

CITY COUNCIL MEETING MINUTES FROM APRIL 12, 2011

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

At the request of Mayor Strazdas, Deacon Karen McDonald of the St. Barnabas Episcopal Church of Portage gave the invocation and Boy Scout Troop 277 led the City Council and the audience in reciting the Pledge of Allegiance.

The 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 City Clerk James R. Hudson.

PROCLAMATION: Mayor Strazdas issued a Fair Housing Resolution and received comment from Executive Director of the Fair Housing Center of Southwest Michigan, who reviewed some of the activities of the Center and praised Vicki Georgeau for her assistance.

APPROVAL OF MINUTES: Motion by Reid, seconded by Campbell, to approve the March 22, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Motion by Sackley, seconded by Bailes, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

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

PUBLIC HEARING:

ORDINANCE AMENDMENT 10-A, KEEPING CHICKENS AND OTHER ANIMALS: Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson and asked him to summarize the events leading up to the public hearing. Mr. Erickson provided a brief summary of his communication to City Manager Maurice Evans dated February 25, 2011, which is contained in the City Council Agenda Packet as part of Item D.1, Ordinance Amendment 10-A, Keeping of Chickens and Other Animals, and provided the history of the process thus far. He cited the animals that are included in the ordinance, those animals that are not included, the requirement of a coop with an attached pen, the six foot opaque fence requirement for roaming hens, the set back requirements and materials that are not permitted in the construction of the coop and pen. Discussion followed regarding the requirement for Planning Commission review and approval for 4H projects; the storage of feed; other possible nuisance items; the Resolution establishing the permit fees; further restrictions for lake front lots; when was "Keeping of Fowl and other Animals" added to the ordinance; and, the responsibility of the notification of the neighbors by the applicant instead of the City of Portage

and whether written approval of adjacent land owners in the sample Ann Arbor ordinance should be required. City Attorney Randy Brown indicated that he did not recommend the Ann Arbor ordinance approach. Discussion followed. Mayor Pro Tem Sackley expressed his concern that the Ann Arbor ordinance notification procedure was not allowed as an option to be considered and there was no case law or legal reasoning for dismissal provided. Community Development Director responded that he is comfortable providing professional judgments, that he would review the matter but had no recollection of the issue ever being posed. Mayor Strazdas asked City Manager Evans to follow up with a response to these comments by Mayor Pro Tem Sackley. Discussion followed.

Discussion followed regarding the requirement of the six foot opaque fence requirement; nuisance abatement; the classification of rabbits as a domestic animal; vicious ducks versus pet ducks; geese; dogs and cats; the inclusion of “fowl and other animals” provision; natural screening such as plantings instead of the opaque fence requirement; and land use that is onerous or causes problems. Discussion followed.

Mayor Strazdas recognized Planning Commission Chair James Cheesebro and, in response to Councilmembers Bailes, Reid and Urban, he agreed with Mr. Erickson that the opaque fence provision was a response to a visual concern, not a containment or protection issue. He indicated that he did not recall other barriers being discussed, though the fence itself was minimally necessary for containment purposes. Discussion followed. Mayor Pro Tem Sackley objected to the fortress environment created by the opaque fence. Mr. Cheesebro responded. Discussion followed.

Mayor Strazdas opened the discussion for comment from the public. The following individuals spoke in favor of the ordinance: Dave Ostrem, 1515 Dogwood; Tony Kaufman, 5884 E P Avenue, Pavilion Township; Lynda Stewart, 329 East Van Hoesen Boulevard; Mildred Taraszka, 410 Marylynn Court; Tracey Tyler, 3109 Hill an Brook Drive; Bryan Mohny, 7911 Lake Wood Drive; Jacquelyn Stasevich, 9100 N 27th Street, Richland, and her 4H participant, Jacob Booth; Michelle Blesing, 324 Boston Avenue; and Fernando Costas, 7639 Harvest Lane. Mr. Erickson responded to their questions about fencing; he listed some of the communities that do not allow chickens at all or in a platted situation; he indicated that Planning Commission approval would be required for other animals such as those raised through the 4H Club; he pointed out that a coop and a pen do not require an opaque fence, but to free roam the chickens requires an opaque fence; and, he indicated that the Zoning Board of Appeals has made several decisions over the years and have denied having chickens in certain areas owing to problems or difficulties unique to specific situations. Discussion followed.

