

CITY COUNCIL MEETING MINUTES FROM JUNE 25, 2013

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

At the request of Mayor Strazdas, Councilmember Terry 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, Jim Pearson, Patricia M. Randall and Terry R. Urban, Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. Councilmember Edward J. Sackley was absent with notice. Also in attendance were City Manager Maurice Evans, City Attorney Randall Brown and City Clerk James Hudson.

SPECIAL AWARD: Mayor Strazdas issued special recognition to Samantha O'Brien, Portage Northern High School student, for receiving the designer award for the City of Portage 50th Anniversary Banner Competition from the City Council School Committee. State Representative Margaret O'Brien read a Tribute to Samantha O'Brien issued by Governor Rick Snyder, State Representative Tonya Schuitmaker and herself. She also recognized the contributions of the youth in our community, especially her daughter this night for this accomplishment.

APPROVAL OF MINUTES: Motion by Urban, seconded by Reid, to approve the Regular Meeting Minutes of June 11, 2013, as presented. Upon a voice vote, motion carried 5 to 0 with Mayor Strazdas abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Reid to read the Consent Agenda. Councilmember Randall asked that Item F.4, Acquisition of 1614 West Osterhout Avenue, be removed from the Consent Agenda. Councilmembers Campbell and Pearson asked that Item F.6, Permit to Conduct Fireworks Display, be removed from the Consent Agenda. Mayor Strazdas removed Item F.7, Self-contained Breathing Apparatus (SCBA), 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 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 25, 2013:** Motion by Reid, seconded by Urban, to approve the Check Register of June 25, 2013, as presented. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: State Representative Margaret O'Brien, 1625 Bellaire Avenue, provided an update from the State of Michigan and indicated that there is more money for Revenue Sharing back to the communities; that there was some unanticipated one-time funds for roads that are now likely to be ear-marked for still unknown non-freeway related projects; that there was an increase in the amount of funding for debt; that there was an increase in the rainy day savings account; and that the State House of Representatives passed the budget during the last week of May for the third year in a row. Discussion followed regarding her service on the Transportation Committee, her work with the Fireworks issue, State Pension funding and the Rainy Day Fund.

Board of Review Members Richard Ford, Michael Quinn and Wes Mazurek read from prepared statements that outlined concerns with bias and conflicts in the training received, the bias of the City Assessor, possible Open Meetings Act violations, denials of decades of depreciation, upward changes of class of construction that inflate assessments and prior Board of Review decisions nullified by the Assessor for subsequent years, improper alterations of property cards by the City Assessor, the need for earlier notice of tax assessment changes to the citizens, a perception of being publicly criticized

in City Council Chambers and their appreciation for the assistance from the Administration. They provided a letter of concerns signed by the Board of Review Members that was shown to Mayor Strazdas, although admittedly not in full agreement by all of the Members who signed it, yet was never revised to reflect a consensus of the Board as requested by Mayor Strazdas. Mr. Ford offered some solutions: the City of Portage could exercise the right to appeal the Board of Review decisions if they disagree with them, and noted that none have been appealed; could reduce the nonconformity as a result of the sales study because some citizens knew about it and how it works and others did not which would result in a more meaningful appeal; could use Board of Review input and modify the client checklist to accommodate hardship cases and commercial appeals; and could allow Board of Review input to assist in determining the type of training to be conducted. Mr. Ford read a statement from Board of Review Member Bill Fries, who concurred with the concerns expressed previously and added a concern that false building permits are being used by the Assessor that do not exist anywhere in City Hall should not add value to the home. Mr. Fries asked City Council to investigate the discrepancies found by the Board of Review and offered the following solutions: to revert all properties back to original class of construction; to have an external assessment to earn back the trust of the citizens; to establish guidelines for property owners seeking permits for improvements; to have transparency of all records and changes; to mail out tax notifications early as mentioned by Mr. Mazurek; and to insert an information page in the *Portager* about taxation and taxes. At the request of Mr. Fries, Mr. Ford provided pages from the Assessor's Manual to City Council for their review. Discussion followed.

