

CITY COUNCIL MEETING MINUTES FROM OCTOBER 18, 2011

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

At the request of Mayor Strazdas, Pastor David Barringer of the Kalamazoo First Assembly of God of Portage provided 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 Cory A. Bailes, Elizabeth A. Campbell, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Patricia M. Randall was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy L. Brown and City Clerk James R. Hudson.

PROCLAMATIONS: Mayor Strazdas issued a National Red Ribbon Proclamation and a Rotary International World Polio Day Proclamation.

APPROVAL OF MINUTES: Motion by Reid, seconded by Sackley, to approve the October 4, 2011 Special Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmember Campbell abstaining. Motion by Reid, seconded by Sackley, to approve the October 4, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF OCTOBER 18, 2011:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of October 18, 2011. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARING:

REZONING APPLICATION #10-03, (1302, 1306 AND 1316 EAST CENTRE AVENUE): Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who provided an overview of the request and outlined the location of 1302, 1306 and 1316 East Centre Avenue, on the map enclosed in their Agenda Packets. She provided a background of the process thus far and reviewed the recommendation by the Administration. She summarized the staff report dated August 26, 2011, as further background and referenced a series of maps as visual tools to explain the zoning change requests. Discussion followed.

Mayor Strazdas asked her to address the proposed buffering between properties and the extra traffic concern expressed by the Planning Commission that the rezoning would generate along Lovers Lane considering ingress and egress along Lovers Lane and Centre Avenue and what kinds of protections can the city offer the residents living on Maynard Avenue to ensure that they are not going to be negatively impacted. Ms. Georgeau indicated that during the site plan review process, there would be a requirement that there would be at least a six foot screen that would be opaque year around which could be a combination of a fence, a wall, existing vegetation, or vegetation planted as a supplement to ensure the six foot buffer requirement is met. In addition, she indicated that there is a ten foot wide green strip requirement that would require a certain number of trees every thirty feet. The Planning Commission could also require during that process additional plantings or additional steps if they are concerned about the development project, site layout or specific uses proposed at that time.

With regard to traffic, she indicated that the staff report indicated that if all four parcels were rezoned to B-1 and redeveloped collectively, the 2.5-acre rezoning site could accommodate an approximate 27,000 square foot building based upon a 25% lot coverage and would generate approximately 1,098 vehicle trips per day; however, if an office building were built of the same size, it would generate approximately 486 vehicle trips per day.

She continued by saying if 1302, 1306 and 1316 East Centre Avenue were rezoned B-1 and redeveloped collectively, the 1.6-acre rezoning site could accommodate an approximate 17,400 square foot building based upon a 25% lot coverage that would generate approximately 708 vehicle trips per day; however, if an office building were build of the same size, it would generate approximately 346 vehicle trips per day.

Further, she said if 1330 East Centre Avenue was rezoned OS-1, the 0.9-acre rezoning site could accommodate an approximate 9,801 square foot building based upon a 25% lot coverage that would generate approximately 223 vehicle trips per day.

Finally, she said based on the traffic capacity of East Centre Avenue and Lovers Lane is more than enough to accommodate the extra traffic with regard to the road function to accommodate additional development. She indicated that staff has also discussed the need to have as much coordinated access in order to have as few curb cuts as possible and explained.

Councilmember Reid referenced the concern expressed in the letter from Attorney John L. Barnes dated August 31, 2011, that if 1330 East Centre Avenue were zoned differently than the three parcels to the west, both its value and marketability would be seriously reduced and asked if it were addressed. Ms. Georgeau assured her that it was reviewed by the Planning Commission and explained. Discussion followed.

Mayor Strazdas opened the public hearing for public comment. There being no public comment, motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried. Motion by Sackley, seconded by Bailes, to approve Rezoning Application #10-03 and rezone 1302, 1306 and 1316 East Centre Avenue from OS-1, office service and R-1B, one-family residential, to B-1, local business, and rezone 1330 East Centre Avenue from R-1B, one-family residential, to OS-1, office service. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 211 of City of Portage Ordinance Book No. 12.

