

CITY COUNCIL MEETING MINUTES FROM FEBRUARY 10, 2015

The Regular Meeting was called to order by Mayor Pro Tem Pearson at 7:30 p.m.

At the request of Mayor Pro Tem Pearson, Pastor Steve Nichols of Berean Baptist Church of Portage 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 Nasim Ansari, Richard Ford, Patricia M. Randall, Claudette Reid and Terry Urban, and Mayor Pro Tem Jim Pearson. Mayor Peter Strazdas was absent with notice. Also in attendance were City Manager Laurence Shaffer, City Attorney Randy Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Urban, seconded by Ford, to approve the January 20, 2015 Committee of the Whole and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Pro Tem Pearson asked Councilmember Randall to read the Consent Agenda. Councilmember Urban asked that Item F.4, February 24, 2015 Committee of the Whole (COW) Meeting, 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 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF FEBRUARY 10, 2015:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of February 10, 2015. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARINGS:

WEST OSTERHOUT AVENUE SANITARY SEWER PROJECT #414-S (LLOY STREET TO SOUTH WESTNEDGE AVENUE): Mayor Pro Tem Pearson opened the public hearing and introduced Transportation & Utilities Director Chris Barnes, who explained that the purpose of the hearing was to consider confirmation of the Assessment Roll as outlined in Resolution No. 5 for the sanitary sewer project on West Osterhout Avenue, from Lloy Street to South Westnedge Avenue.

He provided a description of some of the specifications of the proposed sanitary sewer installation along West Osterhout Avenue and an outline of the process to this point. He reminded City Council that installation of sanitary sewers is a prerequisite of the reconstruction of the street and explained. Mr. Barnes explained the importance of the sewer construction to the ground water in the area which is the supply source for public drinking water as service will be provided to the fourteen properties involved. He provided other details of the project, including the costs.

He explained the assessments to property owners are based on the City Council Policy of a cap of 80 feet, even though most of the properties exceed 80 feet in frontage and includes the installation of a sanitary sewer lead.

He indicated that the standard special assessment rate is \$32.09 per foot and \$1,001 for a six inch lateral as designed for this project. He said the affected property owners were recently notified of the planned improvements, including the special assessment process and the schedule of payments. If approved by City Council, he indicated that the sanitary sewer project would begin in the summer of 2015 in conjunction with the street reconstruction program. Mayor Pro Tem Pearson asked for discussion and opened the public hearing to the audience.

Dave Hoeksema, 443 West Osterhout Avenue, thanked City Council for keeping the City in such good shape. He objected to the Special Assessment as this is a City-initiated project and asked why he should have to pay for it because he does not see a benefit to him from the project. He said he lives on eight acres of property and is 400 feet from the roadway, and indicated that he probably will

never hook up. He also advocated an Extension District which would require payment of the fees when the property owner does hook up, and the City would recoup the funds at that time. He indicated that five out of the fourteen of the properties involved are over 200 feet from the roadway and conjectured that none of them will ever hook up.

Mayor Pro Tem Pearson asked Mr. Barnes to explain why this project is considered City-initiated; why not create an Extension District; and, how will this project benefit Mr. Hoeksema's property?

Mr. Barnes explained that sanitary sewer and public water service is part of the overall road project. He said that extending sanitary sewer and public water to those areas of the City that do not have service has been a City Council objective for (at least) seventeen years. He noted that this project has moved forward each year in the Capital Improvement Program (CIP) Budget to be constructed jointly with the road project.

Next, Mr. Barnes indicated that an Extension District is typically used for property owners who do not want sanitary sewer and public water service, but are in between two sets of property owners who would like sanitary sewer and public water service; also, he indicated that even though the property was not assessed, the property owner may have to connect to the sanitary sewer in eighteen months because of the mandatory sewer ordinance (and pay at that time). He explained that funding for a project such as this requires the sale of bonds and a match of city share bonds, and the Special Assessment Districts have to be covered by the city at-large, or the utility; moreover, since there are no sale of Special Assessment Bonds, that does change the financing of the project.

Finally, Mr. Barnes explained that even though the sanitary sewer is 400 feet from the property owner's dwelling, there is benefit to the property as it will always be there should there ever be a need or desire for service.

