CITY COUNCIL MEETING MINUTES FROM JUNE 26, 2018

The Regular Meeting was called to order by Mayor Randall at 7:00 p.m. At the request of Mayor Randall, the City Clerk called the roll with the following members present: Councilmembers Richard Ford, Lori Knapp, Claudette Reid, Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Patricia Randall. Councilmember Chris Burns was absent with excuse. Also in attendance were City Manager Larry Shaffer, City Attorney Randy Brown and City Clerk Adam Herringa.

At the request of Mayor Randall, Rabbi Harvey Spivak of the Congregation of Moses provided the invocation and, following the invocation, members of Boy Scout Troop 287 of Portage led the City Council and the audience in reciting the Pledge of Allegiance.

CONSENT AGENDA: Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Councilmember Urban asked that Item A.6 (Engineering Services for Angling Road and Meredith Street) be removed from the Consent Agenda.

Motion by Knapp, seconded by Reid, to approve the Consent Agenda items as presented. Upon a roll call vote, motion carried 6 to 0.

APPROVAL OF MINUTES: Motion by Knapp, seconded by Reid, to approve the minutes of the Regular Meeting of June 12 and Pre-Council Meeting of June 25, 2018. Upon a roll call vote, motion carried 6 to 0.

APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 26, 2018: Motion by Knapp, seconded by Reid, to approve the Accounts Payable Register of June 26, 2018. Upon a roll call vote, motion carried 6 to 0.

SOCIAL HOST ORDINANCE: Motion by Knapp, seconded by Reid, to accept the proposed "Social Host Ordinance" which modifies Section 50-112, Disorderly Places, of Article 4, Chapter 50 of the City of Portage Code of Ordinances for first reading and set a second reading with final adoption on July 10, 2018. Upon a roll call vote, motion carried 6 to 0.

BLACK ROCK BAR AND GRILL LIQUOR LICENSE: Motion by Knapp, seconded by Reid, to adopt the Resolution granting the request from Black Rock Bar and Grill at 603 Trade Centre Way for a Class C Liquor License. Upon a roll call vote, motion carried 6 to 0.

FINAL PLAN FOR SELINON PARK: Motion by Knapp, seconded by Reid, to re-approve the Final Plan for the Selinon Park Planned Development at 1521, 1603 and 1615 East Centre Avenue. Upon a roll call vote, motion carried 6 to 0.

MAY 2018 ENVIRONMENTAL REPORT: Motion by Knapp, seconded by Reid, to receive the May 2018 Environmental Report. Upon a roll call vote, motion carried 6 to 0.

MINUTES OF BOARDS AND COMMISSIONS: Motion by Knapp, seconded by Reid, to receive minutes of the Park Board of May 2, Environmental Board of May 8, Zoning Board of Appeals of May 14 and Planning Commission of June 7, 2018. Upon a roll call vote, motion carried 6 to 0.

MATERIALS TRANSMITTED: Motion by Knapp, seconded by Reid, to receive the Materials Transmitted of June 12, 2018. Upon a roll call vote, motion carried 6 to 0.

STATEMENTS OF CITIZENS: State Senator Margaret O'Brien and State Representative Brandt Iden each spoke and emphasized the importance of infrastructure spending especially when it comes to connecting roadways to industry. They announced that the City of Portage would be receiving $3.7 million dollars for roadway improvements in Portage to improve Zylman Avenue, Lovers Lane, Idaho Avenue and a mill overlay project between Texas Township and the City of Portage.

