

CITY COUNCIL MEETING MINUTES FROM NOVEMBER 20, 2018

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

At the request of Mayor Randall, the audience observed a moment of silence to honor all religions and personal beliefs and in recognition of foreign exchange students that are calling Portage "home." Following the moment of silence, City Council and the audience recited 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. Motion by Pearson, seconded by Reid, to approve the Consent Agenda. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF MINUTES: Motion by Pearson, seconded by Reid, to approve the Regular Meeting Minutes of November 6 and Pre-Council Meeting Minutes of November 19, 2018. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF ACCOUNTS PAYABLE REGISTER OF NOVEMBER 20, 2018: Motion by Pearson, seconded by Reid, to approve the Accounts Payable Register of November 20, 2018. Upon a roll call vote, motion carried 7 to 0.

CONTRACT FOR MOWING, TRIMMING AND LANDSCAPE MAINTENANCE: Motion by Pearson, seconded by Reid, to award a three-year contract in the amount of \$58,745 to Irish Ayres Enterprises, LLC, for mowing, trimming and landscape maintenance for twenty-nine city roadside locations 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 7 to 0.

PRELIMINARY CONDOMINIUM SUBDIVISION FOR COPPERLEAF PHASE IV: Motion by Pearson, seconded by Reid, to approve the Preliminary Condominium Subdivision for Copperleaf Phase IV, 3800 West Milham Avenue, subject to submittal of detailed engineering plans for streets, utilities and storm water. Upon a roll call vote, motion carried 7 to 0.

TENTATIVE PLAN AMENDMENT FOR STREAMSONG PLANNED DEVELOPMENT: Motion by Pearson, seconded by Reid, to accept the Tentative Plan Amendment for Streamsong Planned Development, 715 West Osterhout Avenue, for first reading and set a public hearing for December 18, 2018. Upon a roll call vote, motion carried 7 to 0.

MINUTES OF BOARDS AND COMMISSIONS: Motion by Pearson, seconded by Reid, to receive the minutes of the Historic District Commission of October 3, 2018. Upon a roll call vote, motion carried 7 to 0.

MATERIALS TRANSMITTED: Motion by Pearson, seconded by Reid, to receive the Materials Transmitted. Upon a roll call vote, motion carried 7 to 0.

STATEMENTS OF CITIZENS: Mr. Alan Loveridge, 23965 88th Avenue, Marcellus, spoke and shared an idea by which a Michigan Driver's License could have an emblem regarding age and eligibility to use recreational marihuana. He also suggested that insurance companies be permitted to charge a nominal fee if an individual chooses to use marihuana. Finally, he suggested that police officers utilize a field test such as a video-game driving simulator that could test reaction time for those who are suspected to be under the influence of marihuana.

COMMUNICATIONS:

CALENDAR OF MEETINGS: At the request of Mayor Randall, City Clerk Herringa read the meeting schedule for the record. Motion by Reid, seconded by Knapp, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 7 to 0.

UNFINISHED BUSINESS AGENDA:

ORDINANCE PROHIBITING MARIHUANA ESTABLISHMENTS: Mayor Randall invited City Manager Shaffer to review the proposed ordinance and rationale for recommending adoption. Mr. Shaffer complied and reviewed the circumstances surrounding recreational marihuana in the State of Michigan, the passage of the statewide proposal, role of the State of Michigan Department of Licensing and Regulatory Affairs (LARA) and timelines involved in the permitting of commercial marihuana enterprises. Mr. Shaffer acknowledged that a majority of residents in Portage voted in favor of the recreational marihuana proposal and of the intention of City Administration to draft an ordinance that will ultimately permit commercial marihuana businesses. Mr. Shaffer stated his goal of the city taking a deliberative approach to drafting the ordinance similar to the process used in creating the ordinance that permitted medical marihuana facilities.

Councilmember Reid inquired how the proposed ordinance would impact small scale businesses such as grow and sale operations. Mr. Shaffer emphasized that the ordinance is designed to address commercial operations related to recreational marihuana and City Attorney Randy Brown confirmed that micro-businesses related to recreational marihuana would be covered by the proposed ordinance.

Mayor Pro Tem Pearson commented that marihuana is still prohibited by federal law and inquired how officers of the Portage Department of Public Safety would enforce marihuana possession given the conflict between state and federal law. Mr. Shaffer stated that officers would only take action such as confiscation if an individual is in possession of an amount in excess of the 2.5 ounces now permitted under state law. Councilmember Ford sought clarification as to the state law and possession and City Attorney Brown explained that the state law will go into effect ten days following certification of the election and the permitted amount to have in your possession is 2.5 ounces.

