

## CITY COUNCIL MEETING MINUTES FROM JULY 12, 2011

The Regular Meeting was called to order by Mayor Strazdas at 7:33 p.m.

At the request of Mayor Strazdas, Pastor Paul Nuechterlein of Prince of Peace Lutheran Church of Portage gave the invocation. Mayor Strazdas then invited Elena Potts, winner of the VFW Post 5855 Voice of Democracy Scholarship, and Karen Barnes, Chairperson for the Voice of Democracy for the VFW Post, to come forward and lead City Council and the audience in the Pledge of Allegiance. Mayor Strazdas next asked Ms. Potts to recite her award-winning essay entitled "Does My Generation Have a Role in America's Future."

The Deputy City Clerk called the roll with the following members present: Councilmembers Cory A. Bailes, Elizabeth A. Campbell, Patricia M. Randall, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and Deputy City Clerk Adam D. Herringa.

**PROCLAMATIONS:** Mayor Strazdas invited State Representative Margaret O'Brien to come forward to issue special State of Michigan proclamations to three members of Troop 80331, Portage, who recently received the Girl Scout Gold Award. Representative O'Brien read highlights of the proclamations and handed them to Monica Dubray, Brianna Melgar and Safina Amern who received the proclamation on behalf of her daughter, Allysha Choudhury.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Sackley, to approve the June 28, 2011 Regular Meeting Minutes. Upon a voice vote, motion carried 6 to 0 with Councilmember Campbell abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. At the request of City Administration, Item F.3, Communication from the City Manager requesting that City Council authorize the provision of an additional brush collection program to address brush resulting from the July 11, 2011 windstorm, was added to the Consent Agenda and Mayor Strazdas asked that it be removed from consent. Motion by Sackley, seconded by Bailes, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JULY 12, 2011:** Motion by Sackley, seconded by Bailes, to approve the Accounts Payable Register of July 12, 2011. Upon a roll call vote, motion carried 7 to 0.

**STATEMENTS OF CITIZENS:** Greg Rosine of the Kalamazoo County Transportation Authority discussed the separate transit millages between Kalamazoo and other parts of Kalamazoo County and how it has been an impediment to a county-wide transit system. He then informed City Council that, thanks to State Representative Margaret O'Brien of Portage, State Representative Sean McCann of Kalamazoo and State Senator Tonya Schuitmaker, there was bi-partisan legislation that had been approved by both the Michigan House and Senate and was awaiting the signature of Governor Snyder. Mr. Rosine stated that the legislation will help to provide for a true county-wide transit system.

## **PUBLIC HEARING:**

### **ORDINANCE AMENDMENT 10-C, MEDICAL MARIHUANA HOME**

**OCCUPATION:** Mayor Strazdas opened the public hearing and asked City Manager Maurice Evans to provide an overview of the proposed ordinance amendment. Mr. Evans reviewed the Medical Marihuana Act (MMA), some of the challenges that communities are facing in regard to the MMA and highlighted some of the reasoning behind the proposed ordinance. Director of Community Development Vicki Georgeau spoke and reviewed key aspects of the proposed ordinance.

Councilmember Urban inquired as to whether City Administration knew what percentage of single-family homes would be excluded given the 1,000 foot distance restrictions as specified in the ordinance and if these restrictions would be overly burdensome. Director Georgeau indicated that she was not aware of the exact percentage of homes that would be excluded but that the proposed ordinance is less restrictive than an earlier proposal.

Mayor Strazdas opened the public hearing. Chris Chiles, 1611 W. Centre Avenue, spoke against the proposed ordinance as being too restrictive and suggested that it should be expanded beyond home occupations. He stated that he operates a professional office and is a caregiver to numerous patients. He then passed out a petition that has been circulating in the City of Kalamazoo regarding medical marihuana dispensaries and asked that the proposed Portage ordinance be amended according to the language on the petition. He also asked that the moratorium be extended for non-residential properties and that those distribution centers that were formally in operation before this ordinance is passed be grandfathered in.