In answer to Councilmember Randall, Mr. Barnes explained that there are 80 feet of chargeable frontage per residential lot at \$32.09 per foot, or a maximum charge of \$2,567.20, and the \$1,001 figure is for the sanitary sewer lead. Mr. Barnes explained that the cost of the 400 feet of pipe from the house to the lead varies depending upon the terrain, the driveway and make-up of the property and is the responsibility of the property owner.

In answer to Councilmember Ansari, he mentioned that affected property owners would not have to connect to the sanitary sewer until the Kalamazoo County Public Health Department determined a septic system was not feasible, and restated that there is benefit to the property as the sanitary sewer will always be there should there ever be a need or desire for service.

Rick Griffioen, 325 West Osterhout Avenue, objected to the Special Assessment as he does not see a benefit to him from the project, especially considering a cost of nearly \$7,000 for two parcels. Discussion followed and Mr. Griffioen indicated that he was thinking about combining the two properties to save the charges for 66 feet of frontage, as it is vacant land and is not really much of a benefit to him. He also stressed that there is no need for him to hook up the 325 West Osterhout Avenue property, the same as Mr. Hoeksema, so there is no personal benefit to him.

In answer to Councilmember Reid, Mr. Barnes said that this property was split in 2008 and the primary property now has 151 feet of frontage, and is assessed at a cap of 80 feet, and the other property has 66 feet of frontage and is assessed for the entire 66 feet. He said combining the two properties would cap the assessment at 80 feet for both properties; also, if the combined property was split in the future, the newly formed parcel would be assessed at the rate of an 80 foot lot, so the cost would be higher than that of the 66 foot lot as it exists currently. Also, Mr. Barnes answered that the City may install extra leads if it is within good engineering judgment to do so, although typically only one lead is provided per buildable residential lot. He expressed his belief that the approval of the Special Assessment Roll sets the Roll in motion; that the assessment will be levied potentially tomorrow; and combining lots would have no effect on the assessment at that point.

Mayor Pro Tem Pearson summed up that it sounds like the citizen had a few months to know to combine the properties before the presentation of Resolution No. 5, and it would be too late to combine the properties if City Council takes action on the Resolution at this meeting.

In answer to Councilmember Ford, Mr. Barnes indicated that none of the fourteen lots have a mandatory hook-up requirement.

In answer to Councilmember Reid, Mr. Barnes said that there would be no conflict with construction if City Council decides to wait to adopt Resolution No. 5 at the next meeting, but expressed a caveat when assessments would be pushed from being due from 2015 to 2016 because this would cause a change in the Resolution and a change in the financing.

Mayor Pro Tem Pearson asked Mr. Griffioen if Council does not vote on Resolution No. 5 tonight, is he going to combine his parcels, and Mr. Griffioen answered in the affirmative. He also expressed a concern whether there would be enough time to combine the properties of City Attorney Brown, who indicated that a deed would have to be prepared and recorded, but he did not know how much staff time would be required. Discussion followed.

Motion by Reid, seconded by Ansari, to adjourn the public hearing. Upon a voice vote, motion carried 6 to 0.

Councilmember Randall asked if there are other citizens who might benefit from the opportunity to combine parcels and Mr. Barnes said, "No." When she asked if all of the houses are set back significantly from the road, Mr. Barnes answered, "No." Discussion followed.

Councilmember Reid indicated that she had a property that was specially assessed, but never hooked-up; however, when she decided to sell the house, the financing required hooking up if there was city water, so having the water at the road allowed the buyer to get the financing and allowed her to sell her house in a very "down" market. She said having public utilities available does provide a benefit to the property, even if the property owner does not anticipate hooking up to them, and sewer hook-up benefits the environment for the whole city.

Councilmember Urban pointed out that City Council has already determined the necessity of the project and this hearing is only to determine the technical accuracy of the assessment roll as prepared and presented. He pointed out that no one has challenged the accuracy of the roll and the benefit goes with the property and not the property owner. Mayor Pro Tem Pearson deferred to City Attorney Randy Brown, who indicated that some years ago, there was a challenge on that same issue, and the Michigan State Tax Tribunal found under Michigan Law that the installation of utilities, water and sewer, is a benefit to the property, even though the property is not hooked up. Discussion followed.