Motion by Campbell, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Mayor Strazdas asked for dialogue from City Council. Discussion followed. Councilmember Reid expressed her opinion that rabbits remain a domestic animal and not be considered livestock. Discussion followed. Councilmember Urban was not in favor of moving forward on the ordinance at this time owing to too many concerns and objections still remaining with the proposed ordinance that would have to be incorporated in a final version of the ordinance. Discussion followed. In response to Mayor Strazdas, Mr. Evans indicated that a revised ordinance could be brought back at the April 26, 2011 Regular City Council Meeting. Discussion followed.

Motion by Sackley, seconded by Campbell, to approve an Ordinance to amend the City of Portage Code of Ordinances by amending Section 42-121 of Chapter 42, Land Development Regulations, by adding Section 42-121(D), Keeping Certain Animals as an Accessory Use, also known as Ordinance Amendment 10-A, and to adopt the resolution establishing an application fee of \$50 for

applications involving the keeping of up to six chickens. Mayor Pro Tem Sackley stopped to add that the ordinance as drafted should be revised to specify a fence of any type should be a minimum four feet in height, and animals other than chickens should not be included in this ordinance. Councilmember Urban asked for clarification. Mayor Pro Tem Sackley explained.

City Attorney Brown repeated the specifics of the motion to ensure that he is clear of the intent of the motion. He indicated that Section 42-121.D.3.a should read, "...During daylight hours, chickens may be allowed to roam outside the coop and pen, if supervised, and only within an area completely enclosed by a fence with minimum height of 4 feet." Upon questioning, Mayor Pro Tem Sackley also confirmed that the language, "an application fee of \$100 for applications involving the keeping of more than six chickens or other types of fowl or animals where Planning Commission review and approval is required" was purposely left out of the motion. In effect, this eliminated Section 42-121.D.3.j.1 and Section 42-121.D.3.j.2. Discussion followed. Councilmember Urban took exception with Section 42-121.D.3.j.3 and indicated that if Section 42-121.D.3.j.3 were eliminated, Section 42-121.D.3.k, would be eliminated, also, and the Zoning Board of Appeals was the proper forum for deciding this matter, not the Planning Commission. City Attorney Brown concurred. Discussion followed.

Motion by Urban, seconded by Reid, to eliminate Section 42-121.D.3.j.3 and all of Section 42-121.D.3.k. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. City Attorney Brown confirmed that a rabbit is classified as a domestic animal and no permit is necessary to keep a rabbit. At the request of Councilmember Urban, Mayor Pro Tem Sackley reread the original motion. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. Mr. Evans indicated that he would provide City Council with a copy of the revised ordinance as amended and passed. Ordinance recorded on page 161 of City of Portage Ordinance Book No. 12. Resolution recorded on page 191 of City of Portage Resolution Book No. 44.

REPORTS FROM THE ADMINISTRATION:

PRESENTATION OF THE PROPOSED FISCAL YEAR 2011-12 BUDGET: City Council received the Proposed Budget for Fiscal Year 2011-12, Supplemental Budget and Detail Line Item Budget. At the request of Mayor Strazdas, City Manager Evans presented the proposed 2011-12 Fiscal Year Budget to City Council and indicated that there are no surprises, that a conservative approach was utilized in formulating the \$60.3 million down from the \$61.8 million budget for Fiscal Year 2011-12. He indicated that Police and Fire, Parks Maintenance, Streets Maintenance, the Capital Improvement Program (CIP) are all still in the budget, just not at desired levels. He also indicated that there would be a continuing decrease in revenue stream that is attributable to declining property tax revenues for the second year in a row, with a drop this year of 2.9%. Under the new program outlined by Governor Snyder, the City of Portage would be competing for revenue sharing with other cities, but the City is planning for the day when revenue sharing is gone as a consequence of the poor fiscal health of the State of Michigan that will inevitably be addressed. He indicated that the City of Portage maintains a low overall 10.8916 mills and that the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level.