Ms. Fran Denny, 5120 Brennerton, spoke to raise concerns regarding the establishment of an adult foster care facility located at 612 Landsdowne. She informed City Council that she was speaking on behalf of residents of the Ridgebrook neighborhood that were either in the audience or unable to attend the meeting. Ms. Denny provided a handout to City Council which included an overview of the neighborhood, understanding of happenings at 612 Landsdowne, conclusions and actions requested. Ms. Denny reviewed the contents of the handout and requested that the city take immediate action to address the concerns expressed. Mayor Randall thanked Ms. Denny for her comments and shared that she and the City Manager were recently made aware of the concerns and that City Manager Shaffer had begun attempting to address concerns and issues related to this project. City Manager Shaffer shared that he had spoken with Ms. Denny on several occasions along with City Attorney Brown and city staff. He shared that the perspective of City Administration differs from those expressed by many residents of the Ridgebrook neighborhood. He continued by stating that the issuance of the building permit was legitimate and the City Attorney has made it clear as to the limitations of local zoning rules when it comes to adult foster care facilities. Mr. Shaffer stated that he has spoken with representatives of Residential Opportunities, Inc., (ROI) the owner of this property. He continued by sharing that ROI operates a number of facilities in the City of Portage and he, upon reviewing a number of said facilities, finds ROI to be providing a necessary service, good neighbors and responsible property owners. Mr. Shaffer offered to host a public forum in the next few days or weeks with neighbors of 612 Landsdowne to hear the concerns and answer questions.

Councilmember Urban stated that tonight is the first he has heard about these concerns and commented as to the appropriateness since this is an administrative issue. Councilmember Urban inquired of Acting Director of Community Development Chris Forth if a garage is required in land zoned R-1-C. Mr. Forth responded in the negative. Mr. Urban commented that many of the neighbors are opposed to the transition of the garage at the property to living space and stated that many residents in the city have closed garages to increase living space and such a transition is permitted. Councilmember Ford shared that, like Councilmember Urban, tonight is the first he is hearing about the issue. He commented that this matter seems to involve zoning and interpretations of related laws and restrictions.

Attorney Brown spoke and stated that housing laws in Michigan treat the establishment of an adult foster care facility such as this the same as if a resident were purchasing the home. He stated that the courts have a solid and lengthy history regarding the establishment of small facilities such as this and that, from a legal perspective, the city is proceeding accordingly and has no other alternative.

Councilmember Reid shared that she lives in this neighborhood and heard about the concerns via the NextDoor application. She stated her support for a community forum. Mayor Pro Tem Pearson shared that he was just now hearing about the issue and asked the City Manager to keep City Council informed with regard to this matter.

Ms. Brenda Marsh, 5129 Woodmont, Mr. Aaron Allen, 5144 Brennerton, Ms. Carole Newkirk, 5113 Midfield, Ms. Beth Depweg, 5105 Brennerton, Mr. Robert Loom, 602 Landsdowne, Ms. Veronica Lapp, 5128 Brennerton, Mr. Brian Sweeney, 5136 Brennerton, Ms. Melissa Baas, 5145 Brennerton, Mr. Dan Willson, 5026 Windyridge, and Ms. Suzan Ayers, 610 Circlewood Drive North, spoke and expressed concern with various aspects involving 612 Landsdowne. Ms. Suzan Ayers inquired specifically of City Administration as to the applicability of City Ordinances to 612 Landsdowne. Mr. Shaffer stated that the city is not in violation of its own ordinance and, to the contrary, to deny the request of ROI would result in the city being in violation of the law. Attorney Brown concurred and stated that this adult foster care home is limited to a total of six residents and can locate in R-1-C zoned property. In terms of licensing the facility, Mr. Brown stated that this is a responsibility of the State of Michigan and not the City of Portage. If not for the request of the building permit, ROI could have legally begun using the property as a group home immediately. He continued by stating that, even if the city and/or City Council wanted to do something about the home, there is nothing within the power or scope of the city to do so. He continued by pointing to state statute and consistent court rulings over the past thirty to forty years that support his contention. Attorney Brown concluded by stating that the city is not in any violation of its own ordinance and it is up to the State of Michigan to determine licensing. Ms. Ayers asked for clarification regarding home ownership, occupancy and licensing. Mr. Brown stated that the licensing processing is the exclusive responsibility of the State of Michigan. Ms. Ayers asked that consideration be given to pausing construction efforts at the property until the public forum can be held. Mayor Randall informed the audience that the City Manager would make himself available to meet with neighbors either Wednesday or Thursday of this week to discuss this matter.