Councilmember Urban asked Mr. Chiles to describe his activities because under the state law he is limited to 5 patients. Attorney Brown advised Mr. Chiles that he did not need to answer the question because the operation he has may violate state law. Mr. Chiles stated that he has attempted to be open and transparent with the city and invited City Council to visit.

John Targowski, 1963 Brighton Lane, spoke in opposition to the proposed ordinance and indicated that he is an attorney that specializes in marihuana cases. He asked that the current moratorium be extended and that City Council not create legislation that may put somebody in jeopardy of being in compliance with state law but not local law and referenced cases that are currently working their way through the courts that may help to clarify legal uncertainties.

Erik Rowe, 7320 Garden Lane, spoke in opposition to the proposed ordinance and indicated he is Director of Alternative Meds located at this address. He stated that his operation is grandfathered under state law and that, what he runs into, like other farmers and caregivers, is that not everyone is successful at cultivation. He primarily deals with older patients with a debilitating condition and emphasized the need for safe and easy access to their medicine. He then discussed the difficulties in cultivation and that categorizing this activity as a home occupation is a departure from the truth. He asked that City Council honor the state law.

Ken Jonatzke, 8318 Portage Road, spoke in opposition to the proposed ordinance. He discussed his operation, security features and the health concerns of his wife. He is concerned that the ordinance will prevent him from cultivating marihuana and he does not want to have to grow inside his home. He expressed concern with the pesticides and other materials used to cultivate marihuana being used in a residence. He also wondered if he would be grandfathered in. Councilmember Urban inquired about the specifics associated with the cultivation of medical marihuana. Discussion followed.

Motion by Urban, seconded by Randall, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Mayor Strazdas asked Attorney Brown to respond to some of the concerns that had been raised in the public hearing. Attorney Brown stated that he agreed with Attorney Targowski that the law is still developing but emphasized that there is enough law out there to support this ordinance. He then reviewed some of the legal cases that are pending in the state and his opinion that forthcoming court

decisions would be supportive of the language used in the proposed ordinance. He also reviewed some of the reasons why the recommendation is to limit facilities to residential districts.

Mayor Strazdas stated that some who spoke inquired if they could be grandfathered. Attorney Brown responded that the matter is complicated and he would rather not make a statement today and that facts and circumstances for each case would need to be evaluated.

Mayor Strazdas asked how the proposed ordinance compares to laws enacted by other municipalities as it relates to the matter of commercial v. residential requirements. Attorney Brown responded that it is a mix, but that fewer are going commercial. Attorney Brown also indicated that our proposed ordinance is very similar to Kalamazoo and Grand Rapids with the exception of the registration requirement in Grand Rapids. Discussion followed.

Councilmember Randall asked if there would be a problem with delaying any type of decision and could the moratorium be extended for less than six months. Attorney Brown responded that the moratorium could be extended, but he would not recommend it and provided some reasons why and suggested that future amendments are likely. He opined that doing nothing means it is not regulated.

City Council next discussed at length health and exposure risks and responsibilities by bringing the cultivation aspect into the home as well as security matters related to the growth and cultivation of medical marihuana.

Councilmember Randall inquired how quickly the ordinance could be modified based on ruling of a court. Attorney Brown responded that it would be within a meeting or two following review and approval of the Planning Commission.

Councilmember Urban stated that the safety aspect of mandating the cultivation occur in the home is concerning to him and asked for portions of the proposed ordinance to be read for clarification.

Next City Council discussed the issue of use of the Federal Drug Free School Zone 1,000 foot distance requirements and whether it was too exclusionary, if there are exceptions to the distance requirements and why the provisions of that law were used to establish the requirements.

Mayor Strazdas stated that there has been much discussion so far on a complicated and involved issue that is still being played out in the courts. He asked City Council for a motion on the matter. Motion by Urban, seconded by Campbell, to table the consideration of the proposed Medical Marihuana Ordinance until the July 26<sup>th</sup> Regular Meeting of the City Council so that information on health and safety issues and exclusionary zones may be obtained. Discussion followed and Attorney Brown clarified that a "motion to table" is a non-debatable motion except for when it will be tabled to. Upon a roll call vote, motion carried 4 to 3. Yeas: Councilmembers Bailes, Campbell, Randall and Urban. No: Mayor Strazdas, Mayor Pro Tem Sackley and Councilmember Reid.

