

CITY COUNCIL MEETING MINUTES FROM AUGUST 11, 2015

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

At the request of Mayor Strazdas, Father Stan Witek of St. Catherine of Siena Catholic 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, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. 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 Regular Meeting Minutes of July 21, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Pearson to read the Consent Agenda. Councilmember Reid asked that Item F.1, Complete Streets Policy, L.1, Traffic Signal Maintenance Contract – Bid Tabulation, and L.3, West Centre Avenue Traffic Signals and Roadway Improvements, be removed from the Consent Agenda. Councilmember Urban asked that Item F.4, Marijuana Initiative Petition Responses, be removed from the Consent Agenda.

Motion by Pearson, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 11, 2015:** Motion by Pearson, seconded by Urban, to approve the Accounts Payable Register of August 11, 2015. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

COMPLETE STREETS POLICY: Councilmember Reid asked whether all types of transportation were considered as a part of the discussion and concept regarding how to keep Portage streets complete in the winter when there is a need for snow removal. City Manager Shaffer expressed appreciation to the Planning Commission for their work on this policy and deferred to Community Development Director Vicki Georgeau. Ms. Georgeau responded that this was not specifically discussed as it is considered an ongoing maintenance issue and is more applicable to long-term planning, capital improvement projects, private development review projects, etc. However, she said that the Disability Network of Southwest Michigan has reached out to City staff and recently invited Department of Public Services and Community Development to a meeting to try to brainstorm on how to address this issue. Discussion followed.

In answer to Mayor Strazdas, Ms. Georgeau responded instead of spending funds to perform maintenance and repairs, Amendments to State Statute have required the City to consider complete streets elements for a very long time now and explained. Discussion followed.

In answer to Councilmember Randall, Ms. Georgeau indicated that the consideration for bicycles and bike safety in order to obtain state and federal funding for street projects was a policy adopted by the Kalamazoo Area Transportation Study (KATS). Discussion followed.

Mayor Pro Tem Pearson expressed his appreciation for Section IX. Intergovernmental Cooperation, since Portage trails interconnect with other jurisdictions, and thanked Planning Commissioner Miko Dargitz, who advocated traffic calming along Portage Road. He also concurred with Mayor Strazdas that sidewalks on both sides of the road throughout the City may not be warranted, and asked whether adopting the Complete Streets Policy would interfere with the plan to use a portion of the residual \$2.4 million that will be available in the Fall for resurfacing streets.

Ms. Georgeau referred him to Section VII. Non-Motorized Complete Streets Elements, and noted that when it comes to local streets, only the gaps in the sidewalks, a need for a sidewalk where it is illogical to keep it as is, or in those areas where there are pedestrian generators such as a school, park, etc. Discussion followed.

Councilmember Urban acknowledged that KATS did adopt the policy to consider Complete Streets Elements when granting state and federal funds, including a procedure to follow for exceptions. He mentioned that this was the most contentious item discussed during his 15+ year service on KATS, noted that it was not unanimous, and cited exceptions to the KATS Policy, such as the financial exception or the Portage example of a walkway on Oakland Drive south of Centre Avenue.

In answer to Councilmember Ansari, Ms. Georgeau cited the cooperative effort associated with the placement of a sidewalk to accommodate the students who attend the 12th Street Elementary School as part of the *Portage A Natural Place to Move* initiative and explained. As further examples of cooperation with Portage Public Schools, Mayor Strazdas cited the Haverhill School and Amberly School sidewalk installations that were made possible through the “Safe Route to Schools” Program.

In answer to Mayor Pro Tem Pearson and his concern that the sidewalk in front of Lake Center Elementary was too close to Portage Road and whether there are plans to move the sidewalk away from the traffic, Ms. Georgeau indicated she had no knowledge of the exact circumstances of that particular sidewalk, and indicated that major thoroughfares in Portage have the same situation which is based upon the width of the right-of-way or the problems obtaining easements, for example. She commented that this policy could definitely affect such an installation in the future.

Motion by Pearson, seconded by Reid, to adopt the resolution approving the Complete Streets Policy. Mayor Strazdas pointed out that the State Superintendent regulates all site plan issues for schools “K-12” and the City does not, so the schools work using their own rules in this regard. Upon a voice vote, motion carried 7 to 0. Resolution recorded on page 25 of City of Portage Resolution Book No. 46.

