CITY COUNCIL MEETING MINUTES FROM AUGUST 6, 2019

The Regular Meeting was called to order by Mayor Randall at 7:00 p.m. The following members were 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, Assistant City Attorney Matt Quardokus 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 the efforts of the Portage Community Center and the people they serve. The Mayor and City Council then 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. Mayor Randall asked that the items under "Communications" be added to the Consent Agenda (inclusive of the Calendar of Meetings and reappointment of Mayor Pro Tem Jim Pearson to the Central County Transportation Authority Board). No items were removed from the Consent Agenda. Motion by Burns, seconded by Ford, to approve the Consent Agenda as presented. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF MINUTES: Motion by Burns, seconded by Ford, to approve the Regular Meeting Minutes of July 23 and Pre-Council of August 5, 2019. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 6, 2019: Motion by Burns, seconded by Ford, to approve the Accounts Payable Register of August 6, 2019. Upon a roll call vote, motion carried 7 to 0.

PORTAGE COMMUNITY CENTER FUNDING REQUEST: Motion by Burns, seconded by Ford to approve the funding request from the Portage Community Center for up to $150,000 in site and building improvements with the conditions as recommended by the City Administration, and authorize the City Manager to submit the Substantial Amendment to the FY 2019-20 Annual Action Plan for the Community Development Block Grant Program to the U.S. Department of Housing and Urban Development, and sign required documents related to the funding request. Upon a roll call vote, motion carried 7 to 0.

TYLER TECHNOLOGIES RECORDS MANAGEMENT SYSTEM FOR MOBILE FIELD REPORTING: Motion by Burns, seconded by Ford to approve the purchase of Tyler Technologies Records Management System for Mobile Field Reporting module in the amount of $44,422.20 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

CENTRE PORT COMMONS BROWNFIELD REDEVELOPMENT PLAN AMENDMENT NO. 6: Motion by Burns, seconded by Ford to accept the request from Treystar Holdings, LLC to terminate the Centre Port Commons Brownfield Redevelopment Plan Amendment No. 6, and set a public hearing for September 17, 2019. Upon a roll call vote, motion carried 7 to 0.

BROWNFIELD REDEVELOPMENT PLAN AMENDMENT NO. 7: Motion by Burns, seconded by Ford to accept the City of Portage Brownfield Redevelopment Plan, with Brownfield Redevelopment

Plan Amendment No. 7, 6666 Lovers Lane, and set a public hearing for August 20, 2019. Upon a roll call vote, motion carried 7 to 0.

PORTAGE POLICE OFFICERS LABOR AGREEMENT: Motion by Burns, seconded by Ford to authorize the Mayor and City Clerk to execute a three-year labor agreement between the City of Portage and the Portage Police Officers Association. Upon a roll call vote, motion carried 7 to 0.

PERSONNEL RULES AND REGULATIONS: Motion by Burns, seconded by Ford to approve the revised City of Portage Personnel Rules and Regulation. Upon a roll call vote, motion carried 7 to 0.

TRANSFER OF REAL PROPERTY AT 4290 ROMENCE ROAD: Motion by Burns, seconded by Ford to adopt a resolution to accept the transfer of real property at 4290 Romence Road 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 7 to 0.

PORTAGE NORTHERN HOCKEY BOOSTERS CHARITABLE GAMING LICENSE: Motion by Burns, seconded by Ford to adopt the Resolution for Charitable Gaming License recognizing Portage Northern Hockey Boosters as a nonprofit organization in the City of Portage. Upon a roll call vote, motion carried 7 to 0.

MAP OF HAMPTON CREEK WETLAND AREA: Motion by Burns, seconded by Ford to receive the communication regarding a detailed map of the Hampton Creek Wetland Area as information only. Upon a roll call vote, motion carried 7 to 0.

MINUTES OF BOARDS AND COMMISSIONS: Motion by Burns, seconded by Ford, to receive the minutes of the Youth Advisory Committee of June 4, 2019 and Senior Citizens Advisory Board of June 19, 2019. Upon a roll call vote, motion carried 7 to 0.

MATERIALS TRANSMITTED: Motion by Burns, seconded by Ford, to receive the Materials Transmitted of July 25, 2019. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

CENTRAL COUNTY TRANSPORTATION AUTHORITY BOARD APPOINTMENT: Motion by Burns, seconded by Ford, to confirm the re-appointment of Jim Pearson to the Central County Transportation Authority Board. Upon a roll call vote, motion carried 7 to 0.

CALENDAR OF MEETINGS: Motion by Burns, seconded by Ford, to receive the Calendar of Meetings. Upon a voice vote, motion carried 7 to 0.

