

CITY COUNCIL MEETING MINUTES FROM SEPTEMBER 8, 2009

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

Mayor Strazdas introduced Mr. Matt Owen, member of the First Baptist Church of Portage, who gave the invocation and the 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, Claudette S. Reid, Terry R. Urban and Ted W. Vliek, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Margaret E. O'Brien was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

PROCLAMATIONS: Mayor Strazdas issued a "Lest We Forget Our Vets" Proclamation and a Suicide Prevention Week Proclamation.

APPROVAL OF MINUTES: Motion by Urban, seconded by Reid, to approve the August 25, 2009 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Councilmember Urban asked that Item F.2, Extension of Audit Contract with BDO Seidman, be removed from the Consent Agenda. Motion by Vliek, seconded by Sackley, to approve the Consent Agenda Motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF CHECK REGISTER OF SEPTEMBER 8, 2009:** Motion by Vliek, seconded by Sackley, to approve the Check Register of September 8, 2009. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Shirley Cosgrove, 5548 Roanoke, and Thomas Mann, 5539 Roanoke Drive, issued a complaint that teenagers on their street were engaging in harassment, curfew violations and bullying at all hours of the night with no parental involvement. Mayor Strazdas referred the matter to the City Administration for a review of the alternatives available to try to abate the situation. Discussion followed.

REPORTS FROM THE ADMINISTRATION:

* **WEST MILHAM AVENUE SANITARY SEWER PROJECT #413-S:** Motion by Vliek, seconded by Sackley, to adopt Resolution No. 2 for the West Milham Avenue Sanitary Sewer Project #413-S, setting a public hearing of necessity on September 22, 2009. Upon a roll call vote, motion carried 6 to 0.

EXTENSION OF AUDIT CONTRACT WITH BDO SEIDMAN: Councilmember Urban expressed a concern that since the City has used BDO Seidman since 1988, the city should open this contract up for bid as a "fresh set of eyes" would find things possibly not considered in the current arrangement. Councilmember Urban made assurances that he did not doubt the judgment of the City Administration, nor the integrity or results of BDO Seidman. For future discussion, he asked if the city seeks proposals, can the City Council reject a bid on the basis that it is the previous auditor and there is an interest in change in order to have someone other than the previous auditor do the work, based on the nature of the work, and cited the language that appears on all bid proposals that the city reserves the right to reject any proposal. Motion by Urban, seconded by Campbell, to extend the audit contract with BDO Seidman for a period of one year at a cost not to exceed \$23,750 for Fiscal Year ending June 30,

2010. Discussion followed regarding the question posed by Councilmember Urban. Mayor Strazdas directed the Administration to review the proposal process with regard to this contract for next year. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

* **COMPUTER REPLACEMENT:** Motion by Vliek, seconded by Sackley, to approve the lease of 72 Hewlett Packard replacement computers from Capital Advantage Leasing of Grand Rapids, Michigan, at a lease price of \$66,574.20 and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 6 to 0.

* **ANNUAL SERVICE MAINTENANCE AND LICENSING FOR COMPUTER NETWORK SERVICES:** Motion by Vliek, seconded by Sackley, to approve the annual Novell Server maintenance and software licensing fees of \$18,252 and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 6 to 0.

* **CONTRACT EXTENSION - QUADRANT II MARKETING:** Motion by Vliek, seconded by Sackley, to approve a one-year contract extension with Quadrant II Marketing to provide advertising sales and publication preparation of the Portage Senior Center newsletter at a cost not to exceed \$14,000 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 6 to 0.

* **RECOMMENDED BUDGET AMENDMENTS – END OF FISCAL YEAR HOUSEKEEPING:** Motion by Vliek, seconded by Sackley, to amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2010. Upon a roll call vote, motion carried 6 to 0.

* **2009 CITY COUNCIL GOAL SETTING SESSION:** Motion by Vliek, seconded by Sackley, to establish December 11 and 12 as the dates of the 2009 City Council Goal Setting Session. Upon a roll call vote, motion carried 6 to 0.

* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Vliek, seconded by Sackley, to set a Special Meeting on Tuesday, October 6, 2009, beginning at 5:15 p.m. to interview board and commission applicants. Upon a roll call vote, motion carried 6 to 0.

NOTE: Mayor Strazdas introduced Item G.1, Communication from the Austin Lake Riparian Association, and City Clerk James Hudson ask that a recess be considered to correct an audio distortion issue and City Council agreed.

