

CITY COUNCIL MEETING MINUTES FROM MAY 11, 2010

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

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall, Claudette S. Reid, Terry R. Urban and Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Pastor Mark Cryderman of the Portage Free Methodist Church, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

PROCLAMATIONS: Mayor Strazdas issued a Center of the World for PickleBall Proclamation and a "Parents Who Host Lose the Most: Don't Be a Party to Teenage Drinking" Month Proclamation.

APPROVAL OF MINUTES: Motion by O'Brien, seconded by Urban, to approve the April 27, 2010 Special Meeting and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Councilmember Reid abstaining. Motion by O'Brien, seconded by Urban, to approve the May 4, 2010 Budget Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Campbell to read the Consent Agenda. Mayor Pro Tem Sackley asked that Item F.5, Construction Board of Appeals Demolition Order, be removed from the Consent Agenda. Motion by Reid, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF MAY 11, 2010:** Motion by Reid, seconded by Urban, to approve the Check Register of May 11, 2010. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

PUBLIC ACT 5 OF 1982 (TRUTH IN TAXATION): Mayor Strazdas opened the public hearing and City Manager Maurice Evans stated that this item is the action on the tax levy and the actual public hearing on the budget, and that no final action would be taken since the budget will be adopted at the May 25, 2010 Regular City Council Meeting. Mr. Evans indicated that the fiscal year 2010-2011 contains \$61.8 million in expenditures and this reflects a reduction from the \$66.4 million of fiscal year 2009-2010. He also indicated that it includes \$23 million in the General Fund, down from the \$25 million of fiscal year 2009-2010. He indicated that the goals and objectives of City Council were considered in the development of the budget by a well-organized team who ensured the provision of core services of the City of Portage.

Mr. Evans highlighted some of the negative impacts of the economy on the city budget, including a 4% decrease in property tax revenues, decrease in Act 51 funds, lower state revenue sharing, maintaining a low overall tax rate of 10.7312 mills, a 0.071 millage increase in the municipal street fund owing to the redirection of \$550,000 of Kalamazoo Area Transportation Study (KATS) funding and previously anticipated federal money in the major street fund area. He indicated that this budget maintains the 13% prescribed fund balance by City Council and that this budget places Portage in the lower 25% of all cities in Michigan with a population greater than 25,000 in terms of millage level.

Mr. Evans cited some of the measures used by the Administration to accomplish significant reductions in the budget, including: continuation and reduction of personnel from 215 in 2005-06 to 188 at the present time; reviewed and had a reduction in vendor contracts wherever possible and used the recent SARCOM reduction as an example; always look for operational cost reductions; altered fringe benefit levels in the organization; and, eliminated pay increases for all non-union personnel in both the current fiscal year and the proposed fiscal year. He cited the reductions in flower planting, Christmas

tree lighting, roadside mowing, publication of *Portager* only six times per year and the elimination of the community survey for 2010-11.

However, he said because some of the unpredictable developments with regards to the State of Michigan budget, further negative consequences could result, and less state revenue could be forthcoming should the state issue further reductions. He did indicate that the proposed Capital Improvement Program (CIP) supports approximately \$9.9 million in infrastructure improvements; that Police and Fire services are maintained; streets will be snow-plowed; water and waste water services will continue; parks will be open; curbside recycling, spring clean up and leaf pick-up will take place; and city hall will be open for business. He concluded by letting City Council know that this is a very good, but tight budget and summarized some of the projections in more detail. Mayor Strazdas explained the process and discussion followed.

Mr. Evans asked Mayor Strazdas to allow Finance Director Dan Foecking to explain the tax levy portion of the budget. Mr. Foecking indicated that the proposed tax levy is the same for all of the funds except for the street fund owing to the shortfall in funding that would normally come from KATS and explained. Mayor Strazdas asked for comment from the public. There being no comment, motion by O'Brien, seconded by Campbell, to adjourn the public hearing and adopt the Resolution to establish a millage rate not-to-exceed 0.0714 mills above the base tax rate as defined by State of Michigan Public Act 5 of 1982. Discussion followed. At the request of City Manager Evans, Councilmembers O'Brien and Campbell withdrew the motion. Discussion followed. Motion by O'Brien, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Reid, to adopt the Resolution to establish a millage rate not-to-exceed 0.0714 mills above the base tax rate as defined by State of Michigan Public Act 5 of 1982. Discussion followed recognizing the difficult decisions made in order to provide this budget for fiscal year 2011-12. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 17 of City of Portage Resolution Book No. 44.

