

## CITY COUNCIL MEETING MINUTES FROM AUGUST 25, 2015

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

At the request of Mayor Strazdas, Councilmember Urban gave an invocation, and City Council and the audience recited the Pledge of Allegiance.

At the request of Mayor Strazdas, 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.

**PROCLAMATION:** Mayor Strazdas, City Council and City Manager Laurence Shaffer issued a Certificate of Recognition Honoring Max Newsome and Alex Hufford for their successful completion of a 1,000 mile bicycle ride a “4 Great Lakes, 1 Great Cause” in an effort to raise \$6,000 for a fresh water well in Poipet, Cambodia, being built by the organization, “Activewater.”

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Ansari, to approve the Regular Meeting Minutes of August 11, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember Randall asked that Item H.1, Selection of City Attorney – Authorization to Execute Contract, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 25, 2015:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of August 25, 2015. Upon a roll call vote, motion carried 7 to 0.

### REPORTS FROM THE ADMINISTRATION:

\* **VEHICLE PURCHASE RECOMMENDATION:** Motion by Urban, seconded by Reid, to authorize the purchase of two four-wheel drive three-quarter ton pickup trucks, two hybrid sedans, five four-wheel drive police patrol vehicles, one utility van, one front end loader, one compact track loader, one electric police patrol motorcycle and one compact excavator through the State of Michigan purchasing program (MiDEAL), and the National Joint Purchase Alliance (NJPA) purchasing program at a total cost of \$532,588.76 and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **PURCHASE STREET CRACK SEALING MATERIAL:** Motion by Urban, seconded by Reid, to approve the sole source purchase of 45,000 pounds of crack sealing material in the amount of \$19,993.50 from Maxwell Products, Incorporated, of Salt Lake City, Utah, 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.

\* **TRADE CENTRE WAY SHARED SEWER AGREEMENT:** Motion by Urban, seconded by Reid, to approve Contract 15-5154 between the Michigan Department of Transportation and the City of Portage for a shared use sewer agreement along Trade Centre Way; adopt a Resolution authorizing the City Manager to sign Contract 15-5154; and, authorize the City Manager to sign all other documents

related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 27 of City of Portage Resolution Book No. 46.

\* **SOUTH CENTRAL BIKEWAY TRAIL RESOLUTION:** Motion by Urban, seconded by Reid, to adopt the Resolution to obligate funds and commit responsibility for maintenance of the planned South Central Bikeway non-motorized trail in perpetuity and authorize the City Manager to sign all other documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 29 of City of Portage Resolution Book No. 46.

\* **LOCAL OFFICERS COMPENSATION COMMISSION REPORT:** Motion by Urban, seconded by Reid, to receive the report from the Local Officers Compensation Commission. Upon a roll call vote, motion carried 7 to 0.

\* **JULY 2015 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Urban, seconded by Reid, to receive the July 2015 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

\* **DEPARTMENTAL MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Departmental Monthly Reports from the various departments. Upon a roll call vote, motion carried 7 to 0.

#### **COMMUNICATION:**

**CITY MANAGER SALARY REVIEW / EVALUATION COMMITTEE:** Mayor Strazdas introduced this item and explained the process as it has been performed in the past, including his recommendation for re-appointment on the Committee and the option of going into a closed session. Motion by Ansari, seconded by Ford, to appoint Mayor Strazdas, Mayor Pro Tem Pearson and Councilmember Ford to the City Manager Salary Review / Evaluation Committee, convene the City Manager Salary Review / Evaluation Committee and request a recommendation as to compensation for Fiscal Year 2015-2016. Upon a roll call vote, motion carried 7 to 0.

#### **UNFINISHED BUSINESS:**

**SELECTION OF CITY ATTORNEY – AUTHORIZATION TO EXECUTE CONTRACT:** Councilmember Randall stressed that this is the first time she has asked that an item be removed from the Consent Agenda in the six years she has served as a Councilmember. She referred to the spreadsheet that provided a tabulation of the Request for Proposals for Legal Services and indicated that Randall L. Brown & Associates, PLC, was not the low bid as Bauckham, Sparks, Lohrstofer, Thall & Seeber had the low bid and had 100 years of experience with 95% of the practice dedicated to municipal entities, so she concluded that the firm specializes in this type of law. She compared the rates of the two firms and indicated that there is a difference of \$30,728 per year between the two firms which results in \$153,640 over five years, or a difference of 16%. She expressed her admiration for City Council scrutiny of the numbers being paid for items as reflected in the Agenda Packets, but mentioned her confusion owing to an item removed from Consent Agenda at the last Regular Meeting regarding the hiring of traffic signal and roadway improvements that had a differential of 2.5%, or \$1,860. She asked the question, “If this rate is high today, and it has been the same rate for the past fifteen years, how much have we paid a premium for these services?” She indicated that she would be voting “No” for three reasons: a true and competitive bid was never sought, the Request for Proposals (RFP) Process was flawed, only six firms were asked to submit a proposal, and the last time the contract was sent out to bid was 1997, eighteen years ago; the bid administration is requesting Council to accept a 16% higher than the next best bid - she would rather see that the savings go directly to benefiting the citizens; and, if