Mr. Scott Schrum, Chief Executive Officer of Residential Opportunities, Inc. spoke and thanked City Council for the opportunity to respond to concerns that had been expressed. Mr. Schrum addressed the perception that ROI is a large and disinterested company by reviewing the formation of the non-profit and its roots in Kalamazoo County. Mr. Schrum shared that ROI operates 18 group homes in Kalamazoo County and discussed other programs and services the organization offers. Mr. Schrum explained that the facility in question will be a small adult foster care facility and addressed the legality of such a facility in a residential neighborhood. He continued by sharing the belief that individuals with disabilities deserve the opportunity to live in a community and that the State of Michigan Department of Licensing and Regulatory Affairs is responsible for the licensing of adult foster care facilities. Mr. Schrum reviewed various certifications and accreditations obtained by ROI and shared information on where individuals can register complaints about their facilities. Next, Mr. Schrum addressed the concerns raised about property values and neighborhood stability when a group home is introduced. He then explained that neighbors were not notified because the Fair Housing Act prohibits ROI from doing so and that a home for individuals with disabilities does not need permission from neighbors to locate in a residential community. Mr. Schrum explained that utilizing the garage for living space was made for economic reasons and that every resident will have and deserves his or her own bedroom and privacy. With regard to traffic, he shared that there will be two to three staff people at the facility at all times resulting in an additional two to three cars on the street every eight hours. He concluded by stating that the goal is for the home and its residents to be a part of the neighborhood and welcomed communication from neighbors going forward.

Mayor Randall summarized that the City Manager would be reaching out and coordinating with Ms. Denny to arrange a public forum to further discuss this matter and address outstanding questions.

COMMUNICATIONS:

APPOINTMENT TO THE INVESTMENT COMMITTEE: Motion by Ford, seconded by Knapp, to confirm the appointment of citizen Steve Phillips to the unfulfilled term of Councilmember Chris Burns on the City Council Investment Committee. Upon a roll call vote, motion carried 6 to 0. Councilmember Reid explained that Councilmember Burns was moving from his citizen appointment position on the Investment Committee to representing City Council. The result is an opening for a citizen to serve and Mr. Steve Phillips would be filling the vacancy.

CALENDAR OF MEETINGS: At the request of Mayor Randall, City Clerk Herringa read the meeting schedule for the record. Motion by Ford, seconded by Reid, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 6 to 0.

PUBLIC HEARINGS:

REZONING APPLICATION FOR PENNRIDGE TRAIL PLANNED DEVELOPMENT: Mayor Randall invited City Administration to review the proposed rezoning and development project and Acting Director of Community Development Chris Forth reviewed the rezoning request, planned development, number of housing units, development access via Osterhout and access during emergency situations. Councilmember Urban questioned the recommended modifications to the development and that they are not generally included as part of a rezoning request. Mr. Forth explained that the modifications and rezoning are tied together. City Attorney Brown explained that approval of the Tentative Plan results in the rezoning.

Councilmember Reid inquired as to the logic behind access requirements for residential developments and Mr. Forth explained that the reason for multiple access points is primarily related to emergency situations so that public safety can still access a residence should one access point be blocked. Councilmember Reid pointed out that this development involves 137 units with residents all going in and out at the same access point which means, for practical purposes, it is one large cul de sac. Mr. Forth concurred and stated that emergency access would also be available to residents should an emergency arise. Councilmember Reid expressed concerns about traffic demands on Osterhout as new developments arise and Mr. Forth shared that the Department of Transportation and Utilities has been and will continue to monitor traffic. Should the situation warrant, he speculated that a traffic signal or circle could be installed.

Councilmember Knapp inquired as to the benefit of a Planned Development and Mr. Forth explained that a Planned Development affords the opportunity for design flexibility and an increase in density. He stated his opinion that should this property be developed as home for all single-family units, the end result would be a similar number of total units. Mr. Forth then explained the history of the property and difficulty property owners have had in selling and/or developing the property.

Councilmember Urban questioned the suggested modification which eliminates a sidewalk requirement. He shared his belief that the best time to install sidewalks is during the initial development of project and concluded by stating that he could not support the requested modification.

