

## CITY COUNCIL MEETING MINUTES FROM MARCH 10, 2015

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

At the request of Mayor Strazdas, Councilmember Terry Urban 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 Peter Strazdas. Mayor Pro Tem Jim Pearson 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 Reid, seconded by Ansari, to approve the Committee of the Whole Meeting Minutes and the Regular Meeting Minutes of February 24, 2015, as presented. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Mayor Strazdas removed Item F.2, March 24, 2015 Committee of the Whole (COW) Meeting, from the Consent Agenda. Motion by Reid, seconded by Ansari, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0 with Mayor Strazdas abstaining from Item L.4, West Lake Weed Management – 2015 Application Program.

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

### **PUBLIC HEARING:**

**WEST OSTERHOUT AVENUE SANITARY SEWER PROJECT #414-S:** Mayor Strazdas opened the public hearing and deferred to City Manager Larry Shaffer, who indicated that Rick Griffioen, 325 West Osterhout Avenue, objected to the Special Assessment and wanted time to combine 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. Mr. Shaffer indicated that Mr. Griffioen combined the parcels and the Special Assessment Roll reflects the adjusted amounts as a result. Mr. Shaffer also pointed out that 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.

Mayor Strazdas introduced Transportation & Utilities Director Chris Barnes, who explained that the public hearing is for sanitary sewer on West Osterhout Avenue, from Lloy Street to South Westnedge Avenue. He indicated that the project will be completed in conjunction with the planned reconstruction of the street and other improvements, including individual sewer laterals.

In response to Councilmember Ford, Mr. Barnes indicated that the life expectancy of the road is 20 years.

Dave Hoeksema, 443 West Osterhout Avenue, objected that he does not see a benefit to him from the project. He said that there are four houses on the street that take up 67 acres of land, which is rural to him. He indicated that the City has placed his property in a Tier 2, which is installation of sewer, but not hooking up to it, and he argued that he is a Tier 3 owing to the rural nature of this area. Discussion followed.

Motion by Reid, seconded by Ansari, 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 West Osterhout Avenue Sanitary Sewer Project #414-S, confirming the Special Assessment Roll. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 419 of City of Portage Resolution Book No. 45.

**STATEMENTS OF CITIZENS:** Mayor Strazdas congratulated newly appointed Parks, Recreation and Senior Citizens Services Director Adam Herringa, asked City Manager Laurence Shaffer to comment on his selection and invited Mr. Herringa to say a few words. Mr. Shaffer reflected that he has interviewed many, many candidates over the years and Mr. Herringa was chosen by a large margin in this instance noting that he has provided a multitude of services to this community, his creativity, energy and enthusiasm giving him a great expectation that he will continue the fine work of Bill Deming and the quality of life of our citizens will be enhanced by his time in office. Mayor Strazdas concurred and all of Council and the City Clerk congratulated Adam, expressed their appreciation for his work and admiration of his leadership and confidence that he will perform very well in his new position.

Mr. Herringa introduced his wife, Rebecca Clore, who has always been supportive of him and his career and said, "Hell-o" to his two daughters at home. He thanked all for their kind words, indicated that he was looking forward to this exciting opportunity, as he considers it a privilege to continue to serve the citizens of the community in new and even greater ways. He thanked them for his support and said he was looking forward to "getting started."

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

\* **INDUSTRIAL TAX ABATEMENT INCENTIVE POLICY - REVISIONS:** Motion by Reid, seconded by Ansari, to approve the revisions to the city's Industrial Tax Abatement Incentive Policy. Upon a roll call vote, motion carried 6 to 0.

**MARCH 24, 2015 COMMITTEE OF THE WHOLE:** Mayor Strazdas indicated that the topic for the next Committee of the Whole (COW) needs to change slightly and asked for a motion to reflect that. Motion by Urban, seconded by Reid, to set a Committee of the Whole Meeting for Tuesday, March 24, 2015, at 6:00 p.m. in Conference Room No. 1 to discuss promoting Community Engagement and the role of social media in order to communicate with Portage citizens. Upon a roll call vote, motion carried 6 to 0.

\* **DIRECTOR OF PARKS, RECREATION & SENIOR CITIZEN SERVICES APPOINTMENT:** Motion by Reid, seconded by Ansari, to confirm the appointment of Adam Herringa as the Director of Parks, Recreation & Senior Citizen Services, effective March 30, 2015. Upon a roll call vote, motion carried 6 to 0.