historical knowledge is the primary reason for going with Brown & Associates, then there is zero succession planning and explained that local attorneys or legal firms have not been allowed to offer legal services to the City in over three decades.

Councilmember Reid agreed that the process is flawed primarily because Mr. Brown was asked to provide a proposal, which he did, and he provided a number; subsequently, other firms were asked to submit a proposal, so they knew what his number was and it is not surprising that all of their numbers were less. She emphasized that that is a flawed process and indicated that none of the numbers should be considered with any validity owing to the firms having Mr. Brown's amount ahead of time. She also pointed out that this was not a bid process and explained that Council has no information on these firms, the numbers are flawed, so Council should consider the proposal presented by Randall L. Brown & Associates and the history of the services to the City that he has submitted.

Mayor Strazdas indicated that the proposal submitted by Bauckham, Sparks, Lohrstofer, Thall & Seeber, took exceptions and objections to the specifications and asked if the amount would be larger if the firm had not taken exceptions or objections to the specifications.

City Manager Larry Shaffer responded that Bauckham, Sparks, Lohrstofer, Thall & Seeber, took exception to the termination clause and the reason that the termination clause is important because the appointment of a City Attorney also requires a contract with the firm with which the City Attorney is engaged. He indicated that should City Council decide to terminate the contract, the relationship with the City Attorney and the firm has to be untangled immediately, so the termination language is absolutely essential in order to maintain the relationship anticipated by the *City Charter*, and it is difficult to place a price tag on it. Secondly, he indicated that the City insurance requirements are standard and have been applied to Mr. Brown and any and all City contracts. He noted that the City is not going to be able to enter into an agreement with an entity if that entity cannot meet these insurance standards, and mentioned that there is an incremental cost associated with meeting these indemnification standards, but said he did not have that figure before him at this time. Lastly, he indicated that there were some issues associated with volunteers and how they were involved and, even those details presumably could have been worked out in a contract situation, it would not be fair not to reference that those were listed in the response from Bauckham, Sparks, Lohrstofer, Thall & Seeber.

Mayor Strazdas wanted to be sure to let the public know that the low bidder made all sorts of exceptions when none of the other participants took exceptions.

Councilmember Ansari spoke in support of Mr. Brown and admired him for his outstanding performance, mentioned that it is difficult to assign a number to institutional knowledge, noted the RFP flaw mentioned by Councilmember Reid, who indicated that none of the numbers should be considered with any validity owing to the firms having Mr. Brown's amount ahead of time.

Consistent with Section 6.2 of the City Charter, motion by Urban, seconded by Reid, to appoint Randall L. Brown as the City Attorney, effective September 1, 2015, and authorize the City Manager to enter into a contract with Randall L. Brown and Associates, PLC, for a term not to exceed five years at an annual rate of \$225,728.

Councilmember Ford indicated that as stewards of City funds, he agreed to the process two months ago to make sure the spending was wise. He pointed out that the process as proposed was more formal than anticipated which lends credence to the accuracy of the amounts proposed. He noted that each firm had low amounts for the first year, then all showed an increase, and Councilmember Randall indicated that it was because the first year was not a full year. He rationalized that because City Council spends very little time with Mr. Brown, and the Administration spends a lot of time with him and recommends him, he agrees with the Administration recommendation.

Mayor Strazdas indicated that he has had the opportunity to work with lots of legal counsel in his capacity as a volunteer and as Associate Vice President of Facilities Management at Western Michigan University, and has always taken great pride in Mr. Brown and the level of professionalism he has offered Council in the many years he has served as he has kept the City out of trouble, has provided sage advice; he has given advice sometimes Council did not want to hear but needed to hear; and he has given Council advice that was necessary. He expressed a concern with the low proposal with exceptions

as that alone is a reason to disqualify the proposal. He asked that the practice of revealing the number in a proposal never happen again since seeking a number as part of a proposal or bid needs to be sought using an open, public, transparent method. When seeking professional services, he indicated that one should never consider a bid or proposal on the basis of low bid or amount. Discussion followed.