In answer to Councilmember Reid, Mr. Barnes stated his opinion that the adoption of Resolution No. 5 would be the final action and any changes in the assessment roll would have to be reflected in the final Resolution No. 5, but the Necessity of the project would not change. City Attorney Brown concurred and a new Resolution No. 5 is all that would have to be prepared for adoption. Discussion followed.

Councilmember Urban raised the question of the need for a survey and discussion followed regarding the timeframe necessary, and Mr. Barnes indicated that six weeks would be too long to wait owing to his earlier caveat when assessments would be pushed from being due from 2015 to 2016 because this would cause a change in the bonding.

In answer to Councilmember Reid, Mr. Barnes stated that the City at large would pay the cost incurred as a result of the reduction of front footage by 66 feet for Mr. Griffioen. Discussion followed.

Motion by Reid, seconded by Ford, to table this action until March 10, 2015 (four weeks), in order to give Mr. Griffioen time to combine his properties on Osterhout Avenue. Upon a roll call vote, motion carried 6 to 0.

PINE VIEW DRIVE SANITARY SEWER PROJECT #415-S (BACON AVENUE TO CHAUCER STREET): Mayor Pro Tem Pearson opened the public hearing and introduced Transportation & Utilities Director Chris Barnes, who explained that the purpose of the hearing was to consider confirmation of the Assessment Roll as outlined in Resolution No. 5 for the sanitary sewer project on Pine View Drive from Bacon Avenue to Chaucer Street.

He provided a description of some of the specifications of the proposed sanitary sewer installation along Pine View Drive and an outline of the process to this point. He reminded City Council

that installation of sanitary sewers is a prerequisite of the reconstruction of the street and explained. He explained that this is the last remaining segment needed in this area.

Mr. Barnes explained the importance of the sewer construction to the ground water in the area which is the supply source for public drinking water as service will be provided to the fourteen properties involved.

He explained the assessments to property owners are based on the City Council Policy of a cap of 80 feet, even though most of the properties exceed 80 feet in frontage and includes the installation of a sanitary sewer lead.

He indicated that the standard special assessment rate is \$32.09 per foot and \$1,001 for a six inch lateral as designed for this project. He said the affected property owners were recently notified of the planned improvements, including the special assessment process and the schedule of payments. If approved by City Council, he indicated that the sanitary sewer project would begin in the summer of 2015 in conjunction with the street reconstruction program. Mayor Pro Tem Pearson asked for discussion from City Council and opened the public hearing to the audience.

There being no discussion, motion by Ford, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Urban, seconded by Reid, to adopt Resolution No. 5 for the Pine View Drive Sanitary Sewer Project #415-S, confirming the Special Assessment Roll. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 415 of City of Portage Resolution Book No. 45.

REPORTS FROM THE ADMINISTRATION:

* **DIRECTOR OF THE DEPARTMENT OF PUBLIC SERVICES APPOINTMENT:** Motion by Urban, seconded by Reid, to confirm the appointment of Rodney Russell as the Director of the Department of Public Services, effective February 11, 2015. Upon a roll call vote, motion carried 6 to 0.

* **ADP PAYROLL SERVICES AGREEMENT RENEWAL:** Motion by Urban, seconded by Reid, to approve the three-year pricing renewal agreement with ADP, Incorporated, to perform payroll services on behalf of the City of Portage at a cost of \$27,375.47 for the first and second year and a cost of \$27,992.97 for the third year, 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 6 to 0.

* **ANNUAL MICROSOFT LICENSING RENEWALS:** Motion by Urban, seconded by Reid, to approve the annual Microsoft licensing renewals with CDW-G at a total cost of \$50,388.13 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.

FEBRUARY 24, 2015 COMMITTEE OF THE WHOLE (COW) MEETING: Mayor Pro Tem Pearson deferred to Councilmember Urban for comment. Councilmember Urban indicated that the CCTA spent a lot of time to determine a preliminary length of time for the millage, the amount of the millage and the date of the election. He also stressed that the request needs to be finalized in the middle of March to have this important issue on the ballot for the August 4, 2015 Special Election.

