

## **CITY COUNCIL MEETING MINUTES FROM OCTOBER 20, 2020**

Mayor Patricia Randall called the Regular Meeting to order at 7:01 p.m. The meeting was held virtually in accordance with Michigan Senate Bill 1108 in light of COVID-19. The following members were present in Chambers: Councilmembers Vic Ledbetter and Mayor Patricia Randall. The following members were present via the WebEx meeting platform: Councilmembers Chris Burns, Lori Knapp, Claudette Reid, Terry Urban, and Mayor Pro Tem Jim Pearson. Also in attendance were City Manager Joe La Margo, Deputy City Manager Adam Herringa, City Attorney Catherine Kaufman, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect on the responsibility and ability to vote in our country. Following the moment of silence, the City Council recited the Pledge of Allegiance.

**PROCLAMATIONS:** A Proclamation for Red Ribbon Week 2020 was read by Human Services Board member Brooke Kolodzieczyk. Mayor Randall thanked Ms. Kolodzieczyk for attending, as well as the efforts of the Human Services Board.

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

**APPROVAL OF MINUTES:** Motion by Pearson, seconded by Reid, to approve the minutes of the Board & Commission Interview Session of October 6, 2020, Regular Meeting of October 6, 2020, and Pre-Council Meeting of October 19, 2020. Upon a roll call vote, motion carried 7 to 0.

**APPROVAL OF ACCOUNTS PAYABLE REGISTER OF OCTOBER 20, 2020:** Motion by Pearson, seconded by Reid, to approve the Accounts Payable Register of October 20, 2020. Upon a roll call vote, motion carried 7 to 0.

**MIDWEST EMPLOYERS CASUALTY COMPANY:** Motion by Pearson, seconded by Reid, to approve a two-year contract with Midwest Employers Casualty Company for workers' compensation excess insurance coverage with \$550,000 specific excess retention for an annual fee of \$85,999, plus payroll adjustments and authorize the City Manager to execute all documents related to this contract renewal on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

**HUMAN RESOURCES RETENTION SCHEDULE:** Motion by Pearson, seconded by Reid, to adopt a Resolution that will: combine the current City of Portage Records Retention and Disposal Schedule 8 pertaining to Benefit Services and Schedule 9 pertaining to Employee Development; rename the combined Schedules 8 and 9 "Human Resources Department" as the Benefit Services and Employee Development Departments have been combined into the Human Resources Department; rescind the combined Schedules 8 and 9 Human Resources

Department; and adopt the State of Michigan General Schedule #26 - Local Government Human Resources retention schedule. Upon a roll call vote, motion carried 7 to 0.

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CDBG-CV GRANT**

**ALLOCATION:** Motion by Pearson, seconded by Reid, to approve the Substantial Plan Amendment to the FY 2020-21 Annual Action Plan that recommends allocating \$100,000 from the CDBG-CV grant to Housing Resources, Inc., \$27,174 to the Portage Community Center and \$3,300 for administrative costs and; authorize the City Manager to submit the Substantial Plan Amendment to the FY 2020-21 Annual Action Plan for the Community Development Block Grant Program to the U.S. Department from Housing and Urban Development and sign the required documents related to the funding request on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

**EARTH FARE - LIQUOR LICENSE:** Motion by Pearson, seconded by Reid, to adopt the Resolution granting the request from KAL700, LLC (dba Earth Fare), for a New Class C and SDM License including Sunday Sales Permit (AM & PM) at 5070 South Westnedge Avenue. Upon a roll call vote, motion carried 7 to 0.

**CLOSED SESSION:** Motion by Pearson, seconded by Reid, to set a Special Meeting at 6:00 p.m. on Wednesday, November 4, 2020 and meet in Closed Session to discuss a personnel matter. Upon a roll call vote, motion carried 7 to 0.

**MINUTES OF BOARDS & COMMISSIONS:** Motion by Pearson, seconded by Reid, to accept the minutes of the Planning Commission of September 17, 2020 and Zoning Board of Appeals of September 14, 2020. Upon a roll call vote, motion carried 7 to 0.