He indicated that the recent trend analysis that was shared with City Council was taken into account when determining the budget, and the Administration continues to take additional reductions. He also indicated that there are continued staff reductions through attrition, for example, the number of employees is 184, down from 188, when just a few years ago Portage had 215 employees. Also, he

pointed out that the General Fund continues to support the CIP, the Curbside Recycling Fund is in need of extra funding and the Spring Clean-up Fund has been depleted because of the storms. He reviewed the planned activity in the Street and Utility Funds. He summed up by saying that the fiscal year 2011-2012 proposed budget is balanced and services will continue in this wonderful community.

Mayor Strazdas announced that the budget review will take place, Tuesday, April 19, 2011; that he heard that there were no lay-off's, that public safety remains a priority, appropriate resources for CIP, infrastructure and roads and the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level. City Manager Evans concurred and said that there is one grant position will not be replaced next year, either. Discussion followed. Motion by Reid, seconded by Sackley, to receive the Presentation of the proposed Fiscal Year 2011-12 Budget. Upon a voice vote, motion carried 7 to 0.

* **ADOPTION OF BOND RESOLUTIONS:** Motion by Sackley, seconded by Bailes, to adopt the Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2011. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on pages 173 and 185 of City of Portage Resolution Book No. 44.

* **ADOPTION OF BOND REFUNDING RESOLUTION:** Motion by Sackley, seconded by Bailes, to adopt the Resolution Authorizing Refunding of the City of Portage Building Authority Bonds, Series 1998, 2001 and 2002 and Approve of the Undertaking to Provide Continuing Disclosure. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 187 of City of Portage Resolution Book No. 44.

* **PROPOSED MEDICAL MARIHUANA HOME OCCUPATION ORDINANCE:** Motion by Sackley, seconded by Bailes, to receive the proposed Medical Marihuana Ordinance amendment to the Zoning Code, and refer the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with submission of the recommendation on the amendment not later than June 3, 2011. Upon a roll call vote, motion carried 7 to 0.

* **TAX EXEMPTION FOR KALAMAZOO FAMILY NON-PROFIT HOUSING CORPORATION:** Motion by Sackley, seconded by Bailes, to accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption, establish a payment in lieu of taxes for 1506 Schuring Road and take final action on April 26, 2011. Upon a roll call vote, motion carried 7 to 0.

* **CORE TECHNOLOGY CORPORATION:** Motion by Sackley, seconded by Bailes, to approve the purchase of software upgrades through CORE Technology Corporation in the amount of \$16,750 for Talon Client – Law Enforcement Information Network systems for crime analysis, crime mapping, and data sharing and authorize the City Manager to execute all documents related to the purchase. Upon a roll call vote, motion carried 7 to 0.

* **FARMLAND AND OPEN SPACE PRESERVATION APPLICATION FROM 7905 WEST RS AVENUE, TEXAS TOWNSHIP:** Motion by Sackley, seconded by Bailes, to accept the Farmland and Open Space Preservation Application from Stephen Woolam, 7905 West RS Avenue, Texas Township. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Sackley, seconded by Bailes, to set a Special Meeting on Tuesday, May 10, 2011, beginning at 5:30 p.m. to interview board and commission applicants. Upon a roll call vote, motion carried 7 to 0.

* **TREE CITY USA TREE PLANTING AND PROCLAMATION – INFORMATION ONLY:** Motion by Sackley, seconded by Bailes, to receive the communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation as information only. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

PRESENTATION BY MIKE ZAJAC, PORTAGE PARK BOARD CHAIR: City Council received the Presentation by Mike Zajac, Portage Park Board Chair. He thanked City Council for adjusting the schedule to allow him to speak earlier than planned. He reviewed the goals of the Park Board, some of the activities in which each member participated and future plans for the Park Board initiatives, including: expanding health and wellness in the community, a youth triathlon, a contest to build Kalamazoo County landmarks out of recycled material and volunteer development. Discussion followed.

CITY OF PORTAGE FISCAL YEAR 2011-2021 CAPITAL IMPROVEMENT PROGRAM: At the request of Mayor Strazdas, City Manager Evans explained that the Planning Commission has reviewed the proposed FY 2011-2021 Capital Improvement Program (CIP) and recommended approval. Motion by Urban, seconded by Campbell, to receive the communication from the Planning Commission regarding the City of Portage Fiscal Year 2011-2021 Capital Improvement Program. Upon a voice vote, motion carried 7 to 0.