Councilmember Burns commented that many municipalities in the State of Michigan are adopting ordinances that simply opt communities out of recreational marihuana businesses. The proposed ordinance under consideration, by contrast, directs City Administration to report back to City Council with a recommendation following a review and investigation into permitting recreational businesses in Portage. Councilmember Reid commented that the new law permits possession for those aged 21 and older, but marihuana possession remains illegal for those under the age of 21.

Mayor Randall shared her belief that recent articles and headlines about the proposed ordinance do not accurately depict the direction the city is taking regarding recreational marihuana businesses in Portage. She stated that City Council has heard the will of the voters and that the city is recommending waiting to get a better sense of state regulations before taking action on a local

ordinance. She continued by stating that it is better to position the city as being able to define recreational marihuana businesses in the community. She stated her commitment to developing an ordinance that will permit recreational marihuana businesses but that a logical and reasoned approach should be taken in the development of such an ordinance.

Mr. Dan Gage, 1923 Pleasant Drive, spoke in opposition to the proposed ordinance. City Attorney Brown spoke and assured the audience and City Council that the proposed ordinance does not prohibit an individual's ability to use or possess marihuana. He further commented that no recreational marihuana business can operate anywhere in the State of Michigan until LARA establishes the rules and regulations. He concluded that the plan is to develop an ordinance that will permit recreational businesses in Portage and coincide with the timing of the rules and regulations to be established by LARA. Mayor Pro Tem Pearson shared that he chairs the Kalamazoo County Environmental Health Advisory Council (EHAC) and that this body started encouraging LARA to begin developing rules several months ago. He continued by stating that he is not opposed to recreational marihuana businesses but that sales of recreational marihuana cannot begin until rules and regulations are developed.

Ms. Carol Luce, 7133 Rockford Street, questioned how police officers would be able to determine whether someone was driving under the influence of marihuana. She also questioned the viability of marihuana to adequately manage long-term pain and shared that it has become very difficult, due to opioid addiction, for patients to obtain pain medication.

Mr. Max Nicolai, 2670 Avalon Woods Court, spoke in opposition to the proposed ordinance as currently written and explained why. He then encouraged City Council to amend the proposed ordinance to include a sunset provision.

Ms. Lisa Crall, 2839 Hickory Point Drive N, echoed the comments of Mr. Nicolai, expressed support for the approach being taken by City Council and asked that the economic impact be taken into consideration.

Mr. Kyle March, 311 Ruth Street, thanked City Council for expressing support for the establishment of marihuana businesses in Portage. He expressed opposition to the proposed ordinance and questioned how it benefits the community.

Ms. Gwen Wiggington, 4729 Westfield, expressed her opposition to allowing recreational marihuana businesses and encourage City Council to move slowly in this regard.

Motion by Urban, seconded by Reid, to adopt the proposed amendment to Chapter 2, Administration, with the addition of Article 11, Prohibiting Marihuana Establishments pursuant to the Michigan Regulation and Taxation Act, Ballot Proposal 1 of 2018.

Councilmember Ford expressed his support for the proposed ordinance and stated that, with regard to the inclusion of a "sunset provision," City Council can repeal or replace the ordinance. He assured members of the audience that City Council would be addressing the issue of permitting commercial marihuana establishments and that, like with medical marihuana, will be at the forefront of the issue in the region. He stated his support for taking a deliberate approach to the matter and to come up with a solution that matches the will of the people.

Mayor Pro Tem Pearson stated his support for the ordinance and for taking a reasoned and deliberative approach as was the case for the medical marihuana ordinance. He stated that LARA has been given one year to come up with rules and regulations and should have the opportunity to do so. He stated that state law supersedes local law and he does not want to spend time crafting an ordinance only to have it usurped by LARA. Mr. Pearson concluded by stating his intention that, should the State of Michigan fail to act, he will act to permit and regulate recreational marihuana businesses at the local level.

Councilmember Reid stated that the supporters of Proposition 18-1 indicated that they wanted marihuana to be regulated like alcohol. She commented that such regulations need to be

put in place and this takes time. She stated that the proposed ordinance protects Portage should LARA develop rules and regulations too quickly. Ms. Reid commented that the proposed ordinance allows the city to craft an ordinance that will, for example, protect property owners and keep recreational marihuana facilities from opening anywhere in the city they please. She concluded that 44% of voters in Portage were opposed to recreational marihuana businesses and care must be taken to develop an ordinance that can be acceptable to all residents. Attorney Brown noted that Proposal 1 gave LARA one year to develop rules and, should they fail, applications for recreational marihuana facilities can be made directly to a municipality.

Mayor Randall stated that, following the election, there is new leadership in Lansing. She questioned the level of economic impact permitting recreational marihuana businesses will have on the community. She recognized that a majority of residents in Portage supported recreational marihuana and affirmed her commitment to developing an ordinance which permits recreational marihuana facilities. She stated her desire that such an ordinance be reflective of the best interests of the city.