2010 UTILITY RATE FINANCIAL STUDY: At the request of Mayor Strazdas, City Manager Evans introduced Utilities Engineer Kendra Gwin, who discussed the findings and recommendations of the 2010 Utility Rate Financial Study. Mayor Strazdas asked for some clarifications and cited the arsenic treatment facility, the pass through charges from the City of Kalamazoo, and the need to maintain a working capital. Finance Director Dan Foecking explained and discussion followed. In answer to Mayor Strazdas, Ms. Gwin explained that the City of Portage water and sewer rates place us below the middle when compared with other cities and that with the rate increases would move Portage to the middle, but the other cities in the state will likely have rate increases, also. Discussion followed. Mayor Strazdas asked for comment from the public. There being no further comment, motion by Sackley, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Reid, to adopt the 2010 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees and service fees and charges as outlined in the 2010 Utility Rate Financial Study and as recommended by the Administration and the City Council Water and Sewer Rate Study Committee. Councilmember O'Brien indicated that conservation of water is driving up the unit cost, because the three things driving the costs are out of City Council and citizen control because of the cost of the infrastructure being so high. Mayor Pro Tem Sackley indicated that the struggle with the rate study this year has been the most difficult ever and explained. Upon a roll call vote, motion carried 6 to 0. Resolutions recorded on pages 19 and 21 of City of Portage Resolution Book No. 44.

PETITIONS AND STATEMENTS OF CITIZENS:

PETITION FOR BUSINESS SIGNAGE ALONG SOUTH WESTNEDGE DURING I-94 CONSTRUCTION - SAMUEL M. BROWN: City Council received the comments from Sam Brown,

Muskegon, and owner of Fazoli's Restaurant, 5709 South Westnedge Avenue, who indicated that he has experienced double digit loss in sales because of the construction of the I-94 bridge over South Westnedge Avenue and a 95% support on the petition from the businesses on South Westnedge Avenue between Kilgore Road and Milham Road and spoke in favor of his petition requesting the approval of the use of 4 x 6 foot banners for businesses along South Westnedge Avenue between Kilgore Road and West Milham Avenue. Discussion followed.

Councilmember Urban indicated that the City Council has to rely on the Zoning Board of Appeals to vary an ordinance, but could write a new ordinance and asked City Attorney Randy Brown for an opinion. Mr. Brown indicated that the ordinance allows signs to direct traffic to these businesses and concurred with Councilmember Urban that City Council can not adopt a resolution that would violate an existing ordinance, so a new ordinance would have to be approved to handle the matter. Discussion followed. Councilmember Urban also expressed a concern regarding being able to write a new ordinance that would be fair to all of the businesses. Discussion followed. Councilmember O'Brien advocated working with MDOT to assist in advertising for the businesses. Discussion followed.

Motion by Reid, seconded by O'Brien, to refer the petition from Samuel M. Brown representing Fazoli's Restaurant, 5709 South Westnedge Avenue, requesting the approval of the use of 4 x 6 foot banners for businesses along South Westnedge Avenue between Kilgore Road and West Milham Avenue to the Administration for review and report. Upon a roll call vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

*** COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

RECOMMENDATION: Motion by Reid, seconded by Urban, to approve the Community Development Block Grant (CDBG) Program FY 2010-11 Annual Action Plan element of the Consolidated Plan and authorize the Administration to submit the application to the Department of Housing and Urban Development. Upon a roll call vote, motion carried 7 to 0.

*** MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT – WEST**

MILHAM AVENUE: Motion by Reid, seconded by Urban, to approve Contract 10-5306 between the Michigan Department of Transportation and the City of Portage concerning funding for street and utility improvements on West Milham Avenue from 165 feet west of Angling Road to 12th Street; approve an engineering services contract with Driesenga & Associates, Incorporated, for construction inspection and administration on West Milham Avenue from 165 feet west of Angling Road to 12th Street in the not-to-exceed amount of \$126,220; adopt a Resolution authorizing the City Manager to sign Contract 10-5306 on behalf of the city; and authorize the City Manager to sign all other documents relating to both the consultant contract and the Michigan Department of Transportation contract 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. 44.

*** I-94/SOUTH WESTNEDGE AVENUE INTERCHANGE IMPROVEMENTS:** Motion by Reid, seconded by Urban, to approve the agreement with Consumers Energy for undergrounding overhead utility lines and installation of new streetlights on South Westnedge Avenue from Dawnlee Avenue to I-94 and authorize the City Manager to execute all documents related to the agreement on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

*** COMPUTER REPLACEMENT:** Motion by Reid, seconded by Urban, to approve the lease of 55 Hewlett Packard replacement computers and 2 Panasonic replacement tough books from Capital Advantage Leasing of Grand Rapids, Michigan, at a lease price of \$61,716.80 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.

NOTE: Councilmember Randall was excused and left at 8:05 p.m.

CONSTRUCTION BOARD OF APPEALS DEMOLITION ORDER - 10323

ARCHWOOD DRIVE: Mayor Pro Tem Sackley explained that the structure at 10323 Archwood Drive is across the street from his residence, so he wished to recuse himself from discussion and vote on this matter. Discussion followed. City Manager Evans indicated that this is a Construction Board of Appeals order for the demolition of this property located at 10323 Archwood Drive.

Motion by O'Brien, seconded by Urban, to accept the order of the Construction Board of Appeals to demolish the house located at 10323 Archwood Drive and authorize the City Administration to take the necessary action to demolish the house at 10323 Archwood Drive, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance. At the request of Councilmember Urban, Mayor Strazdas asked if there was anyone in the audience who wished to speak for or against the demolition order. Discussion followed. Upon a roll call vote, motion carried 5 to 0 with Mayor Pro Tem Sackley abstaining.

* **SPECIAL MEETING TO INTERVIEW YOUTH IN GOVERNMENT APPLICANTS:** Motion by Reid, seconded by Urban, to set a Special Meeting on Tuesday, June 8, 2010, beginning at 5:45 p.m. to interview youth applicants to fill openings on the Youth Advisory Committee and Boards and Commissions. Upon a roll call vote, motion carried 7 to 0.

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

Portage Human Services Board of April 1, 2010.
Portage Park Board of April 7, 2010.
Portage Planning Commission of April 15, 2010.

AD HOC COMMITTEE REPORTS:

RESOLUTION TO JOIN PUBLIC MEDIA NETWORK: Mayor Strazdas asked for a report from the Committee. Councilmember Reid recused herself from discussion and vote on this matter as her daughter is currently employed by Public Media Network. Mayor Pro Tem Sackley deferred to Councilmember O'Brien for the report. City Attorney Brown interjected that the conflict of interest referred to by Councilmember Reid arises from the fact that her daughter is employed by Public Media Network and pointed out that the contract by itself may not have given rise to a conflict, but the City Council Code of Ethics may disallow discussion and vote. Councilmember O'Brien reviewed some of the history of the Committee, mentioned the requests for proposals process and the expert guidance in the selection process received by the Committee and referred to the actions by City Council over the last few months regarding this matter. She then indicated that Public Media Network is the only contractor who could provide the level of service required, that there was a reduction in cost, and that the Portage Public Schools would still be a partner of the entities involved in this activity. She termed it a win, win, win situation and referred to the Resolution Approving a Fifth Amendment to the Urban Cooperation Act Agreement which established the Public Media Network to permit the City of Portage to become a Member Public Agency and a Memorandum of Understanding. She noted that the membership on the Public Media Network Board consisted of four representatives from the City of Portage, and the Committee sought initially to appoint two Councilmembers and two citizens-at-large and mentioned the Special Meeting of City Council held earlier to interview applicants for the Board.