Marilyn Longjohn, 4011 Burkwood Drive, indicated that she moved into Portage in 1969 and in 2011, she went to the City Assessor to have her Assessor Record Card corrected as the City Assessor had her property as being 18 years old, yet her neighbors' houses were 32 years old, according to the records. She also indicated that the classification of her property had been in the C+ range, but was now in the B range. She was told to go to the Board of Review. She said she did not wish to contest her taxes, but she just wanted the record on her house to be accurate. When the Assessor indicated that he would put an extra year on the age of her property, she became suspicious. When she went before the Board of Review and asked about the disparity in the ages of the properties on her street, the Assessor representative indicated that they had to justify the amount of taxes that the property owner pays. She emphasized that her experience with the City Assessor reconfirms some of the comments by Board of Review Members Richard Ford, Michael Quinn and Wes Mazurek. Mayor Pro Tem Reid asked who had made the statement that the City of Portage had to justify the amount of taxes that the property owner pays, and Ms. Longjohn responded that it was not a member of the Board of Review, but someone who was sitting in on the Board of Review from the City, and apologized for not knowing who the person was; nevertheless, she commented that she did know that there are record cards that have been changed. Mayor Pro Tem Reid thanked her.

Ted Varas, 6645 Oleander Lane, former Board of Review Member, confirmed that the MTA Training taught unequivocally that the Class of Construction of a building does not change, and noted his observation of changes in the Class of Construction on the Assessor Cards when he served on the Board of Review, even with no change or addition to the structure. Discussion followed.

REPORTS FROM THE ADMINISTRATION:

EMERGENCY FIREWORKS REGULATION: At the request of Mayor Strazdas, City Manager Maurice Evans indicated that because of a recent change in the state law that allows for more local control over the use of fireworks and a recent change in the City of Kalamazoo fireworks ordinance, this is an opportunity to consider options for the City of Portage Code of Ordinances to make the regulation of the use of fireworks in the city more restrictive.

At the request of Mayor Strazdas, City Attorney Randy Brown provided some background for the legal basis for the change in State Law that gives municipalities more power to regulate the use of fireworks in the community. He indicated that once a draft was presented to City Council, suggestions

were presented that prompted a second draft of the ordinance and even a third draft known as Attachment A and Attachment B, respectively. He outlined Attachment A as the proposed Emergency ordinance and explained Attachment B is being proposed for first reading for review, consideration and modification for future approval as a more permanent and comprehensive fireworks ordinance. In response to Mayor Strazdas, Mr. Brown indicated that his preference is for City Council to take the least restrictive means for addressing this matter and, if inclined, to pass an Emergency Ordinance to address the upcoming 4th of July Holiday, to just deal with that event, as this is the true emergency before City Council at the present time. Secondly, he indicated that his next preference is for City Council to accept Attachment B for first reading and to discuss any issues that would arise concerning questions and suggestions which would be more appropriately addressed after the emergency ordinance is in place. Discussion followed.

Councilmember Urban indicated that the time for the emergency should extend beyond the upcoming holiday through the time it takes to consider an ordinance in final form; so, he suggested that the emergency ordinance should extend a couple of months or a set period of time to allow time to go through the process to decide on the permanent ordinance and explained. Discussion followed and Councilmembers expressed their concerns with the timing of the restrictions, the fact that families are making plans or have plans for their respective celebrations, the appropriateness of a fireworks ban from 1 a.m. until 8 a.m., and the reasonableness and enforcement of the not more than \$500.00 penalty amount.

Motion by Urban, seconded by Reid, to adopt as an emergency ordinance Article 7, Consumer Fireworks, of Chapter 34, Fire Prevention and Protection, Attachment A as presented in Materials Transmitted of June 25, 2013, with a change in the language in Section 34-159 to read, "1. A person shall not ignite, discharge or use consumer fireworks from June 26, 2013, until September 1, 2013, between the hours of 1 a.m. until 8 a.m." and a change in the language in Section 34-161 to read, "1. A person violating the provisions of this Article shall be responsible for a civil infraction punishable by a civil fine of not more than \$100.00 for each violation" and to repeal Section 50-82, Fireworks, of Article 3 of the Portage Code. Discussion followed regarding the ending date of the emergency ordinance and City Attorney Brown indicated that a 90 day period is usually considered reasonable. Motion by Urban, seconded by Reid, to amend the motion to read September 10, 2013, instead of September 1, 2013. Discussion followed.