#### **UNFINISHED BUSINESS:**

**CODE OF ORDINANCES AMENDMENT - FIRE PREVENTION AND PROTECTION:** Mayor Strazdas deferred to Mr. Shaffer, who indicated that at the behest of the City Council, two public meetings were held to discuss the 2012 International Fire Code on February 5 and February 11, 2015, and were hosted by Public Safety Director Richard White, Senior Deputy Fire Chief John Podgorski, Assistant Fire Chief Stacy French and himself. He noted that some Councilmembers and interested citizens attended the sessions and two citizens were very interested and very instrumental in working with the City of Portage on this particular code segment, including Park Board Member Tim Earl, 6862 Shallowford Way, who was present, and Charles Agosti, 1723 Romence Road.

He mentioned that he, Chief White and Chief Podgorski met with Mr. Agosti and worked out some of the issues for him and his business. Mr. Shaffer pointed out that the 2012 Fire Code replaces

the 2009 Fire Code and is in sync with the 2012 Building Code as adopted by the State of Michigan, so this allows the City to eliminate conflicts among the three codes.

Mr. Shaffer listed the issues created as a result of the new 2012 Fire Code, including the cost of in-building amplification for public radio systems, alternative radio systems at less cost and still be more effective and explained the need for uniformity of systems among responders. He described a Portage Fire Safety system based on educating the public that is very effective in protecting the people we serve. Discussion followed.

Councilmember Urban indicated that when this item first came before Council, he initiated the delay for action as he did not feel he had enough support information. After some quick research, he found that the changes would impact his activities at a non-profit group with which he works where he coincidentally was responding to a fire inspection and asked for more information; also, he never meant for the delay to indicate that he did not support the 2012 Fire Code, but to get more information.

Motion by Urban, seconded by Ford, to adopt the proposed amendment to the City of Portage Code of Ordinances, Chapter 34, Fire Prevention and Protection, reflecting changes in the 2012 edition of the International Fire Code. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

**PROPOSAL TO EXTEND LEAF, BRUSH AND SPRING CLEANUP COLLECTIONS TO PRIVATE STREETS:** Mayor Strazdas deferred to Mr. Shaffer, who indicated that two public sessions were held on a very snowy and cold weather day, yet 75 to 80 people showed up to discuss the pickup of leaves and brush along private roads. Public Services Director Rod Russell visited those sites that might be affected, worked up some plans, but no agreements, with how to address those associations with the available resources, and his findings were very encouraging. He said the original estimate for this service was just over \$100,000, but based on Mr. Russell's review, that the cost can be reduced considerably. Indemnification (hold harmless) Agreements drafted by City Attorney Randy Brown have been shared with interested parties are structurally sound, may only need slight changes to meet the satisfaction of some of the parties, and will not prevent an agreement with the City. He indicated that the policy holds that those who become interested in the service must apply on or before April 1<sup>st</sup> of each year for the July 1<sup>st</sup> pick-up and explained. He mentioned that the current millage at 0.3455 generates approximately \$675,000 per year, and the full 0.4 millage rate would generate approximately \$790,000, well within the range of expenses listed by the former Director of Public Services, plus optional efficiencies can be implemented for any anticipated excesses and gave examples. Discussion followed.

Mayor Strazdas reflected back on a 1997 Communication from then City Manager Michael Stampfler, who informed citizens on private streets of the option of placing leaves, branches or materials for Spring Cleanup on public streets for pick-up, so the option was always there within budget ever since the inception of the program. Discussion followed.

Councilmember Ansari spoke in support on the basis of fairness and welcomed the option since people were getting taxed, so they should be getting the service.

In answer to Councilmember Ford, Mr. Shaffer explained that the original cost estimate from Fall 2014 was \$100,889 and was based upon an estimated 1,000 participants and explained some of the various alternatives discovered by Mr. Russell that will reduce those costs. He said there may be some surprises, yet he is confident that no big surprises should present themselves.

Councilmember Randall expressed her support for the matter and thanked Mr. Shaffer for his efforts quoting him by saying, "to expand services to the people we serve."

Mayor Strazdas indicated that City Council does not have a policy before them, but it is his understanding if a property owner applies after April 1, they will not get the service until the following year, and the property owner must provide an indemnification agreement in order to get the service. Mr. Shaffer concurred and distinguished that those properties on the private roads are inseparable from the balance of the properties adjacent or contiguous to that private road, so all of those properties must indemnify the City. Discussion followed. Mayor Strazdas asked that a policy document be created to cover this matter.

