

## CITY COUNCIL MEETING MINUTES FROM JULY 7, 2015

The Regular Meeting was called to order by Mayor Strazdas at 5:00 p.m.

At the request of Mayor Strazdas, Pastor Phillip Kok of Prairie Edge Christian Reformed 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 and Claudette Reid, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Councilmember Terry Urban 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 Ansari, seconded by Reid, to approve the Committee of the Whole Meeting Minutes and Regular Meeting Minutes of June 23, 2015, as presented. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Ansari to read the Consent Agenda. Councilmember Ford asked that Item F.3, the Committee of the Whole Meetings Summary - Information Only, be removed from the Consent Agenda. Mayor Pro Tem Jim Pearson asked that Item H.1, sale of city property located at 10323 Archwood Drive, be removed from the Consent Agenda. Councilmember Reid asked that Item F.2, Freedom of Information Act Changes, be removed from the Consent Agenda.

Motion by Ansari, seconded by Pearson, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JULY 7, 2015:** Motion by Ansari, seconded by Pearson, to approve the Accounts Payable Register of July 7, 2015. Upon a roll call vote, motion carried 6 to 0.

### REPORTS FROM THE ADMINISTRATION:

\* **UPGRADE OF POLICE DIVISION RECORDS MANAGEMENT AND COMPUTER-AIDED-DISPATCH:** Motion by Ansari, seconded by Pearson, to authorize the additional software license agreement with New World Systems, Inc., to upgrade the current police records management and computer-aided-dispatch software, including data conversion, at a cost of \$491,275 and authorize the City Manager to execute all documents related to this agreement on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**FREEDOM OF INFORMATION ACT CHANGES:** Councilmember Reid acknowledged that there are several changes to the Freedom of Information Act (FOIA) that became effective July 1, 2015. She questioned the proposed action recommended that is now before Council to authorize the City Manager Laurence Shaffer to be considered the Head of the Public Body and adjudicate all fee appeals, as these appeals are now allowed under the act. She indicated her preference that appeals should remain the responsibility of the City Council, including the fee appeals. Discussion followed and City Clerk James Hudson indicated that this a new allowance under the Act, that the responsibility has not been assigned, but that the City Council could have answered a fee appeal in the past as another form of appeal, but that no one has ever appealed the cost of a FOIA. He pointed out that he has never charged for his time or the Assistant City Attorney's time, for example, and costs have always been kept low.

Councilmember Reid asked what would be the basis for City Council to levy a fee if it is not a part of the fee schedule. Mr. Shaffer thanked Assistant City Attorney Charlie Bear and Mr. Hudson for their efforts in preparation for the launch of the new FOIA requirements. He stressed that the City does

not receive fee reduction requests because, we work well within the boundary of the Act as we not only adhere to the particulars, but we also adhere to the principles of the Freedom of Information Act. Since the FOIA is more particular going forward, presumably that specificity would engender more opportunities for an appeal, but our operating philosophy and our values will remain the same. He said to the degree the City can err, the City will err on the side of the citizen; secondly, the City will look for practical solutions. He then pointed out that the Council's ability to set fees is as a regulatory body, but the fee appeal process is adjudicatory, so the whole purpose of taking it out of Council's hands is that the Council has already set policies for fees. In order to have a separation of powers, another entity is needed to address the appeals.

Assistant City Attorney Bear concurred and pointed out that there was never a formal process to allow an appeal for fees, so the Act now provides a procedure for appealing fees similar to the denial of a request, and explained. He described the six categories that can be charged which also need to be itemized that can now be analyzed by the requestor.

Councilmember Reid objected because of the unknown issues that may arise that Council could work through, establish guidelines, and not "hand it off" before we know what it is.

In answer to Councilmember Ford, Mr. Hudson and Mr. Bear indicated that although appeals have created deadline challenges in the past, the appeal is not considered received until the next Regular City Council Meeting, and the City now has ten business days instead of only ten days to respond, so the time crunch is lifted a little. Discussion followed.

