

CITY COUNCIL MEETING MINUTES FROM NOVEMBER 3, 2009

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

Mayor Strazdas introduced Minister Michael O'Berski of the Oakland Drive Christian 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, 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 O'Brien, seconded by Campbell, to approve the October 20, 2009 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Mayor Pro Tem Sackley abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Vliek to read the Consent Agenda. Councilmember Urban asked that item H.1, City Ordinance amendment – Chapter 78, be removed from the Consent Agenda. Mayor Pro Tem Sackley asked that Item J.1, City Council Assessment Issues Task Force, be removed from the Consent Agenda, as it was read into consent. Motion by Vliek, 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 NOVEMBER 3, 2009:** Motion by Vliek, seconded by Reid, to approve the Check Register of November 3, 2009. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARING:

WEST MILHAM AVENUE SANITARY SEWER PROJECT #413-S: Mayor Strazdas opened the public hearing and introduced City Engineer Chris Barnes, who indicated that the public hearing was continued from October 20, 2009, to confirm the Special Assessment Roll for the West Milham Avenue Sanitary Sewer Project #413-S. He provided an overview of the project on Milham Avenue from Angling Road to US 131, reviewed the benefits and the costs of the overall project to the citizens. He discussed the project costs, the special assessment shares, the city at large shares and the rates used for each property owner and the city at large, and indicated that the revised Special Assessment Resolution No. 5 as prepared by the City Attorney reflects all changes. Discussion followed.

Based on the hardship letter from Mary Ann Redmond, 3922 West Milham Avenue, Councilmember O'Brien asked that the City Manager respond and help her with the process, and Mr. Barnes indicated that what she was requesting could be satisfied through the deferment process with age and income requirements through the State of Michigan and explained. He indicated that the State pays the assessment which is reimbursed by the purchaser when the property is sold.

In answer to Councilmember Vliek, Mr. Barnes indicated that the property owner (who meets the age and income requirements) can defer the cost of connection, but must abandon the existing septic system.

In answer to the concerns of Mayor Pro Tem Sackley regarding the rate of interest attached to the 20 year installment plan on the property owing to the project and how it is assessed for the purchaser, Transportation & Utilities Director Dallas Williams said that there is no obligation for a property owner to pay in 20-year installments, that the purchaser can pay a lump sum or pay it off at any

time, and the rate is determined to be 1% of what the bonds are sold at. City Attorney Randy Brown indicated that by city ordinance, the interest rate after the granting of the deferment would be the same as it is now.

Mayor Strazdas opened the public hearing for comment from the public. There being no comment, motion by Sackley, seconded by Urban, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Motion by Sackley, seconded by O'Brien, to receive the letter in opposition from Mary Ann Redmond, 3922 West Milham Avenue, and adopt Resolution No. 5 confirming the Special Assessment Roll for the West Milham Avenue Sanitary Sewer Project #413-S. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 385 of City of Portage Resolution Book No. 43.

PETITIONS AND STATEMENTS OF CITIZENS: Former Mayor Betty Lee Ongley. 8620 Tozer Court, promoted the Kalamazoo River Valley Trail for use by bicycle enthusiasts and families now and in the future and asked for public endorsements and support. Discussion followed.

REPORTS FROM THE ADMINISTRATION:

* **CITY MANAGER RESPONSES TO ASSESSING-RELATED QUESTIONS:** Motion by Vliek, seconded by Reid, to receive the communication from the City Manager regarding responses to assessing-related questions as information only. Upon a roll call vote, motion carried 7 to 0.

* **FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET:** Motion by Vliek, seconded by Reid, to amend the Fiscal Year 2009-2010 Capital Improvement Program Budget to advance construction and signalization of the East Centre/Currier Drive/Mustang Boulevard intersection to Fiscal Year 2009-2010. Upon a roll call vote, motion carried 7 to 0.