Councilmember Reid expressed her support of this concept, but had questions regarding the implementation. She questioned whether there is an artificially small cost regarding implementing this policy because many entities are moving cautiously. She commented that condominiums will ask for more service as time goes on and only one of the citizens on the private streets has worked with us and, even though many have received the letter of information on the matter, the Administration has not reached out to them like they have with the condominiums. She commented on the issue of future costs and the changes in the process over the years. Discussion followed.

Councilmember Urban asked whether the individual indemnification agreements come back to City Council for approval, and City Attorney Randy Brown indicated that they would not be coming back to City Council. He said that tonight Council is giving the Administration the authority to implement the program with no specifics about the program and no particular properties involved and explained. In answer to Councilmember Urban, Mr. Brown indicated that a license does not have to go before City Council, either; and many times a license resembles an easement, so to be safe, it comes to Council. He noted that the indemnification agreements do not involve the expenditure of any funds, but are just to protect the City; therefore, the City Manager can sign them. Councilmember Urban referenced the complete history and expenditures of the millage received by Council on the dais which reflects that the millage has been at the maximum a number of times and at a maximum plus a deficit at times and analyzed the program based upon the funding from the millage and the cost of the service. He made it clear that the City has not been doing anything wrong by not providing the service based upon the City Attorney's opinion and case law. He expressed his discomfort for not having the detailed policy or the indemnification agreements before Council for consideration. Discussion followed.

In answer to Councilmember Urban and Mayor Strazdas, City Attorney Brown indicated that Council is approving the program just as you approve entering into a contract and the City Manager negotiates the contract, the City Attorney approves it and the City Manager signs it. He drew a comparison between contracts and indemnification agreements and noted that a Council very rarely approves every contract of the City. Discussion followed.

Motion by Randall, seconded by Ansari, to authorize the City Administration to begin Leaf, Brush and Spring Cleanup collections with residential property owners along private streets who have fulfilled the required conditions with the Department of Public Services for extending the collection programs to private streets. In answer to Mayor Strazdas, Mr. Shaffer indicated that this policy would include a report back at least once every six months throughout the operation of this program, including: what we have learned; who has come on board; what it has cost the City; what is our rate of expenditures; and a prediction of the effect of this program in future years.

In answer to Mayor Strazdas, Mr. Shaffer confirmed that, if the Administration wishes to alter the level of services of this program, the question will come to Council; that the Administration will follow the indemnification process as clarified by the City Attorney; and, that the program will operate within budget.

In answer to Councilmember Reid, who asked about the rationale behind the manufactured housing parks which are not included in the program because they are commercial and to distinguish this from condominiums, Mr. Shaffer indicated that the condominium owner owns not only their unit, but also owns an undivided share of the common area. He also pointed out that with a manufactured housing park, the property owner owns not only the manufactured housing, but also the fee interest in the property underneath it; it is owned by the managing rental company, which makes the manufactured housing park more like an apartment complex, plus it has always been listed as a commercial property rather than a residential property. Discussion followed.

Councilmember Urban expressed a concern that the information is being presented without enough time to fully digest and coordinate it with other information available to him. Discussion followed.

Catherine Kaufman, 7640 West Saint Andrews Circle, spoke on behalf of the Inverness Condominium Association as President. She thanked City staff and Councilmember Randall for bringing this matter forward, expressed her appreciation for the public sessions and her understanding of

the program. She indicated that it is an issue of fairness since the property owners have paid for seventeen years, but have not received the service. Discussion followed. When she indicated that she applied to serve on a Board or Commission twice on line, but was never contacted, Mayor Strazdas asked Mr. Shaffer to look into why this happened.

Mike Yager, 7415 Bryn Court, expressed his opinion that the \$100,889 figure was high, that he only heard of the \$4,000 figure tonight and asked that City Council analyze the figures. He cited the four elements to the program: leaf pick-up, branch pick-up, Spring Cleanup and composting. He noted that Mr. Bill Deming did not project any increase in cost for composting or branch pickup; he projected a 10% increase for the Spring Cleanup Program which made sense to him owing to the inclusion of another 1,100 properties; however, Mr. Deming increased the estimate of the leaf pickup by 30% for the key elements of temporary laborers, rental equipment and fuel costs which Mr. Yager thought was excessive. He advocated efficiencies over millage increases by reducing the number of leaf pickup to two instead of three. Discussion followed. Upon a roll call 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 January 26, 2015, Committee of the Whole Work Session of February 9, Special Meeting of February 11 and Special Meeting of February 17, 2015.