Laura Tupper, 9516 East Shore Drive, spoke in opposition to fireworks as she witnesses them every single weekend all summer long at all hours of the evening, Thursday, Friday, Saturday and Sunday. She asked why the rights of those who shoot fireworks seem to be more paramount than her right to the quiet enjoyment of her home and indicated she did not wish to wait until September. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Discussion followed. City Attorney Brown reminded City Council that the City Noise Ordinance can also apply during the times outside the the 1 a.m. until 8 a.m. restriction, depending upon the circumstances, the type of neighborhood, the time of day and the noise level. Discussion followed.

FIREWORKS REGULATION (FIRST READING): Councilmember Urban expressed an interest in presenting an ordinance for first reading that would address questions and concerns regarding the use of consumer fireworks outside the 1 a.m. until 8 a.m. restriction contained in the aforementioned and approved Emergency Fireworks Ordinance. Discussion followed. Motion by Urban, seconded by Campbell, to accept for first reading an ordinance to amend the Code of Ordinances of the City of Portage, Michigan, by adding Article 7, Consumer Fireworks, of Chapter 34, Fire Prevention and Protection, by repealing Section 50-82, Fireworks, of Article 3, Offenses Against Public Safety, of Chapter 50, as contained in Attachment B as presented in Materials Transmitted of June 25, 2013, and to set July 9, 2013, for second reading. Discussion followed. Upon a roll call vote, motion carried 6 to 0. Discussion followed.

* **BUDGET AMENDMENTS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDGB) PROGRAM FY 2013-14 ANNUAL ACTION PLAN AND FY 2013-14 HUMAN/PUBLIC SERVICE FUNDING FROM THE GENERAL FUND:** Motion by Reid, seconded by Urban, to approve the recommended budget amendments for the FY 2013-14 Annual Action Plan for the CDBG Program and FY 2013-14 Human/public service funding from the General Fund. Upon a roll call vote, motion carried 6 to 0.

* **2013 – 2016 TRAFFIC SIGNAL MAINTENANCE CONTRACT (WINDEMULLER ELECTRIC, INCORPORATED):** Motion by Reid, seconded by Urban, to approve a contract extension for maintenance of the city traffic signal system from July 1, 2013 to June 30, 2016 with Windemuller Electric, Incorporated, in the total amount not to exceed \$133,800 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.

ACQUISITION OF 1614 WEST OSTERHOUT AVENUE: As a member of the Property Committee, Councilmember Randall reviewed the process thus far in this proposed transaction. She noted that the property offered by Bill Patterson for an extended bikeway to Osterhout Avenue from the Eliason Property on Shaver Road with an asking price of \$175,000 for 18 acres that included \$19,000 in back taxes. She indicated that the City Assessor quoted \$295,750 as the true cash value of the property; that staff was opposed to any independent appraisal of the parcel because in general the City obtains appraisals for property under eminent domain proceedings or where the sale price is near the market value; however, since this property is being offered to the city for a price that is less than 60% of its estimated value, an appraisal is not considered necessary. She outlined the appraisal option as exercised by City Council that resulted in an appraised value of \$163,000 and pointed out that the Assessor's value was over assessed by \$132,750 and explained some discrepancies in the history of the valuation of the property by the Assessor. As a result, she asked that City Council consider outsourcing the City Assessor function on the basis of uniformity and integrity. She mentioned the proposed savings of \$250,000 contained in the preliminary bid from WCA, who is performing the Assessor function of the City of Kalamazoo. She thanked the Board of Review Members again for coming. Discussion followed. Councilmember Campbell countered to offer the \$155,000 and have the seller pay the \$19,000 taxes, but Councilmember Urban indicated that the offer is \$155,000 and have the City pay the \$19,000 taxes. Discussion followed.

Motion by Urban, seconded by Reid, to authorize the City Manager to proceed with negotiation of a purchase agreement for 1614 West Osterhout Avenue in an amount not to exceed \$163,000. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

* **2010 CENSUS LIQUOR LICENSE FOR THE REPERTOIRE COFFEE HOUSE AND THEATRE, INC.:** Motion by Reid, seconded by Urban, to approve the requested 60-day extension to start construction and 90-day extension to complete construction of the Repertoire restaurant/blues-jazz club, which received Conditional Approval for the 2010 Census Liquor License on January 8, 2013. Upon a roll call vote, motion carried 6 to 0.