Mayor Pro Tem Pearson reminded City Council that they are within a thirty day notice period for comment and that is why the February 24, 2015 date was selected. Discussion followed regarding when to schedule a public session to seek input on the proposed millage election for Central County Transit Authority (CCTA). Discussion followed regarding the pros and cons of having the public session during the Council of the Whole (COW) or at the Regular City Council Meeting and the importance of having the session televised. City Attorney Brown advised City Council that if any decision was contemplated, the decision should be in a Regular or a Special Meeting of City Council.

Discussion resumed regarding the pros and cons of having the public session during the Council of the Whole (COW) or at the Regular City Council Meeting.

Motion by Reid, seconded by Ansari, to alter the COW schedule and schedule the education presentation by CCTA Executive Director Sean McBride regarding the CCTA proposals and public dialogue at 6 p.m. for February 24, 2015, and push back regularly scheduled agendas for COW meetings by one meeting. Councilmember Ford expressed support for having the matter discussed during the Regular City Council Meeting of February 24, 2015. Discussion followed. Motion failed. Yeas: Councilmembers Urban, Ansari and Reid. No: Councilmembers Ford and Randall and Mayor Pro Tem Pearson. Discussion followed.

Motion by Reid, seconded by Ford, to add the item to have CCTA Executive Director Sean McBride present the CCTA proposals to the citizens and have this scheduled at the earliest time period in the meeting. Upon a roll call vote, motion carried 6 to 0. Discussion followed.

Motion by Urban, seconded by Randall, to set a Committee of the Whole (COW) Meeting for Tuesday, February 24, 2015, at 6:00 p.m. in Conference Room No. 1 to discuss enriching culture, increasing community engagement, and the study of the city retail profile to guide City Council efforts. Upon a voice vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

AUDIT – CITY TOWING AND IMPOUND CONTRACT: Mayor Pro Tem Pearson deferred to City Manager Larry Shaffer, who indicated he had a meeting with Public Safety Director Richard White and noted that the March of 2014 contract between McDonald's Towing and the City of Portage has been monitored since that time with no issues with performance. He said that both he and Chief White have spoken with the County Attorney Tom Canny regarding some of the more infamous remarks made by a second towing contractor regarding the performance at the vehicle accident on I-94 near the Galesburg exit, and Mr. Canny said, "There were no issues whatsoever that impinged upon or was in violation of the contract with the County." He indicated that he has also directed Chief White to put additional auditing mechanisms in place to ensure that the prices that were quoted in the contract between the City of Portage and McDonald's Towing are being adhered to. He stated that members of the Public Safety Department will contact individuals who have received towing services from McDonald's Towing; since such services are under the aegis of the towing contract between the City of Portage and McDonald's Towing, this will ensure compliance with all contract stipulations.

Councilmember Reid remembered that over a year ago, City Council received an overview of the towing contract, and City Manager Shaffer agreed to share with Council the regular audit or review that is currently being done.

Councilmember Randall noted two times in the contract where the \$45 dollar fee was not applicable: where there was adequate insurance of payment and where there was an outside vendor like an insurance company. Mr. Shaffer agreed to find out for her the total number of tows, how many do not fall under the \$45 charge, and if possible, what is being charged to the third party. Also, as a catalyst to the negative press regarding the January 9, 2015 car pile-up on I-94, he agreed to find out who covered the City of Portage during that time since McDonald's Towing could not, and what do we plan to do in the future should another incident such as this arise.

Mayor Pro Tem Pearson asked for a rationale for why the City of Portage does not have a rotation of towing services. Councilmember Urban indicated that Council did receive a document explaining the rationale for why the City of Portage does not have a rotation of towing services some time ago. He mentioned that with regard to the month to month rotation of towing services option, there were issues concerning storage and maintaining a chain of custody of evidence.

Motion by Urban, seconded by Ford, to receive the communication from the City Manager regarding an Audit of the City Towing and Impound Contract. Upon a voice vote, motion carried 6 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of the following Boards and Commissions:

Portage Public Schools Board of Education Regular Meeting of December 8, 2014, Special Meeting of December 15, 2014 and Policy Governance Retreat and Organizational Meeting of January 12, 2015.

Central County Transportation Authority Regular Meeting of December 10, 2014, Special Meeting of December 19, 2014 and Agenda Packet of the January 23, 2015 Meeting.