Upon a roll call vote, motion carried 7 to 0.

ORDINANCE TO MODIFY HISTORIC DISTRICT: Mayor Randall invited City Manager Shaffer to review the proposed ordinance and related recommendation. Mr. Shaffer explained that the property in question includes historic buildings such as a barn but also includes a ranch-style house that was built in the 1960s. He explained that the recommendation from the Historic District Commission and City Administration is to remove the ranch house property from the Historic District.

Motion by Pearson, seconded by Reid, to adopt the proposed amendment to Section 38-35 of Chapter 38, Historical Preservation, to modify the Historic District located at 2663 Mandigo Avenue. Upon a roll call vote, motion carried 7 to 0.

COUNCIL COMMITTEE REPORTS: Councilmember Knapp shared that a meeting of the Community Senior Center Cabinet was held and attended by a large number of community leaders. She explained the purpose of the meeting and shared that there is widespread support for the project.

Councilmember Burns shared that he attended a meeting of the Central County Transit Authority (CCTA) at which routine business, such as the purchase of eight buses, was conducted. He informed City Council that the next CCTA meeting would be held in Portage City Council Chambers. He stated that the goal of moving the meeting around to jurisdictions participating in the CCTA is to better engage local leaders. In response to a question, Mr. Burns affirmed that the public is welcome at the meeting.

Councilmember Ford shared that he attended a meeting of Discover Kalamazoo at which the primary topic of conversation was the economic impact of Western Michigan University (WMU) on the community. He stated that WMU contributes approximately \$1.7 billion to the local economy.

Motion by Reid, seconded by Burns, to receive the Council Committee Reports. Upon a voice vote, motion carried 7 to 0.

NEW BUSINESS:

I LOVE PORTAGE ESSAY CONTEST: Mayor Randall asked for volunteers to read the annual "I Love Portage" essay contest entries and select the winners. Councilmembers Burns, Ford and Knapp volunteered. Motion by Pearson, seconded by Reid, to appoint Councilmembers Knapp, Ford

and Burns as members of the “I Love Portage” Essay Contest Review Committee. Upon a voice vote, motion carried 7 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: In the spirit of the season, Councilmember Burns expressed thanks for the ability to serve with the other six members of the City Council. He next shared that City Council is adopting a six-person family to support during the holiday season from the Portage Community Center (PCC). Councilmember Burns shared information about the PCC Adopt-a-Family program and of the holiday toy and food donation programs. He concluded by congratulating PCC on receiving a \$2000 grant from the local United Way.

Councilmember Ford thanked Councilmember Burns for his work to adopt a family from PCC. He commented that, as a result of a recent citizen comment, he drove on Milham Avenue near Portage North Middle School to check out the traffic/pedestrian situation. He shared that he discovered there is an LED light in the intersection and thought this was a good safety enhancement and should be considered in other intersections.

Councilmember Reid complimented the Historic District Commission with regard to their work on the historic property located on Mandigo and related ordinance that was adopted tonight by the City Council. Councilmember Reid encouraged residents to be with friends and family over the Thanksgiving holiday and expressed gratitude for the ability to serve on City Council.

Councilmember Knapp reminded residents to be cautious throughout the leaf pickup program as heavy machinery is at work, the streets are narrower and children may be playing in the leaves. She then wished City Council, staff and residents a happy Thanksgiving.

Mayor Pro Tem Pearson thanked members of the audience for taking the time to attend the City Council Meeting. He stated his appreciation for the opportunity to better explain the ordinance regarding recreational marihuana. Finally, he thanked Councilmember Burns for his work on adopting a family from the PCC and complimented PCC Executive Director, Chris Buckley, on his efforts.

Mayor Randall thanked members of the audience for coming to the meeting. Next, she congratulated Kalamazoo Mayor Bobby Hopewell for receiving the Boy Scouts Legacy of Honor Award. Mayor Randall shared that she participated in “Operation Breadlift” which is organized and executed by Portage Northern and Portage Central High Schools as a fundraiser to support the March of Dimes. She congratulated the organizers on their successful event and for using technology to ease and support fundraising efforts. Mayor Randall shared that she also attended a kickoff at Crossroads Mall for the annual Salvation Army fundraising campaign and encouraged everyone to be generous this holiday season. Next, Mayor Randall shared details of the upcoming annual Portage Traditional Holiday and Tree Lighting Celebration and complimented city staff hard at work on the leaf pickup program despite challenging weather conditions.

ADJOURNMENT: Mayor Randall adjourned the meeting at 8:10 p.m.

Adam Herringa, City Clerk