PERMIT TO CONDUCT FIREWORKS DISPLAY: Councilmembers Campbell and Pearson indicated they would be abstaining from the motion. Motion by Urban, seconded by Randall, to approve a permit for a fireworks display on July 4, 2013, sponsored by the Portage Rotary Club. Upon a roll call vote, motion carried 4 to 0 with Councilmembers Campbell and Pearson abstaining.

SELF-CONTAINED BREATHING APPARATUS (SCBA): Mayor Strazdas asked that the item be pulled off for the region to get the recognition it deserves for the collaboration, work and leadership of Portage personnel to be able to cooperatively obtain this grant. He stressed that uniformity is key where the equipment is interchangeable among the surrounding jurisdictions.

Motion by Reid, seconded by Urban, to accept the Federal Emergency Management Agency (FEMA) Regional Fire Act Grant for the replacement of worn and outdated self-contained breathing apparatus (SCBA) in the amount of \$893,491 and serve as the sponsoring agency for five other local fire departments participating in this grant. Councilmember Urban indicated that this is a safety measure for public safety as well as the safety of the firefighter who can be confident that the equipment from all of the jurisdictions on site is the same as the equipment he uses from his own unit. Upon a roll call vote, motion carried 6 to 0.

* **WOODBRIIDGE OFFICE BUILDING, LLC, CLASS C LIQUOR LICENSE:** Motion by Reid, seconded by Urban, to support the request to transfer ownership of an escrowed 2012 Class C licensed business with Sunday Sales Permit (pm) & Specific Purpose Permit (Food) from River City Food Co. (Finley's Restaurant) to Woodbridge Office Building, LLC. Upon a roll call vote, motion carried 6 to 0.

* **CENTRE STREET TAP HOUSE CLASS C LIQUOR LICENSE:** Motion by Reid, seconded by Urban, to support the request from Centre Street Tap House to transfer ownership of an escrowed 2013 Class C License with Sunday Sales Permit (pm) and Dance-Entertainment Permit, from Skybar, Inc. (139 Edwards Street, Kalamazoo) and to transfer location (Governmental Unit) (MCL 436.1531(1)) to 3251 West Centre Avenue (Centre Street Tap House), in the City of Portage. Upon a roll call vote, motion carried 6 to 0.

* **MAY 2013 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Reid, seconded by Urban, to receive the communication from the City Manager regarding the May 2013 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Reid, seconded by Urban, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

* **MAY 28, 2013 CITY COUNCIL AGENDA ITEM K.1, 2013 BOARD OF REVIEW – FOLLOW-UP:** Motion by Reid, seconded by Urban, to schedule the regular meeting of August 13, 2013, as the date for discussion of questions pertaining to the Board of Review. 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 Zoning Board of Appeals of May 13, 2013.

Portage Planning Commission Regular of May 16 and Special of May 30, 2013.

Portage Board of Education Regular of May 20 and Committee of the Whole and Special Work Session of June 3, 2013.

NEW BUSINESS:

CITIZEN-COUNCIL INQUIRY (SUMMER ENTERTAINMENT SERIES): Mayor Pro Tem Reid discussed a request from David Ostrem, 1515 Dogwood, regarding the possibility of private options for replacing events of the Summer Entertainment Program and for the Administration to provide the policy parameters for a private approach to the Program.

COMMITTEE REPORT: Councilmember Urban, as the Portage Representative on the Kalamazoo County Transit Authority, discussed a plan to consolidate transportation in the County and the process going forward for final approval.

BID TABULATION:

* **EQUIPMENT PURCHASE RECOMMENDATION:** Motion by Reid, seconded by Urban, to approve the purchase of the Rotary Portable Column Lift System for a cost of \$56,033.09, 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.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL: Councilmember Randall, Pearson, Mayor Pro Tem Reid and Mayor Strazdas thanked Board of Review Members Richard Ford, Michael Quinn and Wes Mazurek and former Board of Review Member Ted Varas for coming before City Council and presenting their concerns and for the fine job they have been doing.

City Manager Evans expressed kudos to Accounting / Payables Supervisor Bill Furry and Finance Director Daniel Foecking for receiving the Certificate of Achievement for Excellence in Financial Reporting for the 25th year in a row.

Mayor Pro Tem Reid and Mayor Strazdas reflected on the success of the Taste of Portage and Mayor Strazdas noted that there are six new Eagle Scouts, all from Troop 244.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:54 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.