

CITY COUNCIL MEETING MINUTES FROM JULY 13, 2010

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

At the request of Mayor Pro Tem Sackley, Councilmember Urban gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall and Terry R. Urban and Mayor Pro Tem Edward J. Sackley. Councilmember Claudette S. Reid arrived at 7:37 p.m. Mayor Peter J. Strazdas was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by O'Brien, seconded by Campbell, to approve the June 22, 2010 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0.

* **CONSENT AGENDA:** Mayor Pro Tem Sackley asked Councilmember Urban to read the Consent Agenda. Councilmember Urban asked that Item F.5, Appointment to the Public Media Network Board of Directors, be removed from the Consent Agenda. Motion by Urban, seconded by O'Brien, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF CHECK REGISTER OF JULY 13, 2010:** Motion by Urban, seconded by O'Brien, to approve the Check Register of July 13, 2010. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARING:

REZONING APPLICATION #09-02 (OAKLAND DRIVE AND OAKLAND FARMS TRAIL): Mayor Pro Tem Sackley introduced Community Development Director Jeffrey Erickson, who indicated that Hyland Associates, LLC, initially requested that the east 5.91 acres of 9810 Oakland Drive be rezoned R-1C, one family residential, to R-1B, one family residential, to facilitate Phase II of the Oakland Farms subdivision. Mr. Erickson said that during the April 1, 2010 Planning Commission Meeting, the Planning Commission expanded the rezoning area to include several properties along Oakland Drive and all lots within Phase I of the Oakland Farms subdivision. He explained that the expanded rezoning application includes 25 properties on approximately 30 acres and was initiated to establish a more consistent and coherent zoning pattern in this area of the city and to facilitate residential development. He noted that in a report dated May 14, 2010, the Department of Community Development recommended the properties be rezoned from R-1C and R-1T, to R-1B; that the proposal is consistent with the Comprehensive Plan; that it will create a cohesive zoning pattern; and, that it encourages appropriate development and will result in the preservation of a substantial amount of R-1C zoned land.

Mr. Erickson emphasized that the staff support of the expanded rezoning is based on the following additional considerations: the fragmented zoning pattern that is present in this area will be corrected; the existing R-1T district, within which 10 single family homes have been constructed and three more are under construction, which meet R-1B district standards, will be changed to a zoning district that will ensure conforming development; the future phase of the Oakland Farms plat (to the immediate north of the first phase) will be zoned R-1B and very different zoning districts that allow very different residential uses across a common public street will be precluded; elimination of the R-1T zone will result in more similar residential development between the adjacent R-1C-zoned area and the proposed R-1B zone; given the nonresidential zoning pattern and uses across Oakland Drive and in the sounding area, the area proposed for rezoning is considered to be better suited for the smaller, more affordable homes planned by the applicant, while the larger interior land area adjacent to the Gourdneck

State Game area can remain available for larger lot, larger dwelling development; the area proposed for rezoning is limited and provides the opportunity to preserve a significant amount of R-1C-zoned land in this vicinity for future residential development; and, the 2010 proposed rezoning area is preferable to the oddly configured land area in the rezoning application proposed in 2006.

Mr. Erickson also indicated that the Planning Commission convened a public hearing involving the expanded rezoning application on May 6 and 20, 2010. He said that on May 19, 2010, correspondence was received from Ms. Ondrea Loudon, representing the owner of the adult foster care home located at 9842 Oakland Drive, and requested that the property be excluded from rezoning consideration. He also said she attended the May 20, 2010 public hearing and requested 9842 Oakland Drive be excluded, and the Planning Commission voted unanimously to recommend to City Council that Rezoning Application #09-02 be approved and the properties, excluding 9842 Oakland Drive, be rezoned to R-1B, one family residential. Mr. Erickson said that the Department of Community Development supports the Planning Commission recommendation and presented a map that illustrated the alternative rezoning proposal.

Discussion followed regarding the preference to rezone all of the property R-1B and/or R-1C versus R-1T as it relates to development of the property and the Comprehensive Plan.

Ondrea Loudon, representing the owner of the adult foster care home located at 9842 Oakland Drive, explained why she requested that the property be excluded from rezoning consideration and offered to answer any questions. Discussion followed regarding the legally non-conforming status of the property and the consequences of leaving it that way or rezoning it. City Attorney Randy Brown explained the law and more discussion followed.