* **CLOSED SESSION:** Motion by Vliek, seconded by Reid, to hold a closed session immediately following the regularly scheduled City Council Meeting of Tuesday, November 3, 2009, to discuss three attorney/client communications and pending litigation. Upon a roll call vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

CITY ORDINANCE AMENDMENT – CHAPTER 78: Councilmember Urban spoke in opposition to the ordinance amendment as presented as it is unduly restrictive and distinguished paragraph (c) based on his own experience with trailers and the necessity for more time than an hour to perform basic tasks associated with unattached trailers. Discussion followed.

City Attorney Brown informed City Council that Assistant Attorney Charlie Bear was present and worked with the City Administration on this ordinance based on issues presented to them from the Administration. Mayor Strazdas recognized Mr. Bear, who explained that the one-hour restriction is reasonable based upon the amount of time it usually takes to unload the trailer and perform the basic tasks associated with an unattached trailer, and pointed out that, on a case by case basis, a resident can go to the police for permission to take longer than one hour. Discussion followed with Councilmembers Vliek, O'Brien and Reid weighing in their concerns for the many varieties of trailers that would be covered by the ordinance and offered alternative lengths of time options. Discussion followed.

In answer to Mayor Strazdas, Mr. Brown indicated that the Administration brought the matter to the City Attorney's Office, and it is recognized as a public safety issue more than an issue of blight.

Mayor Strazdas recognized Deputy City Manager Brian Bowling, who indicated that there is a current city ordinance regarding movement of trailers and discussed the difficulty involved in trying to enforce the relocation of trailers on the street. He indicated that the intent was to give the police more authority because of the increase in the number of trailers being parked in the right-of-way. Discussion

followed regarding the current ordinance allowing parking for 48 hours and the proposed ordinance allowing only one hour. Mayor Strazdas summarized the discussion and indicated that the City Manager and the City Attorney have enough direction to rework the ordinance and consider the issue of being over burdensome for the trailer owner versus the public safety issue, and asked that further input from City Council be directed to the City Manager. Discussion followed.

Motion by Urban, seconded by Vliek, to not amend the Code of Ordinances of the City of Portage by amending Article 1, of Chapter 78, Section 2, Traffic and Vehicle Regulations, Parking. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Mayor Strazdas thanked City Administration for attempting to solve the problem and thanked City Council for their consideration of the matter.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes of the Portage Board of Education Special and Regular of September 28 and Committee of the Whole Work Session of October 12, 2009.

AD HOC COMMITTEE:

CITY COUNCIL ASSESSMENT ISSUES TASK FORCE: Mayor Strazdas summarized the approach used thus far for the review of city assessing practices and to address any issues that have arisen regarding this matter. He disclosed that the members of the Assessment Issues Task Force Ad Hoc Committee are Councilmembers O'Brien and Reid and himself. He outlined the categories addressed by the Committee and asked Councilmember Reid and O'Brien to alternately summarize the key points of the discussion of the Ad Hoc Committee of October 27, 2009.

Councilmember Reid explained the Ad Hoc Committee discussion of the following categories in more detail: System Audit by Outside Parties, Education and Property Reassessments. Councilmember O'Brien explained the Ad Hoc Committee discussion of the following categories in more detail: Customer Services and Best Assessing Practices. Mayor Strazdas thanked the Committee for their efforts, explained the approach used by the Committee and asked for additions or deletions from City Council within the twenty-three recommended actions. Discussion followed.

City Council reviewed and clarified some of the twenty-three recommendations and began sorting out those categories that are the responsibility of the City Manager and those categories that are the responsibility of the City Council. City Council determined that the System Audit by Outside Parties and Property Reassessments categories were the responsibility of City Council. City Council also determined that Education, Customer Services and Best Assessing Practices were the responsibility of the City Manager. Discussion followed.

Mayor Pro Tem Sackley offered additions to the twenty-three points of consideration in the form of a memorandum from Councilmember Reid and himself to Mayor Strazdas and City Manager Evans dated November 3, 2009. He advocated a review of the City of Portage FOIA Policy for all departments by the City of Attorney; the formation of a City Council Subcommittee on Customer Service to work with an outside contractor to monitor, assess and report back on the service rendered by city employees and the effectiveness of existing and ongoing customer service programs; the development of an explicit policy for consultation with the City Council on legal matters be added to the agenda for the retreat; and, that the City Attorney and the Administration prepare for full discussion of this topic. Discussion followed.