* **DELTA DENTAL PLAN OF MICHIGAN INSURANCE:** Motion by Pearson, seconded by Urban, to approve a two-year Contract renewal with Delta Dental Plan of Michigan and authorize the City Manager to execute all documents on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

* **INVESTMENT POLICY REVISION:** Motion by Pearson, seconded by Urban, to approve a revision of the City Investment Policy as recommended by the Investment Committee. Upon a roll call vote, motion carried 7 to 0.

MARIJUANA INITIATIVE PETITION RESPONSES: Councilmember Urban asked whether the language of the Initiative Petition will become part of the *City Charter* if passed, and City Attorney Brown responded that it will become a part of the *City Charter* if passed and explained. Discussion followed.

Motion by Urban, seconded by Ansari, to receive the responses to the Charter Amendment by Initiative Petition from Governor Rick Snyder and Attorney General Bill Schuette through Chief Legal Counsel Matthew Schneider as information only. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

* **MICHIGAN MUNICIPAL LEAGUE ANNUAL MEETING NOTICE:** Motion by Pearson, seconded by Urban, to receive the communication from the Michigan Municipal League regarding the Annual Meeting Notice. Upon a roll call vote, motion carried 7 to 0.

COUNCIL COMMITTEE REPORTS:

CITY MANAGER EMPLOYMENT MANUAL COMMITTEE FINAL REPORT AND RECOMMENDATIONS: Councilmember Ford reviewed the progress of the Committee over the past few months with the task of establishing a procedure for handling complaints against the City Manager. He noted that the Committee engaged in collaboration with Deputy City Manager Rob Boulis and City Attorney Randy Brown and Labor Counsel Kevin McCarthy. He indicated that he, Councilmember Randall and Councilmember Reid, as members of the Committee, reviewed the City Personnel Rules and Regulations and pertinent Administrative Orders as points of reference in the matter. He indicated that the Committee concluded that some of the Administrative Orders do not apply to the City Manager since they are promulgated by the City Manager to enforce some type of directive for the good of the City.

Councilmember Ford indicated that the two solutions settled upon were to create a separate Employee Manual for the City Manager and to add an addendum to the City Manager Contract if the City Manager would agree to an addendum. However, the creation of an Employee Manual for the City Manager proved problematic since the Committee did not have enough substance necessary for such a document, so with the help of the City Attorney, the Committee decided to create a Council Policy instead. He reviewed the proposed policy as presented to City Council and asked for comment. Discussion followed.

Motion by Pearson, seconded by Randall, to receive the Presentation by the City Manager Employment Manual Committee Member Councilmember Ford, and adopt the *City Council Policy with Regard to Employment of City Manager*.

Councilmember Urban asked why City Council has to retain external legal counsel in Section D.iii., if an investigation is warranted and desired, to avoid the perception of a potential conflict of interest by persons with an ongoing relationship with the City, such as Labor Counsel and General Counsel, yet the Council is delegating the review of a complaint against the City Manager to an employee or appointee of the City Manager, the Human Resources Director.

Councilmember Ford responded since the Council cannot delegate responsibilities to an employee because of the *City Charter*, the Committee determined that the Policy should provide guidance regarding how the Administration should handle these issues and explained. Discussion followed.

Deputy City Manager Boulis indicated that the discussion among the Committee Members was that an allegation is only an allegation; for example, it can be an allegation of improper conduct, but that is in the eye of the beholder. For example, he said it might be illegal conduct, or it might be legal conduct; it might be how an employee is addressed, or how an employee is not addressed; moreover, he indicated that the Human Resources Director takes the role as in any organization; he or she takes the complaint, gets all of the facts and decides whether it should go forward, or is just a misunderstanding. He said this was the first step to see if the complaint rises to the level of a formal investigation from an external source versus something that could be resolved internally, if it is a misunderstanding. Furthermore, he indicated that the current Administrative Order directs an employee with such a complaint to go to the Deputy City Manager or the Human Resources Director and explained.

Councilmember Urban explained that for anyone else, the Human Resources Director would be a peer with the exception of the Deputy City Manager, but in this case, it is a complaint against a superior and explained that it is inappropriate to delegate the responsibility of the first arbitration from the City Council as they are the direct supervisor of the City Manager. He further indicted that Section D.ii. is problematic because City Council cannot, other than in our own minds, consider the appropriateness and legal consequences of discussing the allegations publicly because this can only be done in an open meeting. In addition, he said because an allegation has gone through one arbiter and forwarded to City Council as the ultimate supervisor of the City Manager, then an investigation would always be warranted in order to know “what we were dealing with.” He asked whether there are some allegations where investigations are required under federal or state law, and requested that the Sexual

Harassment Section of Administrative Order 3.03 that reads, “The City will actively investigate any allegation of sexual harassment” be distinguished.