Portage Human Services Board of February 5, 2015.

Portage Planning Commission of February 19, 2015.

#### **COUNCIL COMMITTEE REPORTS:**

**CITY MANAGER EMPLOYMENT MANUAL TASK GROUP:** Councilmember Ford provided a brief introduction of the March 10, 2015 City Manager Employment Manual Task Group Report and he and Councilmember Reid indicated that the focus of the Report regarded procedures for filing grievances against the City Manager by employees. Councilmember Reid identified a range of options for actions that employees can take when bringing a grievance against the City Manager, such as: presenting the grievance to the entire City Council at a Council Meeting; to the Mayor or any Councilmember in writing or via email addresses on the website; to the Human Resources Director; or to any department director. Councilmember Randall expressed her appreciation for the professionalism of Deputy City Manager Rob Boulis and for his skill set from working in Human Resources. Discussion followed.

Motion by Ford, seconded by Ansari, to receive the March 10, 2015 City Manager Employment Manual Task Group Report. Upon a voice vote, motion carried 6 to 0.

#### **BID TABULATIONS:**

\* **PAVEMENT MARKINGS SERVICES BID TABULATION – RECOMMENDATION:** Motion by Reid, seconded by Ansari, to award a two-year contract for pavement marking services to selected streets to Michigan Pavement Markings, LLC in an amount not to exceed \$89,000 for the first year and an estimated amount of \$126,583.75 for the second year, with an option for four one-year renewals, 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.

\* **TRAFFIC SIGNAL POLE AND MAST ARM PROCUREMENT:** Motion by Reid, seconded by Ansari, to award a contract for the purchase of traffic signal poles, mast arms and assemblies for select city locations to Carrier and Gable, Incorporated, in the amount not to exceed

\$77,654 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **FIRE STATION 1 OIL AND GRIT SEPARATOR:** Motion by Reid, seconded by Ansari, to approve the bid for oil and grit separator improvements to Lounsbury Excavating Inc., of Paw Paw, Michigan in the amount of \$34,000 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **WEST LAKE WEED MANAGEMENT – 2015 APPLICATION PROGRAM:** Motion by Reid, seconded by Ansari, to, at the request of the West Lake Improvement Association: award a contract for the 2015 West Lake Management Program to Professional Lake and Land Management Corporation, for lake weed treatment measures in the estimated annual amount of \$15,120; approve three additional one-year extensions to the contract, 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.

### **OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL:** Councilmember Ford expressed his enthusiasm to be able to discuss Social media at the next Committee of the Whole (COW) Meeting.

Councilmember Randall expressed her appreciation for the COW, the opportunity to work together on some long overdue topics that are long overdue. She said she is filled with optimism on many different fronts, and weather is one of them. Mayor Strazdas concurred and mentioned the PA 198 Policy approved tonight that was the result of the work by Council at a COW Meeting.

Councilmember Urban expressed his enjoyment when he attended his Father-Daughter Dance at Portage Central Elementary School with his seven and nine year old daughters.

Councilmember Reid explained that Councilmember Ansari's reference to the \$23,000 from Public Media Network (PMN) stems from their standardizing the equipment among the municipalities, purchasing the City of Portage equipment and supplementing it as necessary which makes it easier for staff and volunteers to operate and provides system back-up equipment.

City Manager Shaffer announced that the Zoetis Corporation is giving the City of Portage \$10,000 in support of the Dog Park effort. Also, an anonymous donor will be committing \$20,000 to the effort where \$56,000 will be necessary.

Mayor Strazdas thanked AT&T for their annual donation to the Winter Blast Race of Portage. He also highlighted the Revisions of the Industrial Tax Abatement Policy passed by City Council earlier in the meeting and thanked them for it. He thanked the media for the coverage of the South Westnedge project although he had a number of phone calls over the weekend on it from many businesses who expressed concern for a potential negative impact and asked for a report back from the City Manager on the plan of action regarding this matter.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 9:13 p.m.

James R. Hudson, City Clerk

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