Susan Ver Sluis, 9818 and 9832 Oakland Drive, expressed opposition to the proposed rezoning of 9818 and 9832 Oakland Drive because it would restrict possible uses currently available under the R-1T zoning causing her direct economic hardship. She offered a compromise to withdraw her protest petition against rezoning 9818 Oakland Drive if City Council voted to have 9832 Oakland Drive remain R-1T. Discussion followed.

When the suggestion was posed to take the matter back to the Planning Commission for further review, Dan Martz, 7545 South 10th Street, Kalamazoo, spoke in favor of a compromise in order to save planning and construction time. Discussion followed.

Motion by Urban, seconded by O'Brien, to close the public hearing. Upon a voice vote, motion carried 6 to 0. Discussion followed.

Motion by O'Brien, seconded by Campbell, to amend the Code of Ordinances of the City of Portage, Michigan, by amending Article 4 of Chapter 42, Land Development Regulations, changing the zoning of the tract of land located in Section 29, Township 3 South, Range 11 West, described as: 9810, 9804, 9818, 9832 and 9842 Oakland Drive, 2180, 2201, 2212, 2236, 2235, 2259, 2258, 2282, 2281, 2309, 2310, 2334, 2333, 2355, 2356, 2380, 2379, 2407 and 2408 Oakland Farms Trail, from R-1C, one family residential, and R-1T, attached residential, to R-1B, one family residential, with the exception of 9832 and 9842 Oakland Drive. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Raghuram Elluru, 6719 Oleander Lane, complained that \$27,000 in attorney fees and staff time was utilized on behalf of the citizens of Portage to defend against his property tax appeal that resulted in a refund of \$750 in city taxes per year for his property at 6719 Oleander Lane (plus more for the other taxing jurisdictions). He requested an explanation of the action taken by City Council to spend an extra \$6,600 to defend this case further and complained that the process was grueling. Councilmember Randall concurred, indicated that she was advised not to go into closed session regarding this matter and asked the Administration for the computer back-up tapes for all property information from 2005 through 2010 in order for her to ensure that property owners in Portage are being handled fairly.

NOTE: Councilmember Randall asked that the minutes reflect the actual amount spent by the City defending the Elluru case at \$27,206.85 at the July 27, 2010 Regular City Council Meeting.

Robert Jones, 3228 West Michigan Avenue, Kalamazoo, complimented Raghuram Elluru and Councilmember Randall for challenging city property assessment practices and made the suggestion that the City Council determine a mechanism to look into the matter.

Isaac King, 3352 Bellflower Drive, spoke in opposition to his tax assessment, indicated that he travels a lot and missed getting his assessment change notice, so Mayor Pro Tem Sackley offered to get him an appointment with the City Assessor. Discussion followed.

In response to Councilmember Randall's comment that she was advised to not go into the closed session regarding her neighbor, Raghuram Elluru, 6719 Oleander Lane, Catherine Gleason, 2928 Lamplite Circle, asked whether a Councilmember has ever been excluded from a meeting before, so Mayor Pro Tem Sackley and Councilmember Urban answered in the affirmative and provided some examples for her and City Attorney Brown explained the applicable law. Discussion followed.

Larry Provancher, 7414 Starbrook Street, admitted that, as a County Commissioner, he had a conflict with regard to a sale of property, was allowed to be privy to all of the information regarding the matter, but did not vote on it. Discussion followed.

Michael Quinn, 7025 Rockford Street, expressed the opinion that a conflict means a person may have an advantage and said he could not imagine what the conflict would be; therefore, it is up to the Councilmember to decide. Discussion followed.

REPORTS FROM THE ADMINISTRATION:

* **AVALON WOODS CIRCLE – PROPOSED STREET NAME CHANGE:** Motion by Urban, seconded by O'Brien, to approve Resolution No. 1 and set a public hearing for July 27, 2010, at 7:30 p.m. or as soon thereafter as may be heard and subsequent to the public hearing, consider approving Resolution No. 2 renaming the street from Avalon Woods Circle to Avalon Woods Court. Upon a roll call vote, motion carried 6 to 0.

* **FINAL PLANS FOR THE GREENSPIRE PLANNED DEVELOPMENT:** Motion by Urban, seconded by O'Brien, to consider approving the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue, and the Final Plan for Greenspire Apartments (Phase IV), 8380 Greenspire Drive. Upon a roll call vote, motion carried 6 to 0.