City Attorney Brown indicated that he thinks an investigation is required, but the extent of the investigation is not specified and deferred to Deputy City Manager Boulis for his input. Mr. Boulis indicated that investigations are conducted in order to solve the problem, correct the problem and make sure it does not occur again. If an organization fails to perform the investigation, it opens itself up to liability. He said he does not think it is a federal law, but if an organization does not conduct an investigation, and the Equal Employment Opportunity Commission (EEOC) or other such agency finds there is an environment that should have been prevented, the consequence is an increase liability and explained. Discussion followed.

City Attorney Brown indicated that the Policy allows the City Council to have a meeting to determine what should be discussed and what should not be discussed; and, since Council cannot hire outside counsel without a vote, it also provides a meeting where City Council discusses and makes the decision. In answer to Councilmember Ansari, Mr. Brown indicated that Council can only discuss an employee in closed session with the permission of the employee involved. He emphasized that Council can discuss an attorney-client communication, but only the legality of the communication. Mayor Strazdas summed up and spoke in agreement with the Committee recommendation.

Councilmember Urban summed up his position by saying that it comes out of Human Resources; is sent to the Mayor and Council is notified; it goes to investigation; and, Council does not discuss it until the investigation is complete.

In answer to Councilmember Urban, Councilmember Randall indicated that this Policy was the result of eight months of work by the Committee, who used the expertise of Legal Counsel and the Human Resources Director. She indicated that the Committee was concerned that all are innocent until proven guilty and some allegations may be made out of anger, so it may not be fair to have the matter rise to the level of City Council. With regard to the suggestion of a retainer, she indicated that the Committee did not want to lock into a firm that may not be the best law firm for this purpose some years from now. She also indicated that any illegal allegations would go immediately to the Police for investigation. She thanked Councilmembers Ford and Reid, Deputy City Manager Boulis and City Attorney Brown for their long hours which culminated in such an excellent document.

Councilmember Reid also pointed out that Administrative Order 3.03 that reads complaints by an employee should be directed to the Deputy City Manager, the Human Resources Director or any city department director, but the employee could approach a Councilmember as well, so all Councilmembers would be then informed. She surmised that an investigation would not have taken place at this juncture, nor determined that one was necessary, and was a scenario where there was a need for the word “If” in D.iii.

Councilmember Ford interjected that another reason for not having a firm on retainer as suggested by Councilmember Urban was that there could also be a conflict of interest that may not be known at the time of the need for an investigation. Discussion followed. Upon a roll call vote, motion carried 6 to 1. Yeas: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall and Claudette Reid, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. No: Councilmember Terry Urban

PRESENTATION BY MAYOR PRO TEM PEARSON REGARDING A JOINT MEETING OF THE CENTRAL COUNTY TRANSIT AUTHORITY, KALAMAZOO COUNTY TRANSIT AUTHORITY AND THE KALAMAZOO TRANSIT AUTHORITY: Mayor Pro Tem Pearson indicated that he and Councilmember Urban attended the Central County Transit Authority (CCTA) Meeting on July 27, 2015, which was before the August 4, 2015 Election on the transit millage. He referenced a presentation by Executive Director Sean McBride, who provided a background of the organizational structure to inform all three of these Boards regarding the assets, the liabilities and what this means for the future. He mentioned that the CCTA will meet twice a month because of the work load for the next few months.

Councilmember Urban added that both this meeting and the prior meeting were set for the purpose of educating the members of the CCTA and others regarding the structure of the Authorities and

to proactively inform everyone since there are a number of topics that have to be covered for all of the new people involved. He indicated that a lot of work has to be done now that the millage has passed. Mayor Strazdas asked that any notes pertaining to the meetings be published on the website as they become available to keep Portage citizens informed. Mayor Pro Tem Pearson reminded him that the minutes are not published until a day or two before the next meeting by the CCTA, but are made available on the CCTA website. Mayor Pro Tem Pearson indicated that the CCTA is 50% funded by the state and federal governments, and Councilmember Urban mentioned that these are informational meetings and the minutes are essentially slides from Mr. McBride, but when the Authority begins making decisions, the minutes will reflect that. He also indicated that he and Mayor Pro Tem Pearson would report important decisions before the minutes are released. Discussion followed.

Motion by Ford, seconded by Ansari to receive the report of the CCTA from Mayor Pro Tem Pearson and Councilmember Urban. Upon a voice vote, motion carried 7 to 0.

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

Portage Human Services Board of April 2, 2015.