PUBLIC HEARINGS:

REZONING APPLICATION #18/19-6, 129 BOSTON AVENUE: City Manager Shaffer introduced Community Development Director Vicki Georgeau who reviewed the current zoning of 129 Boston along with nearby properties. She continued by reviewing development plans of the applicant along with use of adjoining properties. Next, Ms. Georgeau reviewed the Future Land Use Map and the delineation of commercial v. residential as it pertains to 129 Boston noting that the property is divided on the map. Ms. Georgeau continued by reviewing the ideal depth of commercial parcels in this area. She concluded her comments by reviewing the history of this rezoning request and reviewing the recommendation for denial.

Councilmember Reid asked Ms. Georgeau to review parking and potential uses of the property located at 5747 South Westnedge both with and without the rezoning of 129 Boston Avenue. Ms. Georgeau reviewed parking challenges and shared a variety of development options. She also explained that the applicant, Mr. Joey Kejbou, would like to develop 5747 South Westnedge into a medical marihuana provisioning center which is a use not currently permitted due to proximity to the residential neighborhood. Rezoning of 129 Boston to Office Service, she explained, would eliminate the restriction and make 5747 South Westnedge eligible for a provisioning center. In response to another inquiry from Councilmember Reid, Ms. Georgeau provided an update on the city's progress on drafting an adult use marihuana ordinance and the current number and status of medical marihuana provisioning centers. With regard to parking requirements for marihuana stores, Ms. Georgeau explained that she is currently looking at the same requirements as those used for retail establishments.

Mayor Randall referenced the Future Land Use Map and inquired why the line is not straighter in the vicinity of 129 Boston. Ms. Georgeau reviewed how the lines were drawn and that this particular map is designed to be viewed as a policy document and the lines do not follow parcel boundaries. Councilmember Knapp referenced the zoning of other properties, such as a nearby Walgreen's, and whether a precedent has been set with expanding commercial boundaries in this area of the city. Ms. Georgeau reviewed the Walgreen's development and questioned when and how to define where commercial intrusion into residential areas should stop. In response to an inquiry from Councilmember Knapp about public comment on the proposed rezoning, Ms. Georgeau shared that some residents have raised questions but few concerns have been expressed.

Councilmember Urban pointed to the Parking zoning designation along the rear of several properties in proximity to 5747 South Westnedge. He explained that prior city councils and administrations used this designation to provide a buffer between commercial and residential areas. Councilmember Urban shared that the matter of commercial zoning adjacent to residential zoning has been debated and discussed in the city for decades. At the request of Councilmember Urban, Ms. Georgeau reviewed the P-1 (parking) designation in this area.

At the request of Councilmember Reid, Ms. Georgeau reviewed the setback requirements of the OS-1 (Office Service) zoning designation. Councilmember Reid reviewed the neighborhood in which 129 Boston is located and stated that it is stable and filled with affordable homes. She expressed concern with removing an affordable home from the housing stock. Ms. Georgeau confirmed that the neighborhood is stable and that it has been a frequent recipient of Community Development Block Grant funds.

Councilmember Burns inquired as to anticipated traffic should the zoning be changed to OS-1. Ms. Georgeau explained that Office Service generates more traffic than a residential designation. She also shared that residents have expressed concern about cut-through traffic in this neighborhood. Mr. Burns pointed out that 129 Boston has business zoning on two sides of the property.

Mayor Pro Tem Pearson referenced the P-1 zoning designation and inquired if this rezoning option was explored with the current property owner, Mr. Jay Sharma. Mr. Pearson shared that he used to serve on the Planning Commission and that on rare occasions City Council would overturn their recommendation. He questioned whether a business zoning designation would not have been more appropriate noting that OS-1 will be a unique spot surrounded by business designations. He continued by noting the non-linear zoning boundary between this section of South Westnedge and the neighborhood to the West. Next, Mayor Pro Tem Pearson reviewed and questioned the rationale to deny provided in the agenda item and asked Ms. Georgeau to respond. Mayor Pro Tem

Pearson noted that the building at 129 Boston will be used by an attorney and Ms. Georgeau noted that while this may be the case today, the OS-1 designation provides for a range of possible uses.

In response to an inquiry from Councilmember Reid, Ms. Georgeau reviewed the parking options and requirements for 5747 South Westnedge and 129 Boston. In response to an inquiry from Councilmember Burns, Ms. Georgeau explained that a buffer between 129 Boston and the neighboring property can be installed as there are adjacent land use provisions that can be applied.

Councilmember Urban inquired as to the feasibility of developing an office on a 66-foot-wide lot and Ms. Georgeau pointed out that such offices can be found on Milham Avenue and Portage Road.

There being no further questions from City Council, Mayor Randall opened the public hearing and invited the applicant to speak. The applicant, Mr. Joey Kejbou, shared that he is the applicant and an attorney representing the property owners Jay and Neha Sharma. Mr. Jay Sharma spoke and gave a history of his ownership of various commercial properties in Portage. He continued by explaining the difficulties he has had obtaining and keeping tenants at 5747 South Westnedge along with efforts he has made to make the property attractive to businesses. Attorney Kejbou shared that he is involved with medical marihuana properties and establishments around the State of Michigan. He noted that he plans to use the house at 129 Boston as a remote office and that there will be limited traffic. He continued by sharing his plans to develop 5747 South Westnedge into a medical marihuana provisioning center and why this will be a viable business at this location. Mr. Kejbou discussed parking and intention to install landscaping to minimize the business impact to 205 Boston.