**CALENDAR OF MEETINGS:** Motion by Pearson, seconded by Reid, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 7 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Jeff Hoose (10711 East Shore Drive) spoke in dissent of the proposed tree ordinance recently reviewed by the Planning Commission. He highlighted a recent Portager newsletter article that mentioned the City Administration was going to pause on pursuing the ordinance and inquired whether that entailed a full withdrawal of the ordinance. He stated his understanding that the ordinance stemmed from the prevention of developers clear-cutting for new projects.

Brent McIver (2590 Bay Side Avenue) was attending with Mr. Hoose and also expressed similar concerns with the proposed tree ordinance. Mayor Randall responded to both Mr. Hoose and Mr. McIver. She stated that City Council understood the City Administration's first attempt at a tree protection ordinance was not well-received and needed improvement. Mayor Randall stated any future drafts would be focused towards developers and not individual residents. City Manager La Margo also responded, noting the City Administration's efforts to model a subsequent ordinance to be rewarding and not punitive.

## **COMMUNICATIONS:**

**QUARTERLY BUDGET UPDATE:** City Manager La Margo stated this was the first such presentation for the city and was introduced as a result of the effect of the COVID-19 pandemic on the city's economic stability. Finance Director Lauren VanderVeen presented the quarterly update, noting that departments were being fiscally responsible and the city had also received more in state revenue sharing than projected.

Mayor Pro Tem Pearson inquired about expenditures specific to the COVID-19 pandemic that may have exceeded the budget. Director VanderVeen responded that incurred COVID-19 costs are directed to a specific fund for tracking purposes, but the overall General Fund is in good shape. City Manager La Margo noted that savings in other expenditures, such as the recent fire truck lease, have allowed additional expenditures to address matters related to COVID-19.

Councilmember Reid asked whether there was a reduction in services in certain areas, such as Recreation and the Senior Center. City Manager La Margo responded that service levels to the community continue to be met with other programming continuing in augmented formats.

Councilmember Urban inquired on the impacts to date on the revenues. Director VanderVeen responded that property tax levels are remaining as projected, building permit revenues are maintaining healthy levels and state revenue sharing is higher than anticipated. City Manager La Margo also noted that departments have been creative in securing grants and alternative funds as well.

Councilmember Burns inquired whether there were any concerns for the balance of the year. City Manager La Margo relayed that the City Administration is still monitoring levels closely and do not anticipate another state mandated health shut down so projections are positive, but highlighted that there also contingency plans should funding drastically change.

Motion by Knapp, seconded by Reid, to accept the annual Park Board Update as presented. Upon a roll call vote, motion carried 7 to 0.

**COMMUNICATION FROM JEANNE L. FIELDER, 1728 COLCHESTER, REGARDING 2020 SUMMER PROPERTY TAX STATEMENT PAST DUE:** City Manager La Margo summarized the letter from Ms. Fielder and stated it was up to the discretion of City Council whether to grant the request. Councilmember Reid stated she was not opposed to waiving the late fee at this time. Councilmember Burns inquired whether the City Administration had made its best effort to verify Ms. Fielder's claim and asked about her prior payment history. City Manager La Margo and Director VanderVeen confirmed the matter had been reviewed, relayed Treasury procedures for late payments and confirmed Ms. Fielder had not been late on a prior payment.

Motion by Pearson, seconded by Reid, to receive the communication from Ms. Jeanne L. Fielder and grant her request for a waiver of late fees. Upon a roll call vote, motion carried 7 to 0.

**DISCOVER KALAMAZOO ADVISORY COUNCIL APPOINTMENT:** Motion by Pearson, seconded by Reid, to confirm the appointment of Vic Ledbetter to the Discover Kalamazoo Advisory Council. Upon a roll call vote, motion carried 7 to 0.

## **PUBLIC HEARINGS:**

**REZONING APPLICATION #20/21-1, 9300 SOUTH SPRINKLE ROAD:** Mayor Randall introduced the item and opened the public hearing. Cassandra Barrow (6825 S. 3<sup>rd</sup> Street, Kalamazoo) introduced herself as the property owner of the subject property at 9300 Sprinkle Road and spoke in favor of rezoning the property to residential use.