## **REPORTS FROM THE ADMINISTRATION:**

\* **AMENDED DEVELOPMENT PLAN AND AMENDMENT TAX INCREMENT FINANCING PLAN:** Motion by Sackley, seconded by Bailes, to adopt the Resolution Approving the Agreement to Implement the Amended Development Plan and Amended Tax Increment Financing Plan; adopt the Resolution Approving the Development Agreement; and authorize the Mayor and City Clerk to execute the documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolutions recorded on pages 267 and 275 of City of Portage Resolution Book No. 44.

\* **ORDINANCE AMENDMENT 10-D, BUSINESS BANNER REGULATIONS:** Motion by Sackley, seconded by Bailes, to accept Ordinance Amendment 10-D, Business Banner Regulations, for first reading and set a public hearing for August 9, 2011; and subsequent to the public hearing, consider approval of Ordinance Amendment 10-D, Business Banner Regulations. Upon a roll call vote, motion carried 7 to 0.

**STORM RELATED BRUSH COLLECTION:** Mayor Strazdas discussed the impact the July 11<sup>th</sup> severe thunderstorm had on the community and commended the efforts of public safety and public works employees. City Manager Evans stated that there have been many questions about a brush pick-up and reviewed the proposed plan to hold a special brush collection beginning August 1<sup>st</sup>. He explained that the current pick-up will continue and asked City Council for authorization for the additional pick-up. He explained that, while he would like to start the pick-up immediately, the city must give people an opportunity to prepare. He then reviewed details of the plan and how the effort would be paid for and that the estimated cost is between \$100,000 and \$125,000. He also complimented city staff on their efforts. Mayor Strazdas commended neighbors and residents on coming together and supporting each other in responding to the storm damage. Councilmember Randall pointed out that placing debris on the edge of the road and on sidewalks is a hazard for cyclists and walkers and wondered if the pick-up should be held earlier. Mr. Evans concurred that residents should make every effort to ensure debris is not in the roadways but that starting August 1<sup>st</sup> is recommended so that everyone has an opportunity to get their materials out. Discussion followed. Motion by Sackley, seconded by Reid, to authorize the provision of an additional brush collection program to address brush resulting from the July 11, 2011 windstorm. Upon a roll call vote, motion carried 7 to 0.

### **COMMUNICATIONS:**

**INTERGOVERNMENTAL COLLABORATION - CONSOLIDATION:** Mayor Strazdas indicated that this is a follow-up on a previous meeting of members of the Kalamazoo City Commission, Kalamazoo County Commission and Portage City Council. He stated that since that time additional meetings of various elected officials and administrators have been held and that the report presented tonight from the Kalamazoo City Manager, Portage City Manager and County Administrator is a result of these efforts. Mayor Strazdas indicated that the Kalamazoo City Commission and Kalamazoo County Commission were going to be asked to review and vote on the follow-up communication as well. City Manager Evans informed City Council that he and his fellow administrators had met on numerous occasions to come up with the report and recommended service consolidation opportunities. He stated that the goal is the most effective and cost-efficient services as possible and that some consolidation/collaboration is necessary for the long-term health of those involved. He then highlighted the difficulties, planning and time requirements to implement the recommendations from the report. He also indicated that significant financial savings can only be realized through a reduction in personnel, facilities and/or equipment. Mr. Evans then reviewed the various categories of the report and where initial efforts would be focused. He also stressed the importance of involving elected officials and asked that City Council affirm and endorse the content of the report.

Mayor Strazdas complimented the three administrators on their efforts and on their selection of topics to address, such as consolidated dispatch. He also stated that he felt strongly that the significant items should involve some type of public forum so that City Council can hear what residents think about such topics as centralized dispatch. Motion by Sackley, seconded by Reid, that City Council accept the communication from Portage City Manager Maurice Evans, Kalamazoo City Manager Ken Collard and Kalamazoo County Administrator Peter Battani regarding the follow-up on Intergovernmental Collaboration/Consolidation and that we offer the requested affirmation and endorsement for this recommendation.