RECESS: 8:07 p.m.

RECONVENE: 8:13 p.m.

COMMUNICATION:

AUSTIN LAKE RIPARIAN ASSOCIATION PRESIDENT KIRK WOLF: City Manager Maurice Evans provided an overview of the events leading up to the communication from Austin Lake Riparian Association President Kirk Wolf wherein he indicated that the Austin Lake Riparian Association Board wanted the Austin Lake Board to be allowed to investigate lake muck remediation through the use of aeration in the south bay. Mr. Evans referred to the petition circulated in December of 2008 that was submitted to City Council on January 13, 2009, via the City Administration, and that City Council acted on the Petition on January 27, 2009. He also indicated that Mr. Jim Pearson indicated that he worked with staff, that more work needed to be done, and that Mr. Pearson, for all intents and purposes, withdrew the Petition at that time and City Council rejected the petition on January 27, 2009.

John Crago, 9728 East Shore Drive, Kirk Wolf, 3053 Woodhams Avenue, Jim Pearson, 3004 East Shore Drive, and Larry Pio, 2409 Woody Noll Drive, spoke in favor of the Austin Lake Board being allowed to investigate lake muck remediation through the use of aeration in the south bay. Mr. Wolf indicated that they circulated petition, got support, established that the Austin Lake Board was still in existence and asked that the matter be referred to Austin Lake Board to investigate potential muck reduction and get a project cost.

Mayor Pro Tem Sackley indicated that it goes to the Austin Lake Board and does not come back to City Council. Mr. Wolf indicated that he understood and was anticipating a transparent process.

Mr. Pearson asked that City Council accept the communication from Austin Lake Riparian Association President Kirk Wolf and forward it to the Austin Lake Board and that he understands that it will be that body that would investigate potential muck reduction and get a project cost. City Manager Evans and City Attorney Brown agreed. Discussion followed. Mayor Pro Tem Sackley reviewed some of the recent activities of the Austin Lake Board.

John Crago indicated he never had negative comments with regard to aeration, only the existence of the Austin Lake Board. Jim Pearson proposed that the option of a differential assessment has been received favorably by lake property owners.

City Attorney Brown indicated that, when he provided other lake board situations where differential assessments took place, he did not indicate the legality of differential assessments, but did indicate there were problems with a differential assessment approach, and that it would not be a matter for the City Council to decide. Discussion followed.

Mayor Strazdas asked whether everyone on the lake has been mailed a notice of the decision of the Austin Lake Riparian Association Board. Mr. Wolf explained the due diligence performed by the Austin Lake Riparian Association Board to inform everyone. Discussion followed.

Councilmember Reid asked whether information sessions regarding the levy were held with the rest of the lake beyond the south bay residents and, when the Austin Lake Riparian Association Board looked at this issue, did it consider all of the lake residents or just the south bay residents.

Mr. Wolf answered that the project would include all of the lake residents. Mr. Pearson indicated that the Austin Lake Riparian Association Board did not circulate a petition to all of the 440 lake homes, but took this action on the basis of the petition filed in December of 2008. When Councilmember Reid asked about the technical information that Mr. Pearson said he needed to review at the January 27, 2009 City Council Meeting, Mr. Pearson explained that the information was technical and that he obtained what he needed.

Mayor Strazdas asked City Attorney Brown about the formulation and scope of the motion. Mr. Brown indicated that action has to be by written resolution prepared to incorporate the motion; that the statute reads that when City Council considers it expedient, it shall direct the Austin Lake Board to institute proceedings, but the Austin Lake Board determines the scope of the project and all other matters regarding the project. Mr. Brown noted that in the past, the resolutions were very general and opined that City Council should not be terribly specific, but could mention what City Council would like to see in a project, but the Austin Lake Board would not be held to that.

Mayor Strazdas summarized that the letter from the Austin Lake Riparian Association Board focuses on two specific things, lake muck remediation through aeration and only within the south bay. Mr. Wolf and Mr. Pearson agreed. Discussion followed regarding the past practice of the formulation and proposal of a Resolution and the formulation of the Resolution for this matter. Discussion followed.