Mayor Pro Tem Sackley emphasized that this is an historic agreement and reviewed the history of cable television back to the 1960's and the efforts of Fetzer to bring cabled antennae to Kalamazoo County. He explained the service that will be provided in more detail and the plan for expansion, including the contributions and future role of Portage Public Schools in the matter. He also reviewed some of the opportunities in detail for citizens that will be available and expressed appreciation to Chief Information Officer Devin Mackinder for the yeoman's effort he has given for this cause.

Councilmember O'Brien noted that the start date will be July 1, 2010, if the City Council approves this item. Councilmember O'Brien indicated that Public Media Network Chair Jerry Brown and Executive Director Harry Haasch were present for questions. Discussion followed.

In answer to Mayor Strazdas, Mr. Mackinder indicated that the contract promises to make the service better because there is now a Board of Directors; that there are additional services that will be offered not before offered, hopefully in the City Center area; and that the Committee has plans to maintain and not just walk away so, if there is a lack of service, they will be able to address it.

In answer to Mayor Strazdas, Harry Haasch, 11025 Middlefield, Richland, who asked to be called, "Hap," explained that a performance metric is utilized to measure employee performance; that the number of channels will increase immediately, from two to five; that community involvement promises to increase well over the current 50 clients; that they will be able to track the Portage residents; that they can now teach technical workshops in Portage; that the educational component should develop with the enthusiasm expressed by City Council and Portage Public Schools; and that the representatives from Portage will join the retreat that has been delayed until the Portage representatives could be present. He thanked City Manager Evans, Devin Mackinder and Bob Luders for their assistance and professionalism, even when there was disagreement. Mr. Evans asked about the survey that was reinstated one and one-half years ago, and Hap indicated he wanted to reinstate it and conduct it, if not annually, biannually. Mr. Evans concurred. Discussion followed.

Councilmember Urban asked for a clarification regarding the March 31, 2010, date contained in the contract in the second paragraph of segment #1, wherein the Public Media Network will seek an alternative location for the Government Production Services Unit within the City of Portage in the event an agreement for the use of the Portage Public School's Training and Technology Center cannot be reached. Discussion followed. Hap indicated that he is optimistic that an agreement with Portage Public Schools can be reached; indicated that they have always been willing to respect their construction timeframe; and saw no need to alter the date referenced in the document. City Attorney Brown indicated that the intent is clear, so he does not see a problem. Discussion followed.

Motion by O'Brien, seconded by Sackley, to adopt the Resolution Approving a Fifth Amendment to the Urban Cooperation Act Agreement which established the Public Media Network to permit the City of Portage to become a Member Public Agency and to approve a Memorandum of Understanding related thereto; appoint four individuals to serve on the Public Media Network Board of Directors on behalf of the City of Portage; and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 5 to 0 with Councilmember Reid abstaining. Resolution recorded on page 31 of City of Portage Book No. 44.

APPOINTMENTS TO THE PUBLIC MEDIA NETWORK BOARD: Mayor Pro Tem Sackley indicated that the Committee thought it prudent to initially have two Councilmembers serve on the Public Media Network Board and explained that it could be reduced to one City Councilmember in the future. Discussion followed. Motion by Campbell, seconded by O'Brien, to appoint Don Ramlow to a three-year citizen-at-large position effective immediately with term ending on May 31, 2013, and Jeremy Vryhof to a two-year citizen-at-large position effective immediately with term ending on May 31, 2012, to the Public Media Network Board of Directors. Upon a roll call vote, motion carried 6 to 0.

Councilmember O'Brien explained that the Committee thought it prudent to nominate two Committee Members to serve on the Public Media Network Board with no staggered terms knowing that appointments take place at the end of each year when reviewed at the City Council Retreat in December.

Councilmember Urban asked for a clarification as there was conflict for Councilmember Reid to review the Public Media Network agreement, but she is willing to serve on the Public Media Network Board. Councilmember Reid indicated that they approached Public Media Network to see if there was a conflict if she served on the Board and there was nothing in their by-laws and the Board did not perceive a conflict, and she indicated that she checked with the City Attorney as well.