Mr. John Jures, 5058 Huntington Boulevard, Carmel, IN, shared that he is a commercial real estate broker in Michigan and described challenges facing traditional retail establishments in today's market. He pointed out that retail stores are closing resulting in vacant storefronts. He explained that businesses such as the one being proposed, fitness established and similar personal service establishments are options. He concluded by stating that the proposed rezoning will dramatically increase the marketability of Mr. Sharma's property.

Motion by Pearson, seconded by Reid to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Motion by Pearson, seconded by Knapp that rezoning application # 18/19-6, 129 Boston Avenue requesting rezoning from R1-A One Family Residential to OS-1 Office Service be approved for the following reasons:

1. The zoning in the immediate vicinity is commercial and residential and the proposed new use is consistent and compatible with the land uses in the surrounding area.
2. The rezoning is consistent with the Future Land Use Map identifying a significant portion of the subject parcel as intended for commercial use.
3. The rezoning is consistent and compatible with the general land use patterns in the surrounding area.
4. The square footage of the proposed subject property is adequate for OS-1 Office Service use.

Following the motion, Mayor Pro Tem Pearson provided his rationale for supporting the rezoning and highlighted his belief that zoning precedence in this area has been set, decisions made in the past do not reflect today's realities, the retail corridor will be enhanced with the addition of a business and that parking and traffic issues can be addressed.

Councilmember Reid reviewed the difficulties of this rezoning request and associated loss of affordable housing. She stated that, if rezoned, her preference is for Office Service as opposed to a more intensive use.

Councilmember Ford expressed sympathy for the applicant and thanked him for being transparent about his intentions for the property. Mr. Ford noted that the OS-1 designation would be the only such designation in this area and expressed preference for a business (B-3) or parking designation instead as this would be consistent with adjacent zoning. He expressed opposition to the motion based on the lack of consistency with the OS-1 designation. Councilmember Reid expressed opposition to a B-3 zoning designation and Councilmember Urban pointed to the history of using a P-1 designation in this area to serve as a buffer between businesses and residences. He expressed opposition to either rezoning 129 Boston to OS-1 or B-3. City Manager Shaffer pointed out that the petitioner requested OS-1 and all public notifications and staff research/recommendations were based on this zoning request. He asked that City Council stick with considering the OS-1 request. There being no further questions, upon a roll call vote, motion carried 5 to 2 with Councilmembers Ford and Urban voting no.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Burns thanked Community Development Director Georgeau and the Planning Commission for their work related to the rezoning request and noted the unique nature of the parcel.

Councilmember Ford shared that he recently attended the Public Safety Movie Night at Celery Flats and complimented staff and the Youth Advisory Committee on the event. Mr. Ford then announced that he has filed to run for reelection to City Council. He then thanked Mr. Sharma and Mr. Kejbou for being transparent in their rezoning request and explained that he voted no due to the inconsistency of the OS-1 zoning designation in this area.

Councilmember Urban commented that he has worked for 30 years to protect commercial encroachment into residential neighborhoods while still accommodating development. He stated that the P-1 designation has been a tool for this and noted that many areas of the city that could be designated for commercial use have not been so as to protect neighborhoods.

Councilmember Reid shared that the Michigan Department of Transportation intends to begin work on expanding I-94 between Lovers Lane and Portage Road in 2021.

Councilmember Knapp thanked everyone for the zoning discussion. She noted that the discussion was timely given that it is time to update the Comprehensive Plan. Ms. Knapp noted the need for balance between and among zoning districts. Next, Ms. Knapp encouraged residents to read the latest *Portager* and noted that it includes the Fall and Winter brochure for park and recreation events. Finally, she encouraged residents to utilize the Red Med Box at the Police Station to dispose of old and unwanted medications.

Mayor Pro Tem Pearson thanked everyone for the rezoning discussion and commented that he does not take pleasure in disagreeing with Community Development Director Georgeau or the Planning Commission. He stated that it is very rare and complimented Ms. Georgeau and the Planning Commission on their work.

Mayor Randall shared that she attended an event with City Manager Shaffer at which Governor Gretchen Whitmer was present. She shared that she and Mr. Shaffer spoke with Governor Whitmer about the flooding situation at the Hampton Bog and need for various state departments to work expeditiously. Next, Mayor Randall shared that City Council approved a loan in the amount of $150,000 to the Portage Community Center as part of the Consent Agenda and shared what the money will be used for. Finally, she shared that she had attended several events in the community and thanked city staff and the planning commission for their work related to the rezoning request.

ADJOURNMENT: Mayor Randall adjourned the meeting at 8:45 p.m.

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Adam Herringa, City Clerk