At the request of the Mayor, Interim Community Development Director Chris Forth summarized the proposed rezoning. Councilmember Reid asked Director Forth about the noted wetland area, comparing the location to another Portage neighborhood that consistently experiences high water issues and inquired whether it was responsible to approve development at the subject property. Director Forth responded that the water table has proven to be cyclical but there will be soil borings to gauge the water level. He further noted Community Development would require certain building techniques to prevent water entry and extra foundation measures. He stated the septic systems would also need to be elevated. Mayor Pro Tem Pearson inquired whether the soil borings had been completed and who would be responsible for performing the borings. Director Forth responded the borings had not been done yet but the applicant or applicant's builder would be responsible. Mayor Randall asked for assurance regarding safe driveway access to Sprinkle Road. Director Forth responded that the Kalamazoo County Road Commission reviewed the proposal and approved a single shared driveway with additional driveways pending approval, as well as required a clear line of sight along the roadway.

Motion by Pearson, seconded by Reid, to confirm the appointment of Vic Ledbetter to the Discover Kalamazoo Advisory Council. Upon a roll call vote, motion carried 7 to 0.

## **UNFINISHED BUSINESS:**

**COMMUNICATION FROM MR. JOHN PAVER, 9651 PORTAGE ROAD:** Mayor Randall introduced Mr. Paver and asked him to reiterate his proposal from the October 6<sup>th</sup> City Council Meeting. Mr. Paver relayed his request to utilize grace periods on tax payments, noting that late fee revenue is annually assumed in the city budget. Mr. Paver stressed that property owners would benefit from any extra savings during the current COVID-19 pandemic.

Councilmember Burns noted implementation of administering a grace period can become an administrative burden and costly for the city. He noted orderly adherence to deadlines allows the city to collect and remit taxes to the various entities for which the city also collect tax dollars. He further expressed a concern with fair treatment.

Mayor Pro Tem Pearson stated agreement with Councilmember Burns but requested feedback from Finance Director VanderVeen regarding Mr. Paver's proposal. City Manager La Margo responded that Councilmember Burns had accurately outlined the implications with Mr. Paver's proposal.

Mayor Randall inquired about the postmark acceptance deadline. Director VanderVeen confirmed summer taxes with a postmark of September 14<sup>th</sup> are accepted within one week of the deadline. Mayor Randall expressed concern with the procedure.

Councilmember Urban stated the proposed grace period would not provide excessive relief, noting the COVID-19 pandemic was now ongoing for a period of eight months. He then

inquired about Mr. Paver's prior payments history. Discussion followed regarding the relevance of Mr. Paver's payment history.

Councilmember Reid noted that property tax assistance is currently available through the City Assessor's Office with poverty exemptions and stated such an exemption is the preferred option. She further stated that a grace period would not provide much relief as the property tax bill would ultimately remain due.

Councilmember Knapp noted the poverty exemptions are an annual reparation whereas Mr. Paver is seeking short-term relief similar to the current water bill shut-off exemption due to COVID-19 health measures. She expressed support for Mr. Paver's proposal during this pandemic.

Councilmember Burns noted the late fees are established annually as part of the city budget and suggested a review of the late fee procedure for the next City Council budget review.

Councilmember Urban noted that a postmark indicated a payee was taking action on the due date. He echoed further concerns regarding the other taxing jurisdictions and implementation of a grace period, which could be outlined by state statute.

Mayor Randall cited an opinion from the County Treasurer noting the question of a grace period is up to the city. She agreed with Councilmember Burns regarding a review at the next City Council budget session.

Councilmember Reid also agreed with Councilmember Burns and recommended that any actions be implemented for the future and not be retroactive for the summer 2020 Property Taxes.

Motion by Reid, seconded by Urban to receive the communication from Mr. John Paver, 9651 Portage Road, regarding his proposal for a waiver of late fees associated with delinquent tax payments and take no further action at this time.