Motion by Urban, seconded by O'Brien, to appoint Councilmember Claudette Reid and Mayor Pro Tem Ed Sackley, to serve at the pleasure of the City Council, to the Public Media Network Board of Directors. Mayor Strazdas asked for a confirmation of the lack of a conflict of interest from a representative of the Public Media Network Board and Public Media Network Chair Jerry Brown confirmed that what Councilmember Reid said was true and accurate. City Attorney Brown interjected that the decision to enter into the agreement is a far different decision than Councilmember Reid will make while serving on the Board. Councilmember O'Brien asked for an explanation by Mr. Brown and he indicated that the Committee did not make any decisions; that she probably should not have served after City Council passed the Code of Ethics; that he attended these meetings and there was no influence, no bias and no harm; and that if it had been brought up that the daughter worked for the Public Media Network, he would have recommended that she not serve.

Councilmember O'Brien assured everyone that Councilmember Reid had integrity throughout this process and she followed all of Mr. Brown's recommendations. Councilmember Reid indicated that when she began working on this project, her daughter worked for a Boston Massachusetts company and did not join Public Media Network until later in the process. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

NEW BUSINESS:

* **APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:** Motion by Reid, seconded by Urban, to reappoint William Koopsen and Lawrence Schmidt and appoint George Theodoru to the citizen-at-large position with terms ending June 1, 2013, and appoint Carl Compton to the master electrician position with unfulfilled term ending June 1, 2012, and to waive the term limitation and reappoint Bill Miller to the mechanical contractor position with term ending June 1, 2011, to the Construction Board of Appeals; to reappoint James Cheesebro and Paul Welch and appoint Mark Siegfried with terms ending May 31, 2013, to the Planning Commission; to appoint Ruth Caputo with the unfulfilled term ending October 1, 2010, to the Environmental Board; to appoint Matt Tanis with the unfulfilled term ending October 1, 2012, to the Park Board; to appoint Dorie Ehrig with the unfulfilled term ending December 31, 2011, to the Historic District Commission. Upon a roll call vote, motion carried 7 to 0.

BID TABULATION:

* **CITY HALL AND SENIOR CENTER INSULATION UPGRADES – BID RECOMMENDATION:** Motion by Reid, seconded by Urban, to accept the low bid submitted by Premier Roofing and Exteriors in the amount of \$40,880 for insulation upgrades in City Hall and the Senior Center 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 CITY COUNCIL AND CITY MANAGER: With regards to her work with Junior Achievement, Councilmember Campbell announced that Mr. Henderson's fifth Grade Class won an award for marketing an Ice Cream Sundae product that included a business plan and advertising.

Councilmember Reid acknowledged the extremely well-qualified applicants who interviewed for the various Boards and Commissions and expressed her appreciation to applicants who are willing to volunteer their time.

Councilmember Urban recognized the excellent work of Planning Commission Chair Tom Fox, who was replaced because of term limitation. He also recognized the City of Kalamazoo as a favored and cooperative “sister city to the north.”

Councilmember O’Brien recognized the excellent work of Construction Board of Appeals Chair Tom Wilkinson, who was replaced because of term limitation, mentioned attendance at the Day of Prayer with Mayor Pro Tem Sackley and encouraged everyone to attend the Work Day at Bicentennial Park, Friday, May 14, 2010, sponsored by the Builders Association. She also reminded everyone that the Race to the Cure is on May 16, 2010, Downtown, Kalamazoo.

City Manager Evans congratulated Parks Director Bill Deming and his staff for receiving a Bronze Award from *American Bicyclist*.

Mayor Pro Tem Sackley lamented the passing of *Kalamazoo Gazette* Reporter Charlotte Channing and remembered her as tough, smart, fair, feared and always professional, and expressed kind thoughts to her family.

Mayor Strazdas concurred with Mayor Pro Tem Sackley and indicated that Ms. Channing was tenacious and spunky, also. He also mentioned that the City of Portage has eight new Eagle Scouts, announced that Portage Northern Forensics Team won first in the state for the ninth time in a row and expressed his appreciation for the youth and adult engagement in the community in Portage.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:42 p.m.

James R. Hudson, City Clerk

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