

CITY COUNCIL MEETING MINUTES FROM JUNE 23, 2015

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

At the request of Mayor Strazdas, Mr. Tim Earl gave the invocation and City Council and the audience recited the Pledge of Allegiance.

The Deputy 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 Deputy City Clerk Adam Herringa.

APPROVAL OF MINUTES: Motion by Ansari, seconded by Urban, to approve the Regular Meeting Minutes of June 9, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Reid to read the Consent Agenda. Councilmember Urban asked that Item F.4, Legal Services Contract with Randall L. Brown & Associates, be removed from the Consent Agenda, Councilmember Reid asked that Item F.5, Payment of \$25,000 to Southwest Michigan First to Support Economic Development Activities, and Item F.8, Exception to City Council Rules of Order and Procedure, be removed from the Consent Agenda.

Motion by Ford, seconded by Reid, to approve the Consent Agenda motions as amended. Councilmember Ansari abstained from voting in support of the General Fund human/public services contract and Community Development Block Grant contract with the Portage Community Center (Item F.3). Upon a roll call vote, motion carried 7 to 0 with the previously noted abstention.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 23, 2015:** Motion by Ford, seconded by Reid, to approve the Accounts Payable Register of June 23, 2015. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

ORDINANCE AMENDMENT #14/15-B, SITE PLAN REVIEW: Director Georgeau discussed the proposed amendment and shared that it is a result of a recent City Council Committee of the Whole Work Session regarding efforts to improve economic development. She stated that this amendment will promote the goal of City Council to enhance speed to permitting and will help streamline the development review process. Director Georgeau highlighted the major changes related to the proposed amendment and informed City Council that the amendment received unanimous approval from the Planning Commission. Mayor Strazdas complimented Director Georgeau, Department of Community Development staff and the City Manager for their efforts in promoting economic development and discussed the need for communities to have a competitive edge. Councilmember Reid inquired as to the recourse for a developer to appeal an administrative decision on a proposed development. Director Georgeau indicated that the Zoning Board of Appeals is an outlet. Discussion followed and Director Georgeau shared that this amendment will help maximize the time of the Planning Commission to focus on major developments and city planning instead of routine developments. Councilmember Urban inquired how much permitting this amendment would result in for staff. Director Georgeau replied that at least 50 projects within the past 10 years could have been approved administratively should this amendment have been in place.

Councilmember Ford inquired if other municipalities were studied to assist in the crafting of this amendment. Director Georgeau replied that communities with significant development have gone this route. She continued by stating that while extensive research had not been conducted, such an administrative review process is not uncommon.

Mayor Strazdas opened the public hearing to the audience. There being no one to come forward, Motion by Randall, seconded by Ansari, to close the public hearing. Upon a voice vote,

motion carried 7 to 0. Motion by Randall, seconded by Ford, to approve Ordinance Amendment #14/15-B, Site Plan Review. Upon a roll call vote, motion carried 7 to 0. Ordinance recorded on page 333 of City of Portage Resolution Book No. 12.

TENTATIVE PLAN AMENDMENT FOR THE HOMESTEAD PLANNED DEVELOPMENT, STORY POINT SENIOR LIVING FACILITY: Director of Community Development, Vicki Georgeau, provided a history of the Homestead Planned Development and plans for this property, reviewed the details of the current proposed development, benefits and rationale for the proposed development, efforts being undertaken to mitigate impacts on neighboring properties and plans for the historic VanRiper property. Director Georgeau then reviewed the Planning Commission process, four approval conditions and efforts of the developer to address neighborhood concerns.

Mayor Strazdas thanked Director Georgeau for the report and inquired if the four recommendations will satisfy citizen concerns that have been expressed. Director Georgeau responded in the affirmative. Councilmember Urban inquired as to the elevation of the property and Director Georgeau explained the elevation of the property as compared to the height of the VanRiper property and the homes along McGillicuddy Lane.

Councilmember Randall applauded the development and inquired about potential light pollution, especially as it relates to light coming from windows. Director Georgeau reviewed the outdoor lighting plan and that the plan is in compliance with the City of Portage Code of Ordinances and shared that the City does not regulate interior lighting. She deferred to the applicant, who was present in the audience, to respond to this concern. At the request of Mayor Strazdas, Attorney Brown then explained that the Tentative Plan Amendment is “big picture” while the Site Plan to be discussed later gets into more details.

