is with a public hearing.

City Manager Evans reiterated his support for a modification of the policy for one year to provide extra strength when working with Southwest Michigan First in order to attract potential businesses to Portage.

Councilmember Reid concurred that it would be inappropriate to discuss the tax abatement policy at the same time City Council is considering an application since changing the policy would be the same as giving Stryker the full twelve years without public comment.

Councilmember O'Brien thanked Councilmember Urban for his clarification and expressed her concern for the conflict contained within discussion of the Stryker application as part of discussion of a tax abatement policy change and indicated that it is not fair to bring Stryker into the conversation about the tax abatement policy. Discussion followed.

Councilmember Urban advocated reaffirming the policy and Mayor Pro Tem Sackley advocated receipt of a Public Act 198 application with a tax abatement policy intact with no recommendation from the Administration for a modification of the policy. Mayor Strazdas asked for a motion.

Motion by Reid, seconded by Campbell, to receive the communication from the City Manager recommending that City Council consider a modification to the City of Portage Industrial Tax Abatement Incentive Policy for Fiscal Year 2009-10. Upon a roll call vote, motion carried 7 to 0.

* **LOCAL DEVELOPMENT FINANCE AUTHORITY APPOINTMENTS:** Motion by Urban, seconded by Reid, to adopt the Resolution to Appoint Members to the Local Development Finance Authority of the City of Portage. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 341 of City of Portage Resolution Book No. 43.

* **I-94 WIDENING – WEST CITY LIMITS TO EAST OF OAKLAND DRIVE:** Motion by Urban, seconded by Reid, to approve the amendment to the purchase order with the Michigan Department of Transportation in the additional amount of \$349,200 to provide adequate funding for the city share of early preliminary engineering and preliminary engineering costs for the widening and reconstruction of I-94 from the west city limits to east of Oakland Drive. Upon a roll call vote, motion carried 7 to 0.

* **STORM WATER RETENTION BASIN REHABILITATION – SPRINKLE WOODS PLAT:** Motion by Urban, seconded by Reid, to approve a change order for the rehabilitation of the Sprinkle Woods storm water retention basin with H&K Excavating in the not-to-exceed amount of \$28,640 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **COMPACTOR TRUCK AND OPERATOR RENTAL CONTRACT RENEWAL RECOMMENDATION:** Motion by Urban, seconded by Reid, to approve a one-year contract renewal with Republic Services of Michigan Hauling, LLC, dba Republic Waste Services of Western Michigan, to provide four compactor trucks with operators at an hourly rate of \$117.75 for the Fall Leaf Pickup Program in an amount not-to-exceed \$48,000 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 7 to 0.

* **CLOSED SESSION:** Motion by Urban, seconded by Reid, to go into closed session immediately following the regularly scheduled Council Meeting of Tuesday, July 28, 2009 to discuss a personnel matter. Upon a roll call vote, motion carried 7 to 0.

* **JUNE 2009 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the June 2009 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 7 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes of the:

Portage Board of Education Special and Regular of June 15, 2009.

Portage Senior Citizens Advisory Board of June 17, 2009.

Portage Zoning Board of Appeals of June 22, 2009.

BID TABULATIONS:

* **PRODUCTION OF PORTAGER NEWSLETTER – PAW PAW PRESS:** Motion by Urban, seconded by Reid, to award a one-year contract to Paw Paw Press in the not-to-exceed amount of \$44,079 for the production of the *Portager* newsletter with the option to renew the contract for an additional three years 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.

* **MANAGED PRINT SERVICES PROPOSAL:** Motion by Urban, seconded by Reid, to approve a one-year pilot program with Precision Printer Services, Incorporated, for the provision of printer supplies and services 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.

* **GENERAL PRINTING SERVICES CONTRACT – ALLEGRA:** Motion by Urban, seconded by Reid, to award a one-year contract to Allegra Print and Imaging of Portage for general printing services with the option to renew the contract for an additional three years and authorize the City Manager to execute all documents related to the this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember O'Brien recognized State Representative Larry DeShazor and thanked him for his efforts with the state budget.

City Manager Evans congratulated Deputy City Clerk Adam Herringa for obtaining Certified Municipal Clerk status, and Mayor Pro Tem Sackley congratulated Deputy City Clerk Herringa for graduating from Leadership Kalamazoo.

Mayor Pro Tem Sackley announced that the Austin Lake Board appointed Don Mordice, who is the Vice President of the Austin Lake Riparian Association, as the Riparian Representative to the Board, Elizabeth Campbell as Secretary and himself as Chairperson.

RECESS: 8:20 p.m.

RECONVENE: 9:04 p.m.

NEW BUSINESS:

CITY MANAGER EVALUATION: Mayor Strazdas indicated that City Council held a closed session to perform the annual performance review of City Manager Maurice Evans and deferred to the City Manager Salary Review/Evaluation Committee Chairperson, Councilmember Urban, who indicated that City Council is very pleased with the overall performance of Mr. Evans. Councilmember Urban read from the news release and reflected that according to City Council, Mr. Evans maximizes the value of city resources, both financial and human; that his relationship with City Council is one of mutual respect and professional courtesy; that his involvement in the community should be emulated by all; that his efforts to work with other municipalities on items of mutual interest and his interest in the recognition and development of city employees is appreciated; that he preformed admirably in managing the fiscal challenges of the state and national recession; that under his leadership, the City of Portage continues to be positioned as well as it can be in the current economy to continue to provide essential services and a high level of customer satisfaction. Councilmember Urban stated that Mr. Evans again achieved a level of excellence that exceeds expectations and he indicated that in normal economic times he would be given a pay raise and a meritorious bonus. However, with the uncertainty of future funding and other budgetary constraints, City Council and Mr. Evans agree that this year the city is unable to increase his compensation, which is in line with some of the actions he has had to take with the rest of city staff.

Councilmember Urban and each City Councilmember expressed his or her personal appreciation to Mr. Evans for a job well done. They expressed their gratitude for his graciousness during the process, making a difficult process very easy and for his good skills, good sense and for being a good manager of people, as well as his proactive leadership and fiduciary responsibility in these tough financial times. They praised him for encouraging excellent customer service and communication from his employees and for constantly being a model for excellent customer service and communication himself.

City Manager Evans thanked City Council for their kind and encouraging words; that money does not drive him as a human being; that Portage is a great community in a great part of the state; that working with this City Council is a treat; that he appreciates the City Council as a respectful, caring body who cares for the people of this community; that the excellent customer service is the result of hard work day in and day out; that he is fortunate to be able to work with great people throughout the organization; that the financial condition is the result of the work of a lot of people; and that he constantly prays for City Council and for the community as a whole, and will continue to do so.

Councilmember Vliek recognized Shirley Johnson for her outstanding leadership on the Portage Board of Education as Vice Chair for two years and Chair for two years during some difficult times.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:21 p.m.

James R. Hudson, City Clerk