Motion by Pearson, seconded by Ford, to approve Rezoning Application #17/18-3 for Pennridge Trail Planned Development (1722 and 1800 West Osterhout Avenue and 10099, 10117 and 10121 Oakland Drive) changing the zoning from I-1, light industry to PD, planned development and approve the Tentative Plan with the two modifications contained in the June 26, 2018, City Manager report to City Council. Motion by Urban, seconded by Reid, to amend the motion to remove the second modification. Upon a roll call vote, motion to amend the original motion failed two (2) to four (4) with Councilmembers Reid and Urban voting in favor and Councilmembers Ford, Knapp, Mayor Pro Tem Pearson and Mayor Randall opposed.

Mayor Randall stated that as the city grows older and land becomes limited the city must become more creative in development. She then stated her support for this development. Councilmember Reid stated that she supported Councilmember Urban's amendment to the motion because of the potential for future sidewalk connections. She stated that a sidewalk may not connect anywhere upon initial installation but that it is designed for future connection and cited sidewalk sections on Centre Street that were installed years ago and are now part of a contiguous sidewalk. Upon a roll call vote on the original motion, motion carried four (4) to two (2) with Councilmembers Ford, Knapp, Mayor Pro Tem Pearson and Mayor Randall voting in favor and Councilmembers Reid and Urban opposed.

STRYKER TAX ABATEMENT: Mayor Randall invited City Manager Shaffer to review the proposed Stryker project and related tax abatement. City Manager Shaffer reviewed the projects, highlighted the number of jobs, benefit to the community, impact on the tax base, length of abatement and extolled the strong partnership between the City of Portage and Stryker Corporation.

Ms. Darcy Nelles-Serba spoke on behalf of the Stryker Corporation, reviewed the proposed project, size of investment, history of Stryker in the community and continued commitment. Ms. Jill Bland of Southwest Michigan First thanked City Council for their continued support and recognized city staff for their professionalism and forward-thinking. She shared that she was in Lansing earlier and the Michigan Strategic Fund had awarded a performance based grant in support of the project.

Mayor Randall opened the public hearing. Motion by Ford, seconded by Reid to close the public hearing. Motion was adopted by unanimous consent.

Councilmember Ford informed City Council and the audience that his wife was part of the architecture team that would be involved in the project but her involvement and direct benefit would be limited. He continued by stating that he does not perceive any conflict of interest. In response to a query from Attorney Brown, Mr. Ford confirmed that his wife is not an employee of Stryker.

Councilmember Reid shared her belief that the process utilized by the city to review and evaluate tax abatement requests needs to be reviewed and made more reflective of the current environment.

Motion by Knapp, seconded by Reid, to adopt Resolution No. 2-18, expanding Industrial Development District No. 82 for the Stryker Corporation, 3800 East Centre Avenue; adopt Resolution No. 3-18, approving the industrial facilities exemption certificate application for the Stryker Corporation, 3800 East Centre Avenue; and approve the tax abatement agreement and affidavit between the City of Portage and the Stryker Corporation. Upon a roll call vote, motion carried 6 to 0.

REGULAR BUSINESS AGENDA:

ENGINEERING SERVICES FOR ANGLING ROAD AND MEREDITH STREET: Councilmember Urban stated that he removed this item from the Consent Agenda to get a better understanding as to the bids that were received. He shared that the low bidder was significantly less than multiple other bids. He stated that he was not familiar with the winning bid, AR Engineering. City Manager Shaffer explained that AR Engineering is a newer company trying to expand and gain additional city business. He shared that this firm has often performed site plan review services for the city and expressed confidence in their ability to perform the work. Director of Transportation and Utilities Kendra Gwin shared that the firm had recently been responsible for the installation of a pedestrian island and has bid on prior city projects. She shared that she discussed the bid and hours needed to complete the work and was content with the response. Councilmember Urban stated that he would not ordinarily raise a question about a bid such as this but that the discrepancy in the bid amounts caught his attention. Motion by Urban, seconded by Reid, to award a contract to perform engineering services for Angling Road and Meredith Street to AR Engineering, LLC, in the amount not to exceed $87,750 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.