PETITIONS AND STATEMENTS OF CITIZENS: Aisha Turk, 9124 East Shore Drive, indicated that she was here to appeal the penalty she was charged for being late on her tax bill. She indicated she has lived in Michigan for 20 years, three years in Portage, and has never been late. She also indicated that this year she was late by seven days, received a penalty of \$308 and is here to see if City Council can waive that. Mayor Strazdas asked City Manager Evans for a response, including due process for individuals in this circumstance. Mr. Evans indicated that having just received this information tonight, he would like further explanation from Ms. Turk. She indicated that it was the start of the school year, just overlooked it completely and “got it in” seven days late on Friday afternoon. Mayor Strazdas responded that the City Manager was indicating that this perhaps is not the forum to get into the level of detail needed in this matter and offered that it might be appropriate to make an appointment with the City Manager to share more details and specifics, and the City Manager can let her know what he can and can not do. She indicated that she did come over (to City Hall) when she got this bill; that they (staff) said she should come to this meeting; that she could just come and appeal to everybody; and, that she could come tonight. When Mayor Strazdas asked Mr. Evans if he had a response, he indicated that he did not. He also indicated that he would like to talk to staff and be able to correspond or call and convey what he finds out. Mayor Strazdas asked Ms. Turk to communicate directly with the City Manager’s Office in order to have the appropriate quality time to review and share the details of the circumstances in order for the City Manager with staff and through his direction may determine what they can and cannot do. Mayor Pro Tem Sackley assured Ms. Turk that her trip was not wasted and that the advice she received from staff was good since the City Manager will take appropriate action.

REPORTS FROM THE ADMINISTRATION:

- * **MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT – ROMENCE ROAD (CONSTITUTION BOULEVARD TO SOUTH WESTNEDGE AVENUE:** Motion by Urban, seconded by Reid, to approve Contract 11-5530 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on Romence Road, Constitution Boulevard to South Westnedge Avenue; approve an engineering services contract with Abonmarche Consultants, Incorporated, for construction inspection and administration for street improvements on Romence Road (Constitution Boulevard to South Westnedge Avenue) in the not to exceed amount of \$73,000; adopt a Resolution authorizing the City Manager to sign Contract 11-5530; and authorize the City Manager to sign all other documents relating to the consultant contract and the Michigan Department of Transportation contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 287 of City of Portage Resolution Book No. 44.
- * **NEXTEL MOBILE PHONE SERVICE:** Motion by Urban, seconded by Reid, to renew a service contract in an amount not to exceed \$24,000 with Sprint Solutions for Nextel mobile phone service through September 3, 2012, 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 6 to 0.
- * **2011 CITY COUNCIL GOAL SETTING SESSION:** Motion by Urban, seconded by Reid, to establish Friday, December 9, 2011, as the date of the 2011 City Council Goal Setting Session. Upon a roll call vote, motion carried 6 to 0.
- * **SEPTEMBER 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the September 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.
- * **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

COMMUNICATION:

TIM EARL, 6862 SHALLOWFORD WAY: Mayor Strazdas introduced the item and deferred to City Manager Maurice Evans, who indicated that City Council is in receipt of a communication dated October 4, 2011, from Tim Earl, 6862 Shallowford Way, concerning his discomfort with the content of the City Council Meeting Invocations, particularly those where the individual giving the invocation calls upon a specific deity. Mr. Evans further said that while the City of Portage enjoys the giving of an invocation by a variety of individuals from many denominations as provided to City Council on the attached lists, a secular invocation can be added to the schedule. He also said that it is recommended that the City Clerk be directed to contact Mr. Earl to determine if he is inclined to volunteer in this capacity.

When Mr. Evans deferred to City Clerk James Hudson, he informed City Council that Mr. Earl had been invited to the City Council Meeting via e-mail and provided him with the website where he could review the recommendation to City Council from the City Manager prior to the meeting. Discussion followed.

Mayor Pro Tem Sackley reflected on Mr. Earl's communication, expressed his appreciation for the opportunity to respond, and he noted the sincerity in his concern and request that City Council promote tolerance and inclusiveness. He agreed that at times the individuals who offer the Invocation at the Council Meeting go much further than is needed in "drilling down" to the specifics of their faith

and deities as was referenced by Mr. Earl. He reiterated that, as indicated by Mr. Evans, the giving of an Invocation at City Council Meetings is by a variety of individuals from many denominations and non-denominational entities. He noted that the invitation to Mr. Earl to step up and provide an invocation is a very positive response, and he welcomed the opportunity to hear what Mr. Earl has to say and take inspiration from it.