Assistant City Attorney Bear confirmed that Appeals of Denial still comes to City Council and Councilmember Reid reiterated her reasoning for the Appeals of Fees should come to City Council.

Mr. Shaffer reviewed his responsibility to take care of problems and make sure problems do not come before City Council and expressed his view that he should take care of issues before they come before Council, and offered to report back to Council the results of how an appeal was addressed.

Councilmember Randall expressed strong support for Mr. Shaffer, the City Legal Team and the City Clerk and pointed out that it would take a lot of FOIA's to reach the \$20,000 amount requested in the motion. Motion by Randall, seconded by Ansari, to authorize the City Manager to adjudicate all appeals made to the head of the public body of the City of Portage for a reduction of a fee assessed in response to a FOIA request for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record, where the amount of the assessed fee does not exceed \$20,000. Discussion followed and Mayor Strazdas indicated that it would be best for the City Manager to handle this as a part of the daily routine since FOIA charges are usually small dollar amounts and are best handled with the citizen working directly with the Administration.

In answer to Mayor Strazdas regarding a further appeal to City Council, City Attorney Brown indicated that a Fee Appeal to the City Manager as Head of the Public Body is the only appeal to the City, but the FOIA procedure does allow for further appeal to the Circuit Court, the same as an Appeal from a Denial of Information by City Council. Mayor Strazdas spoke in favor of having the policy to let the City Manager perform this service to the citizens, and pointed out that City Council can change this policy should it ever be indicated. Discussion followed.

Councilmember Ford spoke in favor of the motion and concurred with the Mr. Brown. Mayor Pro Tem Pearson concurred with Mayor Strazdas, as there is no problem at this time, cited a recent astronomical charge by a Michigan school district which is not the case in Portage with FOIA.

Councilmember Reid indicated that she did not want her wish to keep this function with City Council to be perceived as not having the confidence that the City Manager can do a competent job, but keeping it with Council would assist us in understanding where there may be some issues with the FOIA Fees and could be a learning experience for Council. She pointed out that Council would still be involved in this same process when there is a Denial of a FOIA Request, and advocated keeping all of it with City Council.

Upon a roll call vote, motion carried 5 to 1: Yeas: Councilmembers Ansari, Ford, Randall, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. No: Councilmember Reid.

## **COMMITTEE OF THE WHOLE MEETINGS SUMMARY - INFORMATION ONLY:**

Councilmember Ford indicated that he was out of town for the weekend, had asked that his packet not be delivered, and successfully reviewed the packet information from the website. He asked that one of the Committee of the Whole (COW) Meetings be a review of the Electronic Agenda Software and explained. Mayor Strazdas indicated that he has received e-mails from other Councilmembers suggesting COW topics, welcomed further e-mail suggestions, and that he and City Manager Shaffer are already in discussion and preparation for the Fund Balance topic in October. He indicated a preference to get these suggestions together in order to provide a brief report at the next City Council meeting for consideration and scheduling of a series of COW meetings.

Mr. Shaffer mentioned that the City acquired SuiteOne Agenda Management Software, (which can be accessed with all devices, such as a desktop, laptop, iPad, Android tablet, iOS phone and/or Android phone, etc., including Apple products); training of staff will commence soon. He explained that the software has two “bookends” since the information is built on the front end with the results on Public Access on the other end, so there is a need to build both pillars on each side of the actual meeting and explained.

Mayor Pro Tem Pearson indicated that Electronic Agenda has been a topic on the Council Retreat Agenda for two years; and, since Councilmembers Reid and Ford each asked to “pilot” the project, he suggested that interested Councilmembers at least have the opportunity to preview SuiteOne to identify any issues or “bugs” before training for all seven Councilmembers ensues. Mayor Strazdas indicated that the Committee of the Whole is an attempt to focus on Policy, and the SuiteOne effort may be better addressed at a workshop, explained that a training session is preferable instead of a COW Meeting, and offered that Councilmembers Reid and Ford could work with Mr. Shaffer in this regard.