Mayor Pro Tem Pearson concurred that Council does want to be transparent with regard to contracts, and this contract has not been bid for thirty years, so he applauded the effort to do this. He concurred with the number flaw mentioned by Councilmember Reid and with Councilmember Randall that Council looks for the best value for the citizens. He agreed with Councilmember Ansari that institutional memory is important. He expressed his appreciation that Mr. Brown was always able to answer his questions when he served on the Planning Commission or as a Councilmember with an example from the past. Upon a roll call vote, motion carried 6 to 1: Yeas: Councilmembers Reid, Urban, Ansari, Ford, Mayor Pro Tem Pearson and mayor Strazdas. No: Councilmember Randall.

### **COUNCIL COMMITTEE REPORTS:**

**CENTRAL COUNTY DISPATCH AUTHORITY:** Mayor Pro Tem Pearson provided an update regarding the Central County Dispatch Authority (CCDA) and indicated that he is Chair of the Committee that reviewed eighteen applications for Executive Director received on August 13, 2015, who unanimously narrowed the field down to five candidates for interview during the second week of September with the full CCDA. He deferred to Councilmember Reid, who is on the Finance Committee, reported that the Finance Committee was charged to arrange for initial attorney and accounting assistance and the Committee has not met since the CCDA last took action on this.

Motion by Ford, seconded by Ansari, to receive the update from Mayor Pro Tem Pearson regarding the Central County Dispatch Authority. Upon a voice vote, motion carried 7 to 0.

**CENTRAL COUNTY TRANSIT AUTHORITY:** Mayor Pro Tem Pearson and Councilmember Urban provided an update regarding the Central County Transit Authority (CCTA) which met on August 17 and 24, but no decisions were made. Mayor Pro Tem Pearson conveyed that the members of the Authority are still catching up on the tutorials on contracts, the buses, anticipated needs, etc., provided by Executive Director Sean McBride. He said it will probably take a year to have the final execution of the transfer of assets and liabilities from the Kalamazoo County Transit Authority (KCTA) to the CCTA. He reiterated that the minutes will eventually be available on the website, and that he and Councilmember Urban would bring any important decisions to City Council as they arise.

Councilmember Urban indicated that they do expect the agreement that transfers the fleet assets and the physical assets from the City of Kalamazoo to CCTA and provide CCTA “grant recipient status” will be approved by the end of the year and will take another year to actually execute and explained. He mentioned that it is proposed that the metro offices, the garage, the two parking lots and the Transit Center be retained by the City of Kalamazoo with a long-term lease for one dollar to the CCTA. He attempted to list and describe other issues that need to be resolved in the areas of union contracts, benefits and capital acquisition plans, Sean McBride’s employment agreement, etc. He described the process as the first example, and a very valuable example, of inter jurisdictional cooperation in the County. Motion by Ford, seconded by Ansari, to receive the report from Mayor Pro Tem Pearson and Councilmember Urban regarding the Central County Transit Authority (CCTA). Upon a voice vote, motion carried 7 to 0.

**ENVIRONMENTAL HEALTH AND ADVISORY COUNCIL:** Councilmember Ford provided an update regarding the Environmental Health and Advisory Council recommending a Groundwater Restriction Zone (GRZ) on KL Avenue, Oshtemo Township, at the request of the Kalamazoo County Commission. He said that the landfill was capped on top, but did not have a bladder on the bottom. As nearly all residences within the proposed GRZ have been hooked up to municipal water and their private drinking water supply wells abandoned or disconnected from their domestic

supply, the remaining residents who wish to continue to use their wells must apply to the Department of Environmental Quality (DEQ) for a permit. Motion by Reid, seconded by Ansari, to receive the report from Councilmember Ford regarding the Environmental Health and Advisory Council. Upon a voice vote, motion carried 7 to 0.

#### **BID TABULATIONS:**

\* **PORTAGE ROAD ENGINEERING SERVICES CONTRACT – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract to Wightman & Associates, Incorporated, for Portage Road from Romence Road Parkway to East Milham Avenue in the amount not to exceed \$67,300 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.