Councilmember Reid inquired as to the plan for the VanRiper property and what the approval process is for use of the property. Director Georgeau explained there is a review and approval process but that no plan has been made. She indicated that the developer has indicated potentially using the property for offices, a banquet facility or single family use. She continued by stating that if one of these uses is decided upon, the applicant will need to go through the final site plan review process which includes the Planning Commission and City Council. If an alternate use is proposed, the developer would need to begin with a Tentative Plan Amendment before proceeding with the final site plan review process.

Councilmember Reid then inquired as to the rationale for the garbage pickup and delivery location. Director Georgeau explained that the design of the building is such that switching the location of the delivery and garbage service area would be problematic but deferred to the applicant for a more specific response. In response to an inquiry from Councilmember Reid, Director Georgeau explained the benefit and rationale for not having a second entrance to the property off of Milham Avenue.

The applicants, Mr. Mark Murphy of Los Angeles, CA, and Aaron Seymour of Toledo, OH, provided a presentation to City Council regarding the need, rationale and demand for this development. Mr. Murphy also reviewed their company’s history and explained why the trash enclosure needs to remain where it is located. He continued by explaining that the distance from residential properties, additional tree screening higher berms and elevation changes would help limit visibility of the trash enclosure and reduce potential light pollution. With regard to the VanRiper property, Mr. Murphy explained that they have no current plans for the property other than to perform some maintenance and routine clean up. He continued by stating that his company does want to control what happens at that property and may use it for offices, a banquet hall or a single-family residence.

Mayor Strazdas opened the public hearing to the audience. There being no one to come forward, Motion by Reid, seconded by Urban, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Randall, seconded by Ansari, to approve the Tentative Plan Amendment for The Homestead Planned Development, Story Point Senior Living Facility, 3821 West Milham Avenue subject to the four conditions listed in the May 1, 2015 Community Development staff report; inclusion of the written narrative and tentative plan dated April 8, 2015, the addendum letter dated April 30, 2015,

and the conceptual landscape plan dated April 29, 2015; and construction of berms ranging in height from three to six feet tall along the east and south sides of the site. Discussion followed and Mayor Strazdas complimented the developer, Planning Commission, staff and residents on their efforts in support of this project. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

FINAL/SITE PLAN FOR STORY POINT SENIOR LIVING FACILITY: Director of Community Development, Vicki Georgeau, provided a brief overview of the project and the Final/Site Plan. Councilmember Urban inquired about the Photometric Plan and Director Georgeau indicated that the development is in compliance with City lighting requirements. Councilmember Reid asked for clarification regarding berm heights. Director Georgeau indicated the location of the berms and explained that berms along the east side of the property would range in height from 4 to 8 feet and berms along the south would range from 6 to 10 feet. She also indicated that the goal is to not negatively impact the mature trees along these property lines. Director Georgeau then referenced revised planting plan and planting details provided in the Material Transmitted to City Council. She continued by stating that the revised landscape plans substitute Colorado Spruce with White Spruce plantings and the applicants requested that the revised plan and planting details be approved with the Final/Site Plan. Motion by Ford, seconded by Randall, to approve the Final/Site Plan for Story Point Senior Living Facility, 3821 West Milham Avenue. Upon a roll call vote, motion carried 7 to 0. Mr. Murphy complimented Community Development staff, the Planning Commission and City Council on their thoroughness and responsiveness.

* **REFUNDING OF CAPITAL IMPROVEMENT BONDS, SERIES 2008A, AND UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE BY THE CITY OF PORTAGE FOR THE CAPITAL IMPROVEMENT REFUNDING BONDS, SERIES 2015B:** Motion by Ford, seconded by Reid, to adopt the Resolution Authorizing Refunding of the City of Portage Capital Improvement Bonds, Series 2008A and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Refunding Bonds, Series 2015. Upon a roll call vote, motion carried 7 to 0. Resolutions recorded on pages 9 and 19 of City of Portage Resolution Book No. 46.