Councilmember Urban indicated that the yellow legal tax notice to the taxpayer from the city can be used as an educational opportunity, so he asked that the form be reviewed and expanded to educate citizens regarding tax and Board of Review matters. Further discussion followed regarding the five categories as presented, the additions proposed by Mayor Pro Tem Sackley and Councilmember Reid in the memorandum dated November 3, 2009, and the importance of cost effectiveness of action on any of the proposed twenty-seven measures. Mayor Strazdas summed up and asked for City Council to provide their priorities and recommendations. Discussion followed.

Councilmember O'Brien offered to separate those action items that are the responsibility of the Administration and should be brought back to City Council for review and those items that are the responsibility of the City Council. She restated that Education, Customer Services and Best Assessing Practices require action by the City Administration with a report back to City Council, and that City Council is responsible for the categories of: System Audit by Outside Parties, Property Reassessments, Review of the City of Portage FOIA Policy, City Council Subcommittee on Customer Service and adding items to the agenda for the retreat. Mayor Strazdas provided a summary of the approach as outlined by Councilmember O'Brien and asked for City Council to consider formulating a motion.

Motion by O'Brien, seconded by Sackley, to request a 14-point review by the Michigan State Tax Commission and authorize the City Manager and/or the Mayor to handle all communications or contracts that are necessary. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

Motion by Sackley, seconded by Reid, to direct the City Attorney to conduct an independent review utilizing a date range and sample size deemed to be fully representative by the Attorney of all Freedom of Information Act (FOIA) records and report back to the Mayor and Council with the answer to the question: Were all requests received and processed by city departments under the guise of FOIA required by the law to be processed as such? In addition, were all reviewed FOIA requests processed within the other guidelines of Michigan Law? City Attorney Brown advised City Council that there is nothing in the Freedom of Information Act that requires the City to process an information request under the Act. The city can indicate that the city will give everything, but requests are processed to allow the City Attorney time to review them. Discussion followed. Mr. Brown suggested that the policy should delineate which requests should be required under FOIA and which should not. Discussion followed.

Mayor Pro Tem Sackley offered an amended motion that was seconded by Councilmember Reid, to direct the City Attorney to conduct an independent review utilizing a date range and sample size deemed to be fully representative by the Attorney of all FOIA records and report back to the Mayor and Council with the answer to the question: Were any requests received and processed under FOIA permitted under the law. Upon a roll call vote, motion carried 7 to 0.

Councilmember Campbell requested that the creation of an ad hoc City Council subcommittee on customer service charged with monitoring and investigating customer service by the City Administration and staff be considered at the City Council retreat. Discussion followed. Mayor Pro Tem Sackley asked that the City Council make a commitment at this time to have an outside, independent process with regard to Customer Service. Discussion followed.

Councilmember O'Brien asked for consideration of the new City Council that will be seated at the next City Council meeting. Discussion followed.

Motion by Urban, seconded by Reid, to ask the Mayor to consider creating an ad hoc City Council subcommittee on customer service charged with monitoring and investigating customer service by the City Administration and staff. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed.

NEW BUSINESS:

FREEDOM OF INFORMATION ACT APPEAL: Motion by Urban, seconded by Vliek, to deny the appeal from Terry Day regarding the request for Portage Police Department Records Case #06-1947 pursuant to the Freedom of Information Act. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

* **UNREGULATED CONTAMINANTS MONITORING REGULATION 2 – WATER SAMPLE TESTING:** Motion by Vliek, seconded by Reid, to approve a contract with Northern Lake Service for the Unregulated Contaminants Monitoring Regulation 2 Water Sample Testing in the not-to-exceed amount of \$26,568 and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **BID RECOMMENDATION - 2010 PORTAGE SENIOR CENTER BUS TRIPS:** Motion by Vliek, seconded by Reid, to approve the low bid from Gail Andrus Travel, LLC, for motor coach services for the 2010 Portage Senior Center travel program in the amount of \$12,691.50 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.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 11:21 p.m.

James R. Hudson, City Clerk

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