Mayor Pro Tem Sackley stated that this activity has been a long time coming and that it is in no way meant to exclude the other units of government in the County. He emphasized that the County and two cities represent the largest portion of the budget that will support these efforts as well as the largest portion of the population. He then recommended that, in addition to elected officials, business leaders, not-for-profits, citizens and others be invited to participate in the conversation about service

consolidation. Mr. Sackley congratulated the three administrators as well as township leaders and pointed out that consolidations have been going on long before the current administration in Lansing took office. Mayor Strazdas concurred and referenced the listing of past consolidation efforts in the report.

Councilmember Randall also complimented the administrators and inquired if other items could be added to the list should there be a public demand or need. Mayor Strazdas responded that the administrators felt that this report was a start and that other topics could be added should circumstances dictate.

Councilmember Reid discussed the amount of time and effort needed to implement these efforts and opined that we must be judicious on what we collaborate on. Mayor Strazdas commended the three administrators on their ability to work together. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

**COMMUNICATION FROM MARC MEULMAN, HUMAN SERVICES BOARD CHAIRMAN, REGARDING A HUMAN SERVICES FAIR:** Mayor Strazdas invited Marc Meulman to discuss the proposed Human Services Fair. Mr. Meulman stated that the Human Services Board has been looking for ways to improve the knowledge of the community about available services. He offered that the Portage Community Center is a crown jewel but cannot do everything for our citizens. He informed City Council that the Human Services Board has determined that citizens find out about services primarily through a loose network of family, friends and contacts. The Human Services Board is proposing to, at the Portage Community Center, hold a fair and invite organizations that provide services to Portage residents to increase community knowledge of available services. Mr. Meulman stated that the Human Services Board is hoping to finalize details of the event in early August for a planned September 27<sup>th</sup> event.

Mayor Strazdas commended the Human Services Board on their efforts and on this concept. Councilmember Reid asked about the target audience and Mr. Meulman indicated that the target audience is those who come in contact with residents in need. Members of City Council commended Mr. Meulman and the Human Services Board and offered suggestions for event participants. Motion by Bailes, seconded by Sackley, to refer the request of the Human Services Board to plan and host a Human Services Fair to City Administration for review and comment. Upon a roll call vote, motion carried 7 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Zoning Board of Appeals of May 9, 2011.

Portage Park Board of June 1, 2011.

Kalamazoo County Board of Commissioners Regular and Committee of the Whole of June 21, 2011.

#### **BID TABULATION:**

\* **CHANGE ORDER NO. 1 FOR RESURFACING OF ANGLING ROAD:** Motion by Sackley, seconded by Bailes, to execute Change Order No. 1 with Michigan Paving and Materials Company of Kalamazoo, Michigan, for the resurfacing of Angling Road (Romence Road to West Milham Avenue) in the not-to-exceed amount of \$221,489.04 and authorize the City Manager to execute all documents on behalf of the city.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Bailes complimented the youth participants in the Youth Triathlon activity that was part of the Park Board's Paddle Fest event at Ramona Park.

Councilmember Campbell thanked all who came to watch the fireworks on the 4<sup>th</sup> of July and hoped that it was successful enough so that Portage Rotary could sponsor the event again next year. She also announced that she will be running for reelection.

Councilmember Reid commented that it was good to see neighbors and citizens helping each other in the aftermath of the storm.

Mayor Pro Tem Sackley commented that State Representative O'Brien sent him a text message complimenting the City of Portage on its storm clean-up efforts. He also mentioned an open house at Big Brothers Big Sisters.

Mayor Strazdas expressed hope that word about the brush pick-up will get out into the community and closed by thanking city staff and residents for their work and support in storm clean-up.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 10:17 p.m.

---

Adam D. Herringa, Deputy City Clerk

\*Indicates items included on the Consent Agenda.