* **FY 2015/16 COMMUNITY DEVELOPMENT BLOCK GRANT FUND CONTRACTS AND GENERAL FUND HUMAN/PUBLIC SERVICES CONTRACTS:** Motion by Ford, seconded by Reid, to approve the Fiscal Year 2015-2016 Community Development Block Grant Fund contracts and General Fund human/public services contracts and authorize the City Manager to execute all documents related to the contracts on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

PROPOSAL TO RENEW THE CURRENT LEGAL SERVICES CONTRACT WITH ATTORNEY RANDALL L. BROWN AND ASSOCIATES: Councilmember Urban stated that the recommendation associated with this agenda item is not what he expected to see. He stated that City Administration had provided on the agenda a review/survey of various cities including costs, different ways to provide the service, etc. He continued by stating that Attorney Brown has been cost effective and that his quote is a known set amount and will not vary based on hours worked, opinions written or number of court cases. Councilmember Urban stated that the proposal by Attorney Brown is for an additional five years of service with no increase over the previous contract and that he believes City Council cannot get this level of service from another provider. Motion by Urban, seconded by Reid, to accept and approve the proposal to renew the current legal services contract with Attorney Randall Brown and Associates for City Attorney services and authorize the City Manager to execute all documents related to this matter.

Councilmember Ansari extolled his strong support for Attorney Brown, his service and institutional knowledge and stated that he would like to see Mr. Brown's contract receive unanimous approval. However, if it cannot be unanimous tonight, he is willing to wait until August 30th. Councilmember Randall stated that she has no problem with the person but questions the process. She indicated that this contract has not been put out for bid since 1993 and, at that time, seven firms were interested. She stated that the last time this contract came up five years ago she expressed the same concern about the process but that the contract was renewed by a 6 to 1 vote. She expressed her desire to see what the market will yield and explained that the quote from Attorney Brown does not cover the true legal costs of the City and cited the use of a labor attorney for union negotiations as an example. She continued by stating that she would also like to see an evaluation process so that the City Attorney can hear feedback from both the City Council and City Administration. She concluded by stating that, while an informal process is proposed, she would like to see a formal bid process.

Councilmember Ansari stated that, given the survey that has been provided, Attorney Brown is providing the service at a lower price and that he believes Mr. Brown deserves the contract but expressed concern about the timing.

Mayor Strazdas stated that he was going to support the motion and questioned the consistency of when City Council goes out for bid and when it does not and cited information technology and water and sewer services as examples. He expressed concern that multi-million dollar contracts have not undergone the same level of scrutiny as this contract when up for renewal and continued by encouraging City Council to support the motion while at the same time pledging to hold a Committee of the Whole meeting to discuss consistency in the bidding for long-term contracts.

Councilmember Ford stated that he will not be supporting the motion. He stated that the City did receive a quote from a competitor for the PCM Technologies Services contract. He continued by stating that Attorney Brown has institutional knowledge and has provided a competitive price but that he would like to see an informal bid to ensure City Council does its due diligence and that Attorney Brown's pricing is competitive.

Councilmember Reid expressed frustration and questioned addressing this matter just prior to the expiration of the contract. She stated that, based on information provided, Attorney Brown's bid is competitive. She does not have a problem with the price or the service provided. She stated that she does not always agree with him, but believes Attorney Brown provides excellent service. Councilmember Reid continued by stating that she would like to see policies developed related to outsourcing service contracts that are up for renewal. Discussion followed and Mayor Pro Tem Pearson stated that he would like to get a unanimous vote and would like to slow the process down to obtain it. He continued by stating the value of a competitive process, thanked Mr. Brown for his excellent service and emphasized that this is about process and not the person. Mayor Pro Tem Pearson encouraged City Council to think about what they want to see in their City Attorney and asked for comparables to include legal services provided by other jurisdictions within Kalamazoo County.

Councilmember Ansari stated his belief that City Council should not be focused only on price because it is difficult to put a price on the institutional knowledge that Attorney Brown has.

Councilmember Reid stated that, given that Attorney Brown's proposal is in the public domain, it would be difficult to engage in a fair formal bidding process and inquired of the City Manager what would be involved in an informal bid. City Manager Shaffer stated that he has been in conversation with Attorney Brown about his contract for nine months, shared that he is a bid supporter of Brown and Associates, and shared that he would like to see a renewal of his contract in some fashion. Mr. Shaffer stated that, since this contract belongs to City Council, his proposed course of action was an attempt to achieve unanimity amongst City Council and that he appreciated Attorney Brown's institutional memory, predictability and stability. He continued by stating that the informal process would include reaching out to three large and three smaller local firms, provide them a synopsis of the services provided by Brown and Associates and ask for a price. Discussion followed.