Motion by Reid, seconded by Ansari, to receive the communication from the City Manager regarding the Committee of the Whole Meetings Summary as information only. Upon a voice vote, motion carried 6 to 0.

## **COMMUNICATION:**

**ANNETTE STEWART, 4180 ISABELLE STREET:** Mayor Strazdas deferred to City Manager Shaffer, who indicated that the nature of the communication references restaurant preferences; that he supports all of the restaurants in town; that the advice from Ms. Stewart is sound and reasonable; nevertheless, he expressed his skepticism that the Administration can do much about her suggestions.

Mayor Pro Tem Pearson asked staff to seriously consider this request for “Zoning for More Restaurants in Portage” to see what Portage could use, “Trader Joe’s,” and to let it be known that Portage is open for business and encourage companies to come to Portage. Mayor Strazdas concurred, but explained that government cannot require or regulate such that certain stores come to Portage and explained.

Community Development Director Vicki Georgeau indicated that there about 900 acres of land in the City zoned for commercial use and explained some zoning efforts and successes with attracting and keeping businesses in the commercially zoned areas, but admitted it is market-driven. She indicated that she would like to see some other businesses locate in Portage, as well as some independently-owned restaurants, for example. She offered that she would be happy to provide a response to Ms. Stewart.

Mayor Pro Tem Pearson asked whether there are any houses that can be converted into small restaurants, much like those in Ann Arbor, and Ms. Georgeau referred to the work/live ordinance. She pointed out if the residential dwelling unit is located adjacent to the permitted commercial use, the residential dwelling unit must be located above or behind and is a special use, but no one has taken advantage of this which is also allowable in the City Center Area near City Hall.

Councilmember Reid noticed that in reading the letter, she was reminded that Ms. Stewart and a lot of citizens did not understanding zoning, so she recommended that the City use this as an

opportunity to do some education. She suggested developing a unit on PMN that talks about zoning, what it is, how it changes and what can go where, for example.

Councilmember Randall suggested an article in the *Portager* would be helpful as an information source. She asked whether there are living quarters in Wild Birds Unlimited, the Candy Lady, professional photographer shops, and is this use already being implemented in non-food types of businesses.

Ms. Georgeau explained that a building can be converted into commercial use, but would first have to be brought up to commercial building code standards, especially with regard to accessibility. She then indicated that Wild Birds Unlimited and the Candy Lady were completely converted from a residential use to a commercial use, and could be converted back as long as they met the residential code. Discussion followed.

Motion by Ford, seconded by Randall, to receive the communication from Annette Stewart regarding restaurants in Portage. Upon a roll call vote, motion carried 6 to 0.

### **UNFINISHED BUSINESS:**

**SALE OF CITY PROPERTY - 10323 ARCHWOOD DRIVE:** Mayor Pro Tem Pearson provided some background on this proposed sale of City property and commended City Manager Shaffer and his staff placing this property back on the tax rolls and explained that it is being sold for \$18,000 with a rebate incentive of \$3,000. He then gave credit to Councilmember Randall for finding the real reason why the property would not sell at auction since she discovered that it was bundled with dozens of undesirable properties located outside Portage which required the successful bidder to buy all of the distressed properties in undesirable locations in order to get the nice property in a nice Portage neighborhood. He thanked Councilmember Randall for her effort and a job well done which led the Council to not accept the recommendation of the past Administration, as this sale will net the City \$15,000 plus \$3,000 in taxes for the City, the Schools and Portage District Library going forward.

Motion by Pearson, seconded by Randall, to adopt the resolution to sell city property located at 10323 Archwood Drive. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 23 of City of Portage Resolution Book No. 46.

\* **SALE OF CITY PROPERTY - 1521 HELEN DRIVE:** Motion by Ansari, seconded by Pearson, to adopt the resolution to sell city property located at 1521 Helen Drive. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 21 of City of Portage Resolution Book No. 46.