Councilmember Reid asked if there is any direction or instruction provided to persons who are going to be giving the invocation. She agreed that some of the points made by Mr. Earl are well-made, such as being inclusive instead of exclusive, and being less specific, and indicated that it may be appropriate for City Council to provide a general statement of what we are looking for in an invocation to help assist people in preparing what is most appropriate. Mr. Hudson indicated that the City Clerk Office may let the individual know that it is an Invocation, so it is the invoking a higher power, for support of City Council's decisions and their energies. Councilmember Reid suggested that the City Manager draft a simple statement of direction of the Invocation to help it be more inclusive so that it is not a problem for anyone in our community.

Mayor Strazdas asked City Attorney Randy Brown to express his opinion on the matter and Mr. Brown indicated that it is accepted in the courts that an Invocation is Constitutional, and is accepted throughout the country, so there is no Constitutional issue with the Invocation. Also, he indicated that there is no issue with establishing a policy. However, he did express concern that if City Council establishes a policy, there could be an issue with enforcement as a practical problem for Council. He cited a case where the Council policy stated that the Invocation had to be neutral, that there could be no disparaging of other religions, or no proselytizing, etc., and that particular court found that over time the City had not followed the policy and was engaging in non-Constitutional behavior. Mayor Strazdas attempted to distinguish Councilmember Reid's characterization by referring to it as a guideline and not a policy, but Attorney Brown indicated that if it is written, the courts are going to call it a policy and it will have to be enforced. Discussion followed.

Councilmember Urban expressed his skepticism that anyone who offered an Invocation would temper his or her passion about their beliefs even if City Council did provide a written guideline. Discussion followed. He also indicated that his difficulty with the response of the Administration is that he is not sure that there is any such thing as an Invocation by an atheist. Discussion followed. Mayor Pro Tem Sackley responded it could be just asking a person or thing for assistance or authority, or do a good job and keep it up. Discussion followed.

Motion by Sackley, seconded by Urban, to receive the October 7, 2011 Communication from Tim Earl, 6862 Shallowford Way, regarding City Council Meeting Invocation practice and direct the City Clerk to contact Mr. Tim Earl to determine his interest in providing the City Council Meeting Invocation. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

* **AMENDMENT TO THE CODE OF ORDINANCES – HISTORIC DISTRICTS:** Motion by Urban, seconded by Reid, to amend the Code of Ordinances of the City of Portage by amending Chapter 38, Historic Preservation, Article 2, Historic Districts, Section 38-38, Procedure for approval of work; criteria for review; permit (j) Time limits. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 213 of City of Portage Ordinance Book No. 12.

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

Portage Human Services Board of August 4, 2011.
Portage Park Board of September 7, 2011.
Portage Zoning Board of Appeals of September 12, 2011.
Portage Environmental Board of September 14, 2011.

Portage Planning Commission of September 15, 2011.
Kalamazoo County Board of Commissioners Committee of the Whole and Regular of
September 20, 2011.

BID TABULATIONS:

* **VEHICLE/EQUIPMENT PURCHASES:** Motion by Urban, seconded by Reid, to approve the purchase of two 4-wheel drive one-ton pickup trucks, three 4-wheel drive ¾-ton pickup trucks, five police pursuit vehicles and one 60 inch commercial mower through the State of Michigan Purchasing Program (MiDEAL) at a total cost not to exceed \$306,159 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 6 to 0.

* **FIRE DEPARTMENT GARAGE DOOR OPERATORS:** Motion by Urban, seconded by Reid, to approve the purchase of garage door operators from Fawley Door, Inc., of Portage, Michigan, in the amount of \$18,200 for the replacement of 20 garage door operators and 40 remote transmitters for three city fire stations and authorize the City Manager to execute all documents relating to this 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 ATTORNEY: City Attorney Randy Brown noted that regarding the request of a waiver by Ms. Turk that State Law requires that if there is going to be an appeal that this City Council makes that decision, so she does have the right to come before this City Council for a decision, eventually.

Councilmember Campbell thanked all of the participants in the Red Ribbon Week effort.

Mayor Pro Tem Sackley thanked all of the individuals who offered Invocations since Portage became a city in 1963.

Mayor Strazdas thanked the Portage Public School District personnel, City Manager Maurice Evans and staff for their collaboration efforts, especially for the recent renovation of one school building and the construction of three new ones. He also displayed a plaque presented to the City and asked that it be appropriately displayed in City Hall.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:26 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.