Upon a roll call vote, Motion failed 3 to 4 with Mayor Pro Tem Pearson and Councilmembers Ansari, Ford and Randall voting no.

Motion by Pearson, seconded by Ansari, to receive the proposal to renew the current legal services contract with Attorney Randall L. Brown & Associates for City Attorney Services, approve an extension to the current contract through August 30, 2015, and / or authorize the City Manager to solicit informal proposals for City Attorney Services.

Councilmember Reid inquired if Attorney Brown would accept a contract extension to August 30th. Attorney Brown thanked City Council for their kind words and support of the work that he and his staff do for the City. Attorney Brown stated that he understands the rationale of the process City Council is following and expressed confidence that his contract will be renewed.

Mayor Strazdas stated that he would support the motion but expressed frustration with the process that is being followed. Councilmember Ford indicated that City Council is not under obligation to accept the low bid and hoped for the process to be wrapped up swiftly. Mayor Strazdas stated that he is pleased to hear that this is not only about price. Discussion followed and Councilmember Urban strongly emphasized the need to make sure the informal process compares “apples to apples” and Attorney Brown stated his desire for this as well. Attorney Brown continued by sharing that he would be speaking with the City Manager to discuss the legal services he provides in detail. Councilmember Ansari expressed support for a bid process in the City that is consistent and Councilmember Randall expressed concern with focusing on legal services that are outsourced and not in-house. Councilmember Urban expressed disagreement with this position. Discussion followed and Mayor Strazdas concurred with the desire for an “apples to apples” comparison.

Upon a roll call vote, motion carried 7 to 0.

PAYMENT IN THE AMOUNT OF \$25,000 TO SOUTHWEST MICHIGAN FIRST TO SUPPORT ECONOMIC DEVELOPMENT ACTIVITIES IN THE CITY OF PORTAGE:

Councilmember Reid stated that in the proposed contract there is a requirement for an annual consultation/update with the City Manager along with monthly update meetings. She asked if this could be modified so that the Mayor would be included in these meetings and provided her rationale. City Manager Shaffer stated that he would welcome the presence of the Mayor in the meetings and viewed it as a potential asset. Mayor Pro Tem Pearson indicated that, when it comes to economic development, business organizations like to deal with professionals and not elected officials. He expressed concern that a consistent presence of an elected official could be a detriment. Mayor Strazdas stated that, if there is a confidential meeting, he would not want to be present. Discussion followed and Councilmember Reid clarified that she did not envision the Mayor being present for confidential meetings but rather the monthly and annual updates. Motion by Pearson, seconded by Reid, to authorize payment in the amount of \$25,000 to Southwest Michigan First to support economic development activities in the City of Portage and authorize the City Manager to execute all documents related to the matter.

Councilmember Urban stated that he would support the contract for now but questioned what specific activities Southwest Michigan First would do for the City of Portage and expressed his desire for very detailed reporting from the organization. Upon a roll call vote, motion carried 7 to 0.

* **PURCHASE OF 800MHZ RADIOS FROM MOTOROLA SOLUTIONS:** Motion by Ford, seconded by Reid, to authorize the purchase of thirteen 800MHz Motorola Radios from Motorola Solutions, Inc., of Schaumburg, Illinois, through the State of Michigan purchasing program (MiDeal) at a cost not to exceed \$43,075 and authorize the City Manager to execute all documents related to the purchase. Upon a roll call vote, motion carried 7 to 0.

* **SOLE SOURCE CONTRACT FOR THE GARDEN LANE #5 PUMP REPLACEMENT AND MOTOR REHABILITATION PROJECTS:** Motion by Ford, seconded by Reid, to award a sole-source contract for the Garden Lane #5 Pump Replacement and Motor Rehabilitation project to Peerless-Midwest, Incorporated, in the not-to-exceed amount of \$27,659 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.

