

**MINUTES OF THE SPECIAL PRE-MEETING
OF THE PORTAGE CITY COUNCIL
OF APRIL 25, 2016**

Mayor Peter Strazdas called the meeting to order at 9:01 a.m. The following Councilmembers were present: Councilmember Randall. Councilmembers Jim Pearson and Councilmember Claudette Reid were present via the conference phone line. Those not present were: Councilmembers Richard Ford and Terry Urban, and Mayor Pro Tem Nasim Ansari. Also in attendance were City Manager Larry Shaffer, Deputy City Manager Rob Boulis and City Clerk James Hudson.

There being no quorum, Mayor Strazdas asked if there were any questions for the Administration regarding items on the Agenda. Councilmember Pearson indicated that he did not receive Materials Transmitted of April 22, 2016, and asked whether they could be re-sent and Mr. Shaffer said absolutely. Mayor Strazdas asked him to address the Committee of the Whole segment of the materials Transmitted, and he indicated that he had a meeting with Heather Baker of Southwest Michigan First, along with Rob, Devin and Vicki, who were active with the last Branding effort, and he indicated that the consensus was to stay with the Branding we already have and to support that brand. At the request of Mayor Strazdas, Mr. Shaffer said he would remind City Council of the tree-planting ceremony at 5:45 p.m. prior to the COW Meeting that would take place on the north side of City Hall.

Councilmember Pearson asked that the minutes of the April 12, 2016 Regular City Council Minutes on Page 6, Paragraph #2, read that the Assistant City Attorney, not the Deputy City Manager, ask applicants for sworn statements, and that the moratorium would be introduced on April 26, not May 26, 2016.

Councilmember Randall asked that Item F.5, Cooley Drive and West Centre Avenue Traffic Signal, and Item L.1, Traffic Signal Equipment and Material Purchase, be distinguished. F.5 is part of the Greenspire PD, planned development, and the development agreement with Lakewood (American Village Builders) and the City, and L.1 is a release of funds for purchase of mastheads for various planned traffic signal upgrades within the City.

Councilmember Reid asked for a discussion from the Engineering Staff regarding what changed from a discussion at least nine years ago as far as traffic flow and traffic safety to now be able to install a signal within close proximity to an existing signal there. Mayor Strazdas offered his recollection that it had to do with traffic counts so the installation of a traffic signal was premature at that time, and Councilmember Randall mentioned the warrant requirement. Mr. Shaffer noted that American Village Builders was required to provide a traffic report and the updated traffic counts supported a warrant with the new units on Greenspire, the proposed new units, the new commercial businesses, plus the traffic coming from the new medical and banking concerns on the other side of the roadway, making left hand turns difficult if not dangerous and Deputy City Manager concurred and indicated turning left off of Old Centre was equally dangerous. Councilmember Randall asked that staff keep the situation with the lights on South Westnedge Avenue between Milham Avenue and Kilgore Road in mind owing to the difficulty of motorists trying to take left hand turns onto South Westnedge Avenue from the side streets along there.

Regarding Item F.4, Emergency Vehicle Apparatus Maintenance Contract – Sole Source, Councilmember Pearson asked for a more extensive bidding process as there was only one bid and two verbal quotes for hourly rates over the phone: why was there only one bid and why were the vendors contacted by phone with no opportunity to submit a bid?

Noting that Council did not actually get the bid, Councilmember Reid asked why Items F.4 and F.5 aren't included in Bid Tabulations since that is what they are? She also asked did the City do due diligence with F.6, Firefighter Physicals, because in the memo from the City Manager there is mention of one other quote, so why wasn't the information listed in a separate bid document? Also, why weren't the two area hospitals included in the bid process?

Councilmember Pearson asked: Was on-site testing a bid requirement? What did it take to qualify to bid? Why not shop around?

Mayor Strazdas summed up:

1. Can we place these bid "things all in one bucket" on the Agenda?
2. Attempt to get many bidders, or explain why. If it is sole source, tell why.
3. This will carry over into the Committee of the Whole on "Purchasing."
4. The cost of physicals is high, why?

Deputy City Manager Boulis indicated that the firefighter physicals are extensive, and he would provide a list of everything that is being done, such as the EKG, Pulmonary Test, Hearing, Respiratory Fit, TB Test, etc. which is sent to the Primary Physician which meets FPA recommendation to keep firefighters healthy and safe.