* **FINAL PLAN FOR LAKE MICHIGAN CREDIT UNION, 4100 WEST CENTRE AVENUE:** Motion by Urban, seconded by O'Brien, to approve the Final Plan for Lake Michigan Credit Union, 4100 West Centre Avenue. Upon a roll call vote, motion carried 6 to 0.

* **HILLSMOOR LANE STREETSCAPE ENHANCEMENT:** Motion by Urban, seconded by O'Brien, to approve the installation of the Hillsmoor Lane cul-de-sac island landscape treatments located in the public right-of-way and authorize the City Manager to execute the Streetscape Enhancement Agreement. Upon a roll call vote, motion carried 6 to 0.

PUBLIC MEDIA NETWORK BOARD OF DIRECTORS MEMBER: Councilmember Urban explained that Jeremy Vryhof expressed a great deal of enthusiasm when he was appointed to the Public Media Network Board of Directors. However, he has since indicated that he accepted a temporary assignment overseas, making it difficult to serve on the Public Media Network Board of Directors. Councilmember Urban volunteered to serve on an interim basis until Mr. Vryhof returns from his assignment.

Motion by Campbell, seconded by O'Brien, to appoint Councilmember Terry Urban on an interim basis until Jeremy Vryhoff returns from assignment overseas to the two-year position effective immediately with the term ending on May 31, 2012, to the Public Media Network Board of Directors. Upon a roll call vote, motion carried 6 to 0.

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

- Portage Environmental Board of May 12, 2010.
- Portage Senior Citizen Advisory Board of May 19, 2010.
- Portage Board of Education Regular Business of May 24, Special of May 27 and Special and Committee of the Whole Work Session of June 7, 2010.
- Portage Park Board of June 2, 2010.
- Portage Planning Commission of June 17, 2010.

BID TABULATIONS:

- * **PAVEMENT MARKING SERVICES CONTRACT RENEWAL - RECOMMENDATION:** Motion by Urban, seconded by O'Brien, to award a one-year contract renewal to provide pavement marking services to Michigan Pavement Markings, LLC, of Wyoming, Michigan, in an amount not to exceed \$86,000 and authorize the City Manager to execute all documents related to this contract renewal on behalf of the city. Upon a roll call vote, motion carried 6 to 0.
- * **COMPACTOR TRUCK WITH OPERATOR RENTAL - CONTRACT RENEWAL RECOMMENDATION:** Motion by Urban, seconded by O'Brien, to approve a one-year contract renewal with Republic Services of Michigan Hauling, LLC, dba Republic Waste Services of Western Michigan, to provide four compactor trucks with operators at an hourly rate of \$117.75 for the 2010 Fall Leaf Pickup Program in the not-to-exceed amount of \$48,000 and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.
- * **SHUMAN WELL #1 PUMP AND MOTOR REHABILITATION:** Motion by Urban, seconded by O'Brien, to award a contract for the Shuman Well #1 Pump and Motor Rehabilitation to Peerless-Midwest, Incorporated, in the not-to-exceed amount of \$23,650 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Campbell thanked everyone who participated in the 4th of July Freedom Fest.

Councilmember Reid asked everyone to take the survey on the 2035 Transportation Plan at <http://www.katsmpo.org/>.

Councilmember O'Brien recognized Kalamazoo County Commissioner John Zull and State House Representative Larry DeShazor, and she and Councilmember Urban thanked Councilmember Campbell for her efforts with Freedom Fest.

City Manager Evans reminded everyone of the Summer Entertainment Series and congratulated and commended Parks & Recreation Director Bill Deming for 30 years of service.

Mayor Pro Tem Sackley indicated that City Council and the Administration conducted an eight month review of the assessing process of the City of Portage and the City Council voted to close that review in April with a unanimous vote. He also pointed out that the City Council is the appeal body to determine if a conflict exists should there be a question of about whether a Councilmember should not attend a session or vote on an item. Furthermore, he noted that Councilmember Randall voluntarily recused herself from the Elluru Closed Session and did not bring the matter before City Council.

ADJOURNMENT: Mayor Pro Tem Sackley adjourned the meeting at 9:37 p.m.

James R. Hudson, City Clerk

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