EXCEPTION TO CITY COUNCIL RULES OF ORDER AND PROCEDURE:

Councilmember Reid inquired if the 5:00 p.m. meeting of City Council could be broadcast live and whether the meeting could be rebroadcast at the usual 7:30 p.m. timeframe. City Manager Shaffer stated that he believed the meeting would be broadcast live but was uncertain whether Public Media Network would be able to turn around and rebroadcast the meeting. However, he indicated that staff was working with PMN about the matter. Motion by Reid, seconded by Pearson, to approve an exception to the City Council Rules of Order and Procedure by changing the meeting time for the July 7, 2015 City Council Meeting to 5:00 p.m. and authorize the City Manager to appropriately notice the meeting time change. Councilmember Urban stated his belief that showing the meeting at 7:30 was arguably more important than showing it live. He continued by stating that he had a family conflict and may not be able to attend. Councilmember Ford reminded the audience that the meetings are now available via live streaming. Upon a roll call vote, motion carried 6 to 1 with Councilmember Urban voting no.

* **MAY 2015 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Ford, seconded by Reid, to receive the May 2015 Environmental Activity Report as Information Only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Ford, seconded by Reid, to receive the Department Monthly Reports as Information Only. Upon a roll call vote, motion carried 7 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of the Portage Youth Advisory Committee of May 11, 2015, Portage Zoning Board of Appeals of May 11, 2015 and Portage Planning Commission of June 4, 2015.

BID TABULATIONS:

* **CONSTRUCTION CONTRACT FOR THE WEST OSTERHOUT AVENUE RECONSTRUCTION PROJECT:** Motion by Ford, seconded by Reid, to award a construction contract for the West Osterhout Avenue Reconstruction Project to Michigan Paving & Materials Company of Kalamazoo, Michigan, in an amount not to exceed \$995,833.55 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.

* **CONTRACT WITH A1 ASPHALT TO PROVIDE REPAIRS TO PARK ASPHALT TRAILS:** Motion by Ford, seconded by Reid, to accept the low bid in the amount of \$53,329.47 from A1 Asphalt, Incorporated, to provide repairs to park asphalt trails 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.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Mr. Tim Earl, 6862 Shallowford Way, invited City Council to attend the Celery Flats Music Festival at Celery Flats on Sunday, July 12th from noon to 4:00 p.m. He stated the concert is a partnership between the Park Board and the K'zoo Folklife Organization. Mayor Strazdas stated that many pieces of the former Summer Entertainment Series are back and being sponsored by outside organizations and asked the City Manager to bundle them into a single notice for publication in the Portager.

Ms. Monifa Jumanne, 6286 Silver Fir Street, shared that she was planning to make a presentation but, due to the late hour, she would save it until the next meeting. She informed City

Council that she serves on the Senior Citizen Advisory Board and that she is proud to be a citizen of the City of Portage and informed City Council that she is looking forward to opportunities to do more.

STATEMENTS OF CITY COUNCIL: Councilmember Reid shared that “Listening Post” will be this coming Friday from 8:00 a.m. to 9:00 a.m. at the Hampton Inn in Portage. The topic will be regarding demographic shifts and placemaking. Councilmember Reid then extolled the virtues of the beauty of the State of Michigan.

Councilmember Ford expressed hope that everyone had a great Father’s Day and wished everyone a happy 4th of July.

Councilmember Randall shared some details about the new Parks and Arts program and shared information about upcoming activities and concerts, such as the Army Field Band and Soldier’s Chorus Concert and canoe rental.

Mayor Pro Tem Pearson invited the public to come and watch 4th of July fireworks at McCamley Field and shared that the display is sponsored by the Portage Rotary Club. He thanked Portage Public Schools and the City of Portage for their support. He also invited the public to make donations in support of the annual event.

Mayor Strazdas shared that he, along with Councilmembers Ansari and Ford, recently attended a meeting with State Senators regarding revenue sharing and the Personal Property Tax. He expressed optimism that the City of Portage and other municipalities would be made “whole” as it relates to the Personal Property Tax. Next, he mentioned that he attended a bank opening ceremony and that, with regard to recycling, there may be an opportunity for some income to offset the cost of the contract. Finally, he reminded the community that the Taste of Portage, sponsored by the Portage Athletic Foundation, was on the horizon along with many other community events.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:58 p.m.

Adam Herringa, Deputy City Clerk

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