Councilmember Pearson asked whether Portage has to go all the way to a company in Pennsylvania for this service? Mr. Boulis responded that this company has a mobile unit; they travel around; they do Oshtemo Fire Department; they come on site. He offered to get Stacey to give him the details of who was contacted to get quotes; they were already in the area; another advantage is Portage will do their physicals in the Spring, and Oshtemo does theirs in the Fall, so if someone missed their physical or needs one earlier, there is an opportunity for reciprocity. Councilmember Pearson asked how long this unit was on site and Mr. Boulis responded two or three days. Councilmember Pearson asked, there is no firm in the State of Michigan that is willing to take all of this money? Mr. Boulis confessed we could not identify a firm. In deference to the two area hospitals, Councilmember Randall asked whether on-site physicals were a requirement of the bid? Mr. Boulis responded it was his recollection that both hospitals were contacted, only one responded with a quote and on-site was not a bid requirement, and he indicated he would get Stacey to confirm. Councilmember Reid asked for the specifics of the bids to help in these analyses, and Councilmember Pearson asked if Council be provided with what it takes to qualify for a bid? What is necessary?

Councilmember Pearson asked Mr. Shaffer to summarize why he is recommending the rezoning that is different from what was put forth by the Zoning Board of Appeals? Mr. Shaffer responded that he talked with Vicki, toured the site, conference called three property owners, met with one property owner and spoke briefly with Todd Scott. With that, he said it made sense to truncate the area to the north of Admiral and Cameo to allow for the maximum of two duplexes, even though the

neighbors are going to be angry. He mentioned three options: approve the recommended approach, send it back to the Planning Commission or do nothing. He commented that the issues are too polarized and light industrial is completely inconsistent with the zoning of the surrounding properties. He reviewed the history of the request and recommendation as presented in the April 12, 2016 City Council Agenda Packet and noted that this is a compromise of all things considered.

Mayor Strazdas cited the easement along the southern segment of the property owned by Mr. Scott, mentioned the high water table of the overall property, and noted that this is the only piece of the property that is “high and dry” and buildable. Mr. Shaffer concurred and admitted that the City has an easement “back there” that is used extensively for drainage purposes and that the City needs to clear the drain at this time.

Mr. Shaffer confirmed for Councilmember Randall that the buildable area in question is the northerly most portion of the property, and she indicated that upon visiting the property, it was just saturated with water. He also answered that he does not need an access from Cameo as he owns the property that would be used as an extension of the road. With that, Councilmember Randall indicated her support for the recommendation as this neighborhood would not be negatively impacted by any new construction. She also asked how long has the Scott family owned the property? How much have they paid in taxes? And, what kind of business will the current light industrial zoning allow? Mr. Shaffer said he would get the information for her.

In answer to Councilmember Randall, Mr. Shaffer and Mr. Boulis informed her that Judy Anderson is from the Ringdale Plat on Bratcher with a different issue where she paved some of the right-of-way in the terrace area for pull-off parking which is not permitted.

Councilmember Randall asked if Council is going to have an issue with Item F.3, Medical Marihuana, and asked whether the public will be allowed to speak. Mayor Strazdas indicated that the public can make comment, voice his or her opinion, as it is on the agenda, and some people may confuse setting a public hearing with actually having a public hearing. However, he pointed out that the only decision Council is making is whether to have a public hearing or not.

With regard to the Medical Marihuana Moratorium, Councilmember Reid asked why would the City allow the business owners to continue to do business when the businesses are illegal, as they knew what the rules were and went in there anyway and set up business? Mr. Shaffer conjectured that it depends upon whether the Dispensary Program is going to become a significant part of our marihuana profile going forward, and whether or not we are indeed in a transition period from a home-based industry to a dispensary-based industry. She explained her question by saying that the City Council has to make a decision on all of these things, but as of today, these are illegal businesses, so why are they being allowed to continue? She expressed her concern that she thought the moratorium meant the City would not prosecute them during this period, but they would not continue doing business, and is this not encouraging people to break the law? He noted that the moratorium in and of itself does not stay the enforcement of the existing Ordinance since the City Council would have to specifically approve staying the enforcement of the existing Ordinance; and, if the Ordinance is in place, by oath he has to enforce the Ordinance unless the Council says that during the pendency of the

moratorium, they want to stay the enforcement of the Ordinance upon the two existing dispensaries. He said without that, he could not stay the enforcement since the moratorium in and of itself does not do that; City Council has to speak to the moratorium and whether or not they want the Administration to continue to enforce the Ordinance.