CONTRACT AMENDMENTS: Mayor Randall explained that this item was not included on the Consent Agenda due to the funding announcement of Senator O'Brien and Representative Iden. Councilmember Reid inquired as to the change in Lovers Lane from a four lane roadway to a roadway with two travel lanes and a turn lane. Director of Transportation and Utilities Kendra Gwin shared that the plan to convert Lovers Lane to a "road diet" was included in the Capital Improvement Plan for 2024 but given the plan to straighten a portion of Lovers Lane (and available funding), it made more sense to make the conversion now rather than tearing up the roadway in only six years. Ms. Gwin explained the safety concerns and ease of left turn movements that would be addressed with the road diet. Councilmember Reid reviewed some of the history involved in making Lovers Lane into a four-lane roadway and Ms. Gwin explained that the road width would not change but incorporate a turning lane, a travel lane in each direction and bike lanes on both sides as it is part of a designated bicycle commuter route. Councilmember Reid inquired if business owners had been notified and Ms. Gwin responded in the negative but clarified that, for large roadway projects, an open house is held and design plans presented. Councilmember Knapp inquired if speed limits would be altered and Ms. Gwin responded in the negative.

Motion by Ford, seconded by Pearson, to approve contract amendments with the following: Hurley & Stewart, LLC, in the amount not to exceed $67,988 for design and construction engineering services for the Lovers Lane improvements; Wightman & Associates, Incorporated, in the amount not to exceed $69,875 to perform design engineering services for Idaho Avenue reconstruction and water main replacement; Abonmarche Consultants, Incorporated, in the amount not to exceed $117,500 to perform design engineering services for the Zylman Avenue reconstruction, and authorize the City Manager to execute all documents related to the contracts on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

RECONSIDERATION OF SIDEWALKS IN WHISPERING MEADOWS PHASE IV: Mayor Randall stated that since she lives in the Whispering Meadows development, recused herself from voting on the matter and turned the meeting over to Mayor Pro Tem Pearson who presided over this agenda item. Mayor Pro Tem Pearson invited the project developer Charlie Glas of Glas & Associates to speak regarding this item. Mr. Glas highlighted reasons why he did not believe sidewalks should be a requirement of this part of the development. He pointed out that both city staff and the Planning Commission recommended no sidewalks for this project when originally proposed in 2016.

Ms. Carole Majka, 6697 Bunchberry Drive, Mr. Prabhash Tatineni, 6527 Bunchberry, and a prospective buyer, Mr. John Short, 238 Minges Hills Drive, Battle Creek, spoke in support of reconsideration of the sidewalk requirement. Mayor Pro Tem Pearson reviewed three recent communications received by the city that were in support of reconsidering the sidewalk requirement. They were from Mr. Richard Dirrenberger, President of the Whispering Meadows Homeowner Association, Ms. Betty Trebing, 3696 Bellflower Drive and Mr. Chris Vanschooren, 6856 Oleander Lane.

Councilmember Urban explained that in 2016 he initiated the sidewalk requirement for this phase of the development and that a majority of City Council was in support. He then reviewed a history of the requirements for sidewalks in the city and the provisions by which exceptions could be made. He shared his belief that sidewalks are an integral part of the type of community both he and the City Council who adopted the policy want Portage to be. He shared that he currently lives in a neighborhood without sidewalks or overhead wires much like Whispering Meadows but with a different State Equalized Value (SEV). He stated that in front of his home are numerous people walking, exercising, going to bus stops, etc. on a daily basis. He continued by stating that sidewalks provide a sense of community, promote safety for school age children walking to a bus stop, promote safety by allowing pedestrians to walk out of the roadway and reiterated his belief that the best time to implement a sidewalk is at the start of a development. Mr. Urban lamented the fact that the city has not consistently applied sidewalk rules and requirements over the years.

Councilmember Ford stated that he was in support of the sidewalk requirement in 2016 largely because the developer appeared to be amenable, but he also respects the current viewpoint of the neighbors, developer and city staff. He continued by stating that there are a variety of homeowners some of whom want a sidewalk and some who do not and having a variety of residential options is beneficial to the city. He continued by sharing his belief that the sidewalks currently being required as part of the Phase IV of this development would not be connected anytime soon.

Councilmember Knapp stated her appreciation for the value of sidewalks in promoting community and safety but questioned if requiring them in the final phase of a development in which sidewalks were not previously required made sense. She stated her belief that this is not the right situation in which to require sidewalks and pointed to opposition from city staff, neighbors and the Planning Commission.