Mayor Pro Tem Pearson requested staff to review and report back to City Council whether a one percent penalty would be feasible for payments made in person the day after the due date. Councilmember Knapp agreed with Mayor Pro Tem Pearson and suggested amending the current motion. Discussion followed regarding amending the motion.

Motion by Knapp, seconded by Burns, to amend Councilmember Reid's motion to remove the language "take no further action at this time" and replace with "to forward the matter to city staff to make alternative solutions and recommendations regarding the late fee penalty for taxes and interest." Upon roll call vote, motion carried 6 to 1 with Councilmember Urban voting no.

Upon a roll call vote on the amended original motion, motion carried 7 to 0.

## **NEW BUSINESS:**

**CLOSED SESSION:** Mayor Randall introduced the item and explained that the proposed closed session would take place after City Council statements, before adjournment.

Motion by Knapp, seconded by Reid, to meet in closed session under Section 8(h) of the Open Meetings Act, pursuant to section 13(1)(g) of the Freedom of Information Act, to consult with the City Attorney regarding a written legal opinion immediately following conclusion of the business items of tonight's Regular Meeting. Upon a roll call vote, motion carried 7 to 0.

**STATEMENTS OF CITIZENS:** Brian Kelley, 5806 Claremount, spoke in support of the city's Treasury Office regulations regarding the City Hall Night Drop Box and upholding late fees for past due payments. He relayed his prior experience with the office. He expressed concern with the waiver granted for Ms. Fielder and noted postmarks are utilized to uphold payment dates.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:**

Councilmember Ledbetter encouraged everyone to vote on November 3.

Councilmember Reid thanked everyone for adherence to COVID-19 safety protocols and encouraged continued adherence with those protocols. She highlighted the liquor license request for Earth Fare on the Consent Agenda and congratulated their return to Portage. Councilmember Reid then highlighted October as National Disability Awareness Month and encouraged employment of person with disability. She stressed safety on Halloween, both watching for children and COVID safety measures. Ms. Reid closed by reminding everyone to vote.

Councilmember Burns thanked the two citizens for their comments on the tree ordinance and noted he had watched the recent Planning Commission meeting during which the ordinance underwent heated discussion. He thanked all the citizens that spoke at meetings during the ordinance's development and appreciated the pride residents showed for their personal trees. He closed by thanking the City Clerk's Office for recent communications.

Councilmember Knapp noted the next time City Council would be meeting was on Wednesday, November 4<sup>th</sup> after the election and urged everyone to get out and vote.

Councilmember Urban issued a reminder to vote including registering to vote up to and including Election Day. He relayed that voting in person via absentee ballot was still possible at the Clerk's Office if citizens did not feel comfortable being in public on Election Day.

Mayor Randall thanked the Park Rangers handing out bicycle light on October 7<sup>th</sup> with Bike Friendly Kalamazoo and stated the event would happen again in May. She stated the City of Portage had recently held its third annual Art Prize competition with Michael Nashef as the winner. Mayor Randall then relayed old Fire Station #2 had been demolished and the completion of the new station. She stated a private dedication would happen on October 21 with a public open house planned for the spring. The Mayor then highlighted the upcoming election and the new ballot drop boxes at Portage City Hall. She closed by reminding everyone to be mindful of Trick or Treaters on Halloween.

Adjourned to closed session at 8:31 p.m.

Resumed regular meeting at 10:00 p.m.

**RESUMATION OF OPEN SESSION:** Motion by Reid, seconded by Urban, to reconvene the Regular Meeting of October 20, 2020. Upon a roll call vote, motion carried 7 to 0.

**CLOSED SESSION FOLLOW-UP:** Motion by Urban, seconded by Reid, that the City of Portage waive Attorney/Client Privilege for the memorandum from Brian P. Lennon and Madeline C. Lane to Catherine P. Kaufman titled "Review of Mike Carroll Arrest and Response" dated October 20, 2020. Upon a roll call vote, motion carried 6 to 1 with Mayor Pro Tem Pearson voting no.

**ADJOURNMENT:** Mayor Randall adjourned the meeting at 10:02 p.m.

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Erica L. Eklov, City Clerk