\* **EAST OSTERHOUT AVENUE RECONSTRUCTION – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract to Abonmarche Consultants, Incorporated, of Benton Harbor, Michigan, for the East Osterhout Avenue (South Westnedge Avenue to Portage Road) street reconstruction project in an amount not to exceed \$62,905 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.

\* **ENGINEERING SERVICES CONTRACT FOR THE ZYLMAN LIFT STATION – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract for the Zylman Lift Station Renovations to Jones & Henry Engineers, Ltd., in the amount not to exceed \$48,885 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 CITY COUNCIL CANDIDATE:** Tim Earl, 6862 Shallowford Way, spoke as a candidate for City Council which will be determined at the November 3, 2015 City Election and recounted some of the efforts he would take if elected Councilmember.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Jim Stephanak, 10725 Cora Drive, and owner of Paint Recycling Services, thanked Mayor Strazdas, City Council, City Manager Shaffer and Public Services Director Rod Russell for the opportunity to have the paint recycling event on Saturday. He explained that residents turned in 2,250 gallons of paint, or 26 tons of paint that was kept out of the landfill.

Betty Lee Ongley, 8620 Tozer Court, indicated that August 26<sup>th</sup> celebrates the Nineteenth Amendment (Amendment XIX) to the United States Constitution, ratified August 18, 1920, which prohibits any United States citizen from being denied the right to vote on the basis of sex, giving women the right to vote for the first time in the United States. Discussion followed.

County Commissioner Larry Provancher, 7414 Starbrook Street, spoke about “Welcome Michigan” involving eight cities, counties and townships, which is based upon treating native born and foreign born people with dignity and respect and explained that the program is for businesses, industries and non-profit organizations, also.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Ford asked City Manager Shaffer if staff likes the electronic agenda software, and he responded that there are a few experts on the SuiteOne software that was chosen and staff is in the learning stages or “valley of despair” with the promise of coming out of the valley when proficiency is attained. He indicated once the kinks are worked out, the resultant productivity and transparency should prove terrific and explained. Councilmember Ford encouraged everyone to return their postcards or go to:

[www.portage.gov](http://www.portage.gov)>[Departments](#)>[Public Services](#)>Curbside Recycling Program to chose a bin provided for single stream recycling.

Councilmember Randall thanked Jim Stephanak and Rod Russell for a successful paint recycling event on Saturday and reviewed the activity. She also spoke favorably about the Senior Health Expo held at St. Catherine's Catholic Church and spoke highly of the efforts of Senior Citizen Services Manager Kim Phillips. She reminded everyone to be careful with children walking, running, riding bicycles or getting on buses with school starting in two weeks.

Councilmember Urban said he was looking forward to the next five years working with Randy Brown in his capacity as City Attorney and reflected his appreciation for the past 30 years working with him in their respective capacities with the City.

Councilmember Reid thanked and recognized Kendall Klingelsmith and his staff, along with Chris Barnes and his staff, for soliciting the \$243,000 of State and Federal Funds from Transportation Alternatives Program Funds that will be used for the South Central Portage Bikeway. She also highlighted the walk and ride trails on each side of Portage Road from Romence Road Parkway to East Milham Avenue that is in alignment with the Complete Streets Policy passed on August 11, 2015. She cited the six site reviews for commercial and industrial development listed in the July 2015 Environmental Activity Report.

City Manager Shaffer expressed appreciation to City Council for recognizing the innovative, creative and energetic city staff for their endeavors and the service they put forth.

Mayor Pro Tem Pearson congratulated City Attorney Randy Brown for being appointed for five more years. He also commented on the reactivation of the City Manager Salary Review / Evaluation Committee and complimented Mr. Shaffer for all he has accomplished in the short time he has "been on the job." Finally, he reminded everyone that the 2025 Visioning Renewal Event is set for Saturday, October 3, 2015, from 9 a.m. until 2 p.m. and encouraged all citizens to attend.

Mayor Strazdas reached out, congratulated City Attorney Randy Brown for the renewal of his five-year contract and indicated he was looking forward to his legal advice. He concurred with Mayor Pro Tem Pearson of the importance of the 2025 Visioning Renewal Event and thanked Former Mayor Betty Lee Ongley, who invited him to assist with the first visioning process of Portage. He reviewed the Portage road projects that continue to be improved despite the difficulties faced by other governmental entities in this respect and he assured everyone that the City investments are very conservative and basically untouched by any market setbacks.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:35 p.m.

James R. Hudson, City Clerk

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