Portage Park Board of January 7, 2015.

Kalamazoo County Environmental Health Advisory Council of January 14, 2015, the 2015 Meeting Schedule and a Membership List.

Portage Human Services Board of January 22, 2015.

Portage Planning Commission of January 22, 2015.

COUNCIL COMMITTEE REPORTS:

CENTRAL COUNTY TRANSIT AUTHORITY (CCTA) MEETING REPORT: In response to Mayor Pro Tem Pearson, Councilmember Urban indicated that the CCTA made a preliminary decision on the timing of the millage, the amount of the millage and to place the issue on the ballot for the August 4, 2015 Election. Discussion followed.

PUBLIC MEDIA NETWORK BOARD (PMN): Councilmember Reid mentioned two points of action from the PMN Meeting: With regard to the Request for Proposal with regards to the purchase of larger amounts of bandwidth which allows PMN to accommodate live streaming on the internet for all municipalities, the contract was awarded to Charter Communications and should be functioning in a couple of months. She mentioned the effort to standardize video equipment among the municipalities: in order to avoid equipment breakdowns and to ensure student interns can operate the equipment in all of the municipalities, PMN will be purchasing and maintaining all functional equipment from the municipalities and purchasing and maintaining whatever equipment is needed; furthermore, all of the municipalities will have essentially the same system for consistency in operation and in broadcasting, and to have backup equipment in case of breakdowns. Discussion followed.

AUSTIN LAKE GOVERNMENTAL LAKE BOARD: Mayor Pro Tem Pearson indicated that the Austin Lake Governmental Lake Board received the Aeration and Bioaugmentation Report from the Limnologist and the Engineer, and scheduled a Meeting on Monday, March 16, 2015, from 7 p.m. until 9 p.m., City Council Chambers, for questions and answers.

Motion by Reid, seconded by Ansari, to receive the Central County Transit Authority Report from Councilmember Urban, the Public Media Network Board Report from Councilmember Reid, and the Austin Lake Governmental Lake Board from Mayor Pro Tem Pearson. Upon a voice vote, motion carried 6 to 0. Discussion followed.

BID TABULATION:

* **LOVERS LANE/KILGORE ROAD TRAFFIC SIGNAL INTERCONNECTION PROJECT (DESIGN ENGINEERING SERVICES):** Motion by Urban, seconded by Reid, to award a contract to perform design engineering services for the Lovers Lane/Kilgore Road Traffic Signal Interconnection project to Abonmarche Consultants, Incorporated, in the amount not to exceed \$35,480 and authorize the City Manager to sign all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmembers Ford and Urban each said he and his family enjoyed the Fifth Annual Winter Snow Party that was organized by Deputy City Clerk Adam Herringa using Youth Advisory Committee volunteers.

All Councilmembers and City Manager Shaffer congratulated Parks, Recreation and Public Services Director Bill Deming and wished him a happy retirement; and, all Councilmembers and City Manager Shaffer welcomed newly appointed Public Services Director Rodney Russell.

Councilmember Reid mentioned that she attended the “Go Red for Women Luncheon” last week which is a benefit for the Michigan Chapter of the American Heart Association. She reminded everyone that the month of February is Heart Health Month. She stressed the importance of thinking about heart health, especially for women, as heart failure is the number one killer of women. She said that heart disease, heart attacks, do not present in the traditional way in women, so being aware of one’s numbers and of one’s health is important for women to keep in mind.

Mayor Pro Tem Pearson spoke about the second Committee of the Whole (COW) held by City Council earlier at 6 p.m. in Conference Room No. 1. He mentioned that the discussion was about Economic Development, and that the next two meetings will be about enriching culture and increasing community engagement. He also said that following those meetings, there will be two more meetings on supporting regionalization while focusing on Portage. He noted that the focus at the earlier meeting was enhancing development using PA 198 Policy. He said that there was good discourse and great interaction with Community Development Director Vicki Georgeau, who will be coming back with some recommendations. He cited speed to market, the meeting with Southwest Michigan First Director Ron Kitchens, and changes in the Tax Increment Financing State Law as other areas of discussion at the meeting.

ADJOURNMENT: Mayor Pro Tem Pearson adjourned the meeting at 9:09 p.m.

James R. Hudson, City Clerk

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