REQUEST FROM COUNCILMEMBER PATRICIA RANDALL FOR DISCUSSION REGARDING THE CITY HALL FACILITIES USAGE POLICY: At the request of Mayor Strazdas, Councilmember Randall issued a plea to open City Hall to the public and asked for other opinions of City Council. Mayor Strazdas asked for comment from City Council. Councilmember Campbell indicated the Council Customer Service committee would be the appropriate committee for review.

Councilmember Urban asked if Mayor Pro Tem Sackley was going to address the issues he raised in his recent e-mail. Since he was not, Councilmember Urban concurred with Mayor Pro Tem Sackley and his exception to City Hall usage during election cycles and election campaigns, but he did not agree that the city budget should bear the cost of the use of City Hall by other election officials. Councilmember Reid indicated that she was open to look at this issue, but it should be used first for business of the City of Portage, so a balance may be necessary. Discussion followed. Mayor Strazdas recommended that the Council Customer Service Committee would be the appropriate Committee to study this matter. Discussion followed.

Mayor Pro Tem Sackley cited other facilities in the community that could be used for meetings and indicated that City Hall should not be in competition with them. He said that the use of the facility by any elected official outside working hours, where there is additional cost, the elected official should be advised that there is a cost. He said that if the elected official has an office in the community, he or she should use his or her own facility, but under no circumstances should the official be charged as it is inappropriate. Discussion followed.

Motion by Randall to have the Customer Service Committee look into creating an Administrative Order that would open up the use of City Hall by elected officials (with day time being exempt) and to possibly look into reimbursement for weekends and after hours for cost incurred. Mayor Strazdas asked City Attorney Brown whether the motion was construed narrowly enough and Mr. Brown answered in the affirmative, but the Committee would be creating a "Council Policy" or directing the Administration to devise an "Administrative Order," and Councilmember Randall indicated her preference for a Council Policy. The motion was then seconded by Councilmember Reid.

Councilmember Reid asked that the Committee consider how scheduling would be handled. Mayor Pro Tem Sackley asked that the Committee consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule. 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 Board of Education Regular Business of February 21 and Special Meeting and Committee of the Whole Work Session of March 7, 2011.

Portage Historic District Commission of March 2, 2011.

Portage Park Board of March 2, 2011.

Portage Planning Commission of March 17 and March 28, 2011.

AD HOC COMMITTEE REPORTS:

CITY COUNCIL AD HOC SIGN COMMITTEE BUSINESS SIGN INFORMATION:

At the request of Councilmember Urban, Councilmember Campbell indicated that permit requirements on multitenant buildings to accommodate changes more easily needs further review and Councilmember Reid referred to a request to make the language in the sign ordinance more easily understood by local business owners and she referred to the new chart enclosed in the Agenda Packet. Councilmember Urban reviewed the suggested banner ordinance amendment and explained the reasoning behind the proposed changes. Discussion followed. Motion by Urban, seconded by Reid, to receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process. Upon a roll call vote, motion carried 7 to 0.

COMMUNITY SURVEY COMMITTEE: Councilmember Reid reviewed the plan by the Survey Committee to seek approval of the contract with the Kercher Center to phrase the questions to get the information needed and to present the overview of the questions anticipated, the questions that were dropped, the questions that were modified and the questions that were added and to obtain input from the City Council and Western Michigan University Kercher Center for the contract. Discussion followed.

BID TABULATION:

* **PURCHASE OF ONE HEWLETT PACKARD PROLIANT SERVER FOR SQL/.NET APPLICATIONS:** Motion by Sackley, seconded by Bailes, to approve the purchase of one Hewlett Packard Proliant server for \$10,909 provided through PC Mall Gov and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Bryan Mohny, 7911 Lake Wood Drive, asked how to obtain permits for chicken coops and pens under the new ordinance and was informed that the Community Development Department would handle all permits.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Campbell offered congratulations to Alan Reiff for being awarded the Rotary man of the Year.

Councilmember Reid indicated that the Community Action Agency experienced some difficulties in funding, but is still in existence.

City Manager Maurice Evans invited everyone to a Special Meeting of Portage City Council, Kalamazoo City Commission and Kalamazoo County Board of Commissioners, 7 p.m., Radisson Hotel, Kalamazoo, to receive a presentation on consolidation of services to reduce costs. Mayor Strazdas concurred.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 11:12 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.