Councilmember Reid agreed with the belief and value of having sidewalks on both sides of the street. However, she stated that application of the requirement must be pragmatic and questioned whether requiring sidewalks in the final phase of a project when there would be limited connectivity represented a pragmatic approach. She expressed support for the waiver but emphasized that the city must be consistent with developers in application of the sidewalk policy.

Motion by Knapp, seconded by Ford, to amend a Motion made by Councilperson Urban adopted May 24, 2016, with regard to the approval of the Preliminary Plat of Whispering Meadows No 4 by deleting the phrase "… and installation of sidewalks along both sides of all streets (Section 42-804) …". This amendment shall also apply to the Final Preliminary Plat Approval (Engineering Plans) adopted September 6, 2016 and the Final Plat Approval adopted February 27, 2018. This Motion to Amend is intended to approve the waiver requested by Developer to not install sidewalks on both sides of the street in Whispering Meadows No. 4 except along Mullein Lane between Angling Road and Bunchberry Drive and between Boxwood Court and Camelot Street. This Motion is conditional upon Developer submitting revised Engineering Plans consistent with this Motion to Amend.

Councilmember Urban reiterated his support for the sidewalk requirement and cited a situation when residents of the Amberly neighborhood attended a City Council Meeting in support of sidewalks in their neighborhood. He stated his contention that the sidewalks in Whispering Meadows would connect to adjoining neighborhoods. He reiterated his belief for equal and consistent application of the city sidewalk policy.

Attorney Brown referenced the matter of precedence and opined that future City Councils were not bound by any decision that City Council makes this evening nor is City Council setting a policy with their vote on this matter. He likened the request of the developer to a request for a variance from the Zoning Board of Appeals. Mayor Pro Tem Pearson thanked Mr. Brown for his comment and analogy to a request for a variance.

Upon a roll call vote, motion carried 4 to 1 with Councilmember Ford, Knapp, Reid and Mayor Pro Tem Pearson voting in support and Councilmember Urban opposed.

Mayor Randall apologized to the Whispering Meadows community about the Councilmember comment regarding SEV levels. She then thanked those in the audience who waited patiently until the Whispering Meadows topic came up on the agenda.

COUNCIL COMMITTEE REPORTS: Councilmember Reid provided an update on a meeting she attended of the Environmental Health Advisory Committee (EHAC). She shared that the EHAC continued to review and discuss environmental impacts related to the growing and processing of medical marihuana and heard from growers and a representative of the State of Michigan regarding the matter. Councilmember Reid shared that the extent of environmental impacts and who is responsible for monitoring them are yet to be determined. Motion by Pearson, seconded by Ford, to receive the Council Committee Report as presented. Upon a voice vote, motion carried 6 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Ford expressed gratitude for Stryker Corporation's on-going commitment to the community and congratulated them on their latest development project.

Councilmember Urban questioned the appropriateness of the Chair calling another Councilmember's comments inappropriate.

Councilmember Reid stated that there is confusion in the community over the Senior Millage that is on the ballot in August. She stated that the millage request is not for a new Portage Senior Center but rather a countywide millage request. She stated that funds resulting from the millage would be used to provide services to seniors such as delivered meals, assistance with elder abuse, hearing and vision assistance, etc.

Mayor Pro Tem Pearson commented that due to on-going construction at the campus of Portage Central High School there would be no Portage Rotary Club Sponsored public fireworks display this year. However, he encouraged residents to support the City of Portage series of summer concerts.

Mayor Randall shared that she recently attended a ribbon cutting ceremony at a new Mercantile Bank in Portage and that the bank has pledged to match funds up to $5,000 to support the Portage Community Center. She also stated that she and City Manager Shaffer recently attended a game of the Kalamazoo Growlers which included a fundraiser for the Portage Community Center and resulted in donations in excess of $500. Mayor Randall stated that she met the CEO of ROI, Scott Schrum, at a recent Kiwanis Club presentation. She stated that he offered to take members of the Portage City Council on a tour of ROI facilities in Portage and she encouraged City Council to participate.

ADJOURNMENT: Mayor Randall adjourned the meeting at 9:42 p.m.

____

Adam Herringa, City Clerk