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

Portage Public Schools Regular Business Meeting of May 18, Special Meeting of June 1 and Committee of the Whole Work Session and Special Meeting of June 8, 2015.  
Portage Senior Citizen Advisory Board of May 20, 2015.

### **BID TABULATIONS:**

\* **SIDEWALK AND CURB REPAIR CONTRACT – BID TABULATION:** Motion by Ansari, seconded by Pearson, to award a contract for sidewalk and curb repairs in the amount of \$49,791.20 to Northern Construction Services Corporation of Niles, Michigan, 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.

\* **PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT – BID TABULATION:** Motion by Ansari, seconded by Pearson, to authorize the purchase of ten sets of Personal Protective

Equipment (PPE) at a cost not to exceed \$23,178.40 and authorize the City Manager to execute all documents related to the purchase on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

### **OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL:** Mayor Strazdas announced that he would be running for Mayor in November and indicated that he was humbled by the large number of people who called him to encourage him to run again, and listed some of them. He reviewed some of the changes that have taken place during his 25 years of public service to the City, both positive and negative, and indicated that Portage maintained fiscally conservative values throughout those times, controlled costs, provided excellent customer service and added a quality of life enjoyed by all in Portage. If elected, he pledged to work collaboratively with the City Council and the Administration so we can improve this great City over the next two years.

Councilmembers Ansari, Reid and Ford and Mayor Pro Tem Pearson congratulated him on his decision and thanked him for his service. Councilmember Ansari also gave him his endorsement.

Councilmember Reid encouraged citizens to go to the Overlander Bandshell at 7:00 p.m. to listen to the United States Army Field Band and Soldiers Chorus. She also encouraged citizens to attend the Celery Flats Music Festival, Sunday July 12, 2015, at Celery Flats Historical Area, 7366 Garden Lane, from 12:00 p.m. until 4:30 p.m., and the Taste of Portage, Saturday, July 18, 2015, from 12:00 p.m. until 10:00 p.m., at the Overlander Bandshell with free admission from 12:00 p.m. until 4:00 p.m., and a \$5.00 admission charge after 4:00 p.m. She noted that she heard that one bride-to-be plans to have her bachelorette party at the Taste of Portage.

Councilmember Ford shared that he spent his 4<sup>th</sup> of July at Sleeping Bear Dunes where he had great weather, hoped everyone had a great 4<sup>th</sup> of July, and indicated that he would be attending the United States Army Field Band and Soldiers Chorus concert after the meeting.

Councilmember Randall directed everyone to the front page of the *Portager* for the concert information mentioned by Councilmember Reid and let citizens know that tonight “kicks off” the Parks and Arts initiative which is an attempt to expand our cultural efforts in the City. She asked for support for the new Arts and Parks Director, and explained that most of the events are free to the public and family friendly. She announced that the event tonight at the Overlander Bandshell has a Holly Jolly Trolley that will transport attendees to and from Portage Central High School parking lot from 6:00 p.m. until 10:00 p.m. She expressed kudos to the Public Safety Department since she cited a Police Officer patrolling on a bike for the past two weeks. Mayor Strazdas concurred and noted that all three Police Officers patrolled on bikes, July 4th.

City Manager Shaffer acknowledged and thanked Parks staff and Parks Director Kendall Klingel Smith for their efforts with the concert series, Deb Droppers and the Portage Athletic Association for their fine effort with Taste of Portage. Mayor Strazdas concurred.

Mayor Pro Tem Pearson expressed his excitement for the direction the Parks Department is taking, and the investment in the Parks infrastructure, such as the Eliason Nature Preserve Project. He said that he is looking forward to Portage as a destination in the County owing to the investment in Portage Parks for hiking and bike riding. Mayor Strazdas concurred and thanked City Council for their collaboration, their ideas and for working with the City Manager’s Office in this regard.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 6:00 p.m.

James R. Hudson, City Clerk

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