Using a past Resolution provided by Mr. Brown, motion by Urban, seconded by Campbell, to accept the communication from the Austin Lake Riparian Association requesting that City Council refer the aeration concept request to the Austin Lake Governmental Lake Board for consideration, and whereas Austin Lake is a public inland lake as defined by the Inland Lake Improvement Act of 2004, as amended, and whereas the Austin Lake Riparian Association Board has represented to City Council that restoration of Austin Lake is desired, and whereas it has been represented that the goal is the reduction of muck in the south bay area by aeration, and whereas that said project would likely maintain the quality and usefulness of Austin Lake by residents and preserve its longevity as a valuable asset to the

City of Portage, and whereas the city on its own motion under section 3 of the act and pursuant to the request made by the Austin Lake Riparian Board desires to improve Austin Lake for the protection of the health, safety and welfare and conservation of natural resources of the city and preserve property values around the lake, I move that it be resolved under section 3 of the act that the City Council hereby refers this project to the Austin Lake Governmental Lake Board.

Discussion followed regarding the difference between restoration and remediation and, with the consent of Councilmember Campbell, Councilmember Urban indicated that the word “restoration” in the language of his motion, “whereas the Austin Lake Riparian Association Board has represented to City Council that restoration of Austin Lake is desired” be changed to “remediation.” Discussion followed. With the consent of Councilmember Campbell, Councilmember Urban withdrew the motion. Discussion followed.

Motion by Urban, seconded by Vliek, to receive the communication from the Austin Lake Riparian Association and direct the City Administration to prepare a Resolution consistent with the Austin Lake Riparian Association Board of Directors request to refer the aeration concept request to the Austin Lake Governmental Lake Board for consideration. Discussion followed. Mayor Strazdas asked the representatives of the Austin Lake Riparian Association to provide a contact representative for City Administration. Upon a roll call vote, motion carried 6 to 0.

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

Portage Board of Education Policy Development of July 15 and August 7, 2009.

Portage Park Board of August 5, 2009.

Portage Planning Commission of August 6, 2009.

BID TABULATIONS:

* **ICE CONTROL SALT PURCHASE:** Motion by Vliek, seconded by Sackley, to approve the purchase of deicing salt from North American Salt Company for an early release of 3,000 tons of salt at \$59.78 per ton for a total cost not to exceed \$179,340, and 1,050 tons of salt for seasonal backup on an as-needed basis at \$61.28 per ton for a total cost not to exceed \$64,344 and authorize the City Manager to execute all documents related to these purchases. Upon a roll call vote, motion carried 6 to 0.

* **2009 SECTIONAL TREE PRUNING:** Motion by Vliek, seconded by Sackley, to approve the low bid submitted by Procare Tree Service for sectional tree pruning in the amount of \$14,905 and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: James Pearson, 3004 East Shore Drive, announced his candidacy for election to City Council in the General City Election, November 3, 2009.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Campbell invited all to attend the pre-game football dinner sponsored by Portage Rotary at the Portage Northern/Portage Central Football Game, Friday, September 11, 2009.

Councilmember Reid informed citizens of the low cost health insurance on line at *michigan.gov* that is available for children known as My Health for \$10 per month and Healthy Kids through Medicaid. She also announced that an application can be obtained online at *kzoofootchase.com* for the Kazoo Area Foot Chase, scheduled for Saturday, September 12, 2009, with registration and check-in at 7:00 a.m. – 8:30 a.m., Race at 9:00 a.m., Celery Flats, 7335 Garden Lane east of South

Westnedge Avenue, to benefit MI-COPS, a non-profit organization that aids the survivors of Michigan police officers who have lost their lives in the line of duty. Finally, she announced her candidacy for re-election to City Council in the General City Election, November 3, 2009.

Councilmember Vlieg indicated that he was impressed with the 12th Street Elementary School and the quality of the construction on Centre Avenue.

Mayor Pro Tem Sackley concurred with the quality of Centre Avenue, wished Councilmember O'Brien well, and indicated that former State Representative Lorence Wenke and a committee of volunteers are holding a 9/11 Commemoration, Friday, September 11, 2009, from 2:00 P.m. to 6:00 p.m., Bronson Park, 200 West South Street, Kalamazoo, that will include speakers, music, and an opportunity for remembrance.

Mayor Strazdas also wished Councilmember O'Brien good health and commended her for her involvement in the Soccer Tournament last weekend and her son's victory. He also wished good health for everyone in the community, a healthy school year and healthy choices, especially with drugs, alcohol and cell phone text-messaging and use while driving.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:07 p.m.

James R. Hudson, City Clerk