He indicated that the Ordinance has been enforced; tickets and citations have been issued; the petitioners have already been in front of the Zoning Board of Appeals (ZBA); they received a decision from the ZBA which upholds the Ordinance; and, the process is that they can now appeal that decision before the Circuit Court.

Councilmember Reid asked what happens if a third dispensary decides to open up? Mr. Shaffer responded that the business owners get a citation similar to the ones already issued. In answer to Mayor Strazdas, Mr. Shaffer assured him that there are time constraints for them to act.

Councilmember Reid asked whether either of these business has gone through the plumbing or electrical permitting process? Mr. Shaffer pointed out that they are not growing marihuana there, they are selling marihuana. Mayor Strazdas asked the question for Council consideration of, "What are we setting the public hearing to do?" since the Administration has not put the "stay the enforcement of the Ordinance" in the conversation; so there is a potential to stay; a potential of the moratorium; and during the moratorium, a time to create some language.

Councilmember Reid asked under current procedures, at what point would the matter go to Court? Mr. Shaffer indicated that the petitioner has a certain amount of time to file a challenge to the ZBA decision, then it is up to the judge, so who knows because the Judge could stay the enforcement of the Ordinance until the moratorium is done. He mentioned that there are two pieces of legislation currently in front of the State House of Representatives, either one would change the dynamics of marihuana in the State of Michigan, and the anticipation of the referendum on full legalization that will be on the November 8, 2016 General Election ballot. He noted that it is not accidental that the six-month moratorium takes us through the referendum in November.

Councilmember Reid asked if this is the same process if a liquor store moved in next to an elementary school? He reflected that there is probably some analogy there that would "hold up;" so, what the moratorium suggests is we need time to study what the world might look like should the Council decide the dispensary type of system is the appropriate type of system in Portage to utilize for the sale of marihuana. He pointed out that currently it is a home-based industry, and the code enforcement issues with electrical and plumbing comes into question, along with the sale of marihuana from the home; so the moratorium is designed to give the Council some space to study the issue, determine best practices, see what other cities have done, then propose a dispensary Ordinance to City Council. Afterwards, the question becomes what to do with the two dispensaries that are in place; however, without cover from City Council, he indicated that he has to continue to enforce the Ordinance.

Councilmember Randall asked if Council could put a stay in place, and would that be done Tuesday, or two weeks from now? Mayor Strazdas opined that it could not be done tomorrow because a stay of the enforcement of the Ordinance is not even on the agenda for consideration. Mr. Shaffer indicated that if it is the will of Council that it be

a part of the public hearing, then he would craft language to accommodate that, and ask the City Attorney to monitor the Court proceedings, and there is no real reason to do anything yet until they get their case in front of the Judge.

Councilmember Reid asked for an explanation of Item L.2, Independent Audit Service, if the number of hours estimated in the Yeo & Yeo bid was several hours less than the Rehmann bid and, if additional hours are required by Yeo & Yeo, will that impact the cost because the per hour cost was less with Rehmann? If so, how is that taken into consideration? Deputy City Manager Boulis said that they are providing the services quoted; they have to get the job done regardless of the number of hours it takes. He indicated that unless the company can justify something the City missed, the quote is the quote, and this what we pay. She asked what the \$3,750 was for that was listed as Accounting Assistance included in the bid analysis presented by Rehmann? Mayor Strazdas indicated that it appeared in year three they would have someone help them with the Audit, and Mr. Boulis offered to get the answer for her.

Councilmember Randall asked why BDO Seidman did not bid, and Mr. Boulis indicated that they chose not to bid because they were not going to be the low bid.

In answer to Councilmember Randall, City Clerk Hudson indicated that Rehmann was a regional firm (Grand Rapids office) and seemed to be the auditor for a number of townships in the region.

ADJOURN: Mayor Strazdas adjourned the meeting at 8:50 a.m.

James Hudson, City Clerk