Portage Youth Advisory Committee of July 7, 2015.

Portage Senior Citizen Advisory Board of July 15, 2015.

BID TABULATIONS:

TRAFFIC SIGNAL MAINTENANCE CONTRACT– BID TABULATION: Since the proposal also provides hourly rates for emergency call-in work during regular hours and after hours, as well as new signal additions to the City system, Councilmember Reid asked if that was a part of the previous contract, or is it a new aspect of this contract. She also asked why the City only received one bid, yet solicited from seven different companies, and it is almost \$12,000 more than the former contract.

City Manager Shaffer deferred to Transportation Director Christopher Barnes, who responded that the emergency call-out rates and new signal additions to the City system were part of the previous contract in 2010, but that it was important to spell it out this time in order to make it clear that it was part of the contract and explained. Also, he said that the City inherited the system in 1963 from Kalamazoo County and the City decided to have the maintenance performed by outside contractors rather than have a separate electrical department. He concurred with Mr. Shaffer that the response time is of a critical nature to a contract such as this and, in order to meet the two-hour call-out time, he said that there are really only two companies capable of doing this. He explained that Severance Electric had performed this contract for many years, but a Wayland company received it the last time which canceled the contract because they lost their qualified person who used to perform the work. Discussion followed.

Motion by Reid, seconded by Randall, to award a contract for the maintenance of the city traffic signal system from September 1, 2015, to June 30, 2018, with the option to renew for one 3-year period to Severance Electric Company, Incorporated, in the base amount of \$173,800 with hourly rates as bid for call-in work, and additional intersections as necessary, and authorize the City Manager to execute all documents related to the contract on behalf of the City. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

* **PINE VIEW DRIVE SANITARY SEWER PROJECT – BID TABULATION:** Motion by Pearson, seconded by Urban, to award a construction contract for the Pine View Drive Sanitary Sewer Project to Balkema Excavating, Incorporated, of Kalamazoo, Michigan, in the amount not to exceed \$261,328 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 7 to 0.

WEST CENTRE AVENUE TRAFFIC SIGNALS AND ROADWAY IMPROVEMENTS:

Councilmember Reid indicated that the report reflected that Abonmarche has proven their experience and qualification on similar projects in the City and asked whether the other company that bid was not qualified or did the actual bid not reflect the high level of what was needed and that Abonmarche was the company that did meet that level of need.

City Manager Shaffer responded that this was a Request for Proposal for Professional Services and not a bid process, and only one of the criteria is cost with other considerations being experience in the types of tasks that are part of the expectations and a level of comfort with previous performance. He explained that Abonmarche meets these qualifications and, considering the \$1,860 difference, he reminded them that cost is only one factor. Because of the fiduciary responsibility of Council in these matters, Mayor Strazdas asked that perhaps in future reports, staff could provide a little more information to assist in understanding why there is a need to spend more money for a product or service.

Motion by Reid, seconded by Randall, to award a contract to perform engineering services for the West Centre Avenue Traffic Signals and Roadway Improvements project for the intersections of Old Centre Road/West Centre Avenue and Cooley Drive/West Centre Avenue to Abonmarche Consultants, Incorporated, in the amount not to exceed \$75,160 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 7 to 0.

* **TAX FORM PRINTING:** Motion by Pearson, seconded by Urban, to approve a two-year contract with Specialty Business Forms, Inc., in the estimated amount of \$60,715.58 for tax bill and assessment notice printing, with the option to renew for two additional two-year periods, 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 7 to 0.

* **SELF-CONTAINED BREATHING APPARATUS:** Motion by Pearson, seconded by Urban, to approve the purchase of six Self-Contained Breathing Apparatus (SCBA) units and 14 air supply bottles from West Shore Fire of Allendale, Michigan, in the amount not to exceed \$47,726.04 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 7 to 0.

* **DOCUMENT MICROFILMING, IMAGING AND DESTRUCTION SERVICES:** Motion by Pearson, seconded by Urban, to approve a contract in an estimated annual amount of \$18,775 with Automatic Microfilming Co., Inc., for document microfilming, imaging and destruction services, with the option of four one-year contract renewals, 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.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Kalamazoo County Commissioner Larry Provancher provided an update of County activities for City Council. He indicated that Consolidated Dispatch (911) is moving forward and the Executive Director search is going well, but the Kalamazoo County Administrator is not going as well. He reviewed the Kalamazoo County Local Housing Assistance Fund Millage that is specifically geared toward assisting children from families of low income who are homeless, or who are at risk of becoming homeless, and said that it is a "Vote for kids" campaign. He announced the free picnic at Milham Park from 5 p.m. until 7 p.m., on August 12, 2015, for National Alliance on Mental Illness (NAMI). Mayor Strazdas thanked Commissioner Provancher for his service as a County Commissioner and as a volunteer over the years.

STATEMENTS OF CITY COUNCIL: Councilmember Ansari mentioned that he, Mayor Strazdas and Councilmember Ford attended the Ribbon-Cutting Ceremony for Jared's Jewelry, 6307 South Westnedge Avenue, on Saturday, August 1, 2015. Mayor Strazdas concurred and noted the recent

addition of a bank as part of the business growth in the City. Councilmember Ford acknowledged it was a welcomed addition to the business community.

Councilmember Reid highlighted the activities during Teen Movie Night sponsored and put on by the Youth Advisory Council in conjunction with the Optimist Club; she mentioned that the Kalamazoo County Council of Governments (COG) is meeting at the Kalamazoo County Road Commission on Wednesday, August 13, 2015, at 3:30 p.m. where John Pinkster of Life Emergency Services will discuss emergency medical procedures and best practices for municipalities; she announced that the Art Encounters Activity will take place in collaboration with the Senior Center at the Portage District Library, Saturday, August 15, 2015, from 1 p.m. until 3:30 p.m. with a myriad of entertainment offerings. She also indicated that the Library has its "Food for Fine" option where patrons can trade their Library fine with canned food with the focus being the Library list of food for the Thanksgiving baskets for families. She recognized that the Transit Millage passed on August 4, 2015, with a 2:1 margin across the County.

Councilmember Randall recognized John Hilliard and the non-profit organization known as Lending Hands of Michigan, Inc. She mentioned that Mayor Strazdas issued a Proclamation on behalf of City Council proclaiming the Month of May Lending Hands of Michigan Month. She also thanked Councilmember Ansari and Mayor Pro Tem Pearson for obtaining a \$2,000 grant for Lending Hands, whose purpose is to lend medical equipment to patients throughout Southwest Michigan at no charge for up to nine months without regard to age, race, sex, creed, income or disability. Mayor Strazdas concurred.

With regard to the Transit Millage passed on August 4, 2015, Councilmember Urban explained that when the 2000 Census Data was received in 2002, and the City of Kalamazoo and Kalamazoo County disputed the findings. He said some of members of the Kalamazoo Area Transportation Study (KATS) were not pleased with their unwillingness to compromise and decided to withhold 10% of their funds until the dispute was settled, and this resulted in their agreement to consolidate. After some deliberation, he said the two entities presented an aggressive timeline. As a result of the passage of the Transit Millage and State Law, two Authorities, CCTA and KCTA, hopefully with the same membership on both, will work together with one mind to solve issues as they arise. He explained some of the services planned, the expectations and the hard work ahead. He gave a special tribute to Chair Linda Teeter and a special thanks to all who worked on this consolidation.

City Manager Shaffer announced that the South Westnedge Project is substantially completed on time and within budget. He expressed his gratitude on behalf of the Portage citizens to Utilities Engineer Kendra Gwin, who led the Project in the absence of Transportation & Utilities Director Chris Barnes, and the balance of City staff who assisted with the Project. Mayor Strazdas concurred and expressed his hope that the reopening of this major thoroughfare in the Region gets proper media coverage since "Westnedge is Open for Business." He gave special thanks to the businesses in the area for their patience and consideration throughout the progression of the improvements.

Mayor Pro Tem Pearson gave credit to Councilmember Randall for revealing the special work of John Hilliard and Lending Hands of Michigan, Inc., and the subsequent Proclamation on behalf of City Council proclaiming the Month of May as Lending Hands of Michigan Month. He indicated that he asked Councilmember Ansari to write the grant request to the District Rotary for \$1,000, which was matched by Portage Rotary. He said that he was honored as President of Rotary to present the grant two weeks ago to Lending Hands.

Mayor Strazdas indicated that he signed a letter to Linda Eliason with pictures of a recent event enclosed to let her know that the community is enjoying the David J. Eliason Nature Reserve in honor of her late husband. He encouraged everyone to participate in the annual garage and sidewalk sale this Saturday, August 15, 2015, by the Portage Lake Center Businesses on Portage Road south of Centre Avenue. He said he was recently sworn in as President of his Professional Association as an Associate Vice President of Facilities Management of Western Michigan University and mentioned that he showed a couple of his colleagues around the City from Australia, who loved Portage and said it is a great city.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:20 p.m.

James R. Hudson, City Clerk

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