CITY COUNCIL MEETING MINUTES FROM APRIL 27, 2021

Mayor Patricia Randall called the Regular Meeting to order at 07:01 PM. The regular meeting was held virtually as permitted by PA 228, per the December 2020 Kalamazoo County Emergency Declaration. Mayor Patricia M. Randall, Mayor Pro Tem Jim Pearson, and Councilmembers Chris Burns, Lori Knapp, Claudette Reid, and Terry Urban were present. All members participated virtually from Portage, Michigan. Councilmember Vic Ledbetter was present at 7:22 p.m., attending from Kalamazoo, Michigan. Also in attendance were City Manager Joe La Margo, City Attorney Catherine Kaufman, Deputy City Manager Adam Herringa, Deputy City Manager Mike Carroll, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect on respect and embrace the differences within the Portage community. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS:

Global Love Day 2021: Councilmember Reid read the Proclamation for Global Love Day 2021.

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 removed Items A.4, Dissolution of the Austin Lake Governmental Lake Board, and A.5, Application for Liquor License - Lake Burgers. Motion by Knapp, seconded by Reid, to approve the Consent Agenda as amended. Upon a roll call vote, motion carried 6 to 0 (Councilmember Ledbetter was absent).

Approval of City Council Meeting Minutes: Motion by Knapp, seconded by Reid, to approve the Regular Meeting Minutes of April 13, 2021 and Pre-Council Meeting Minutes of April 26, 2021. Upon a roll call vote, motion carried 6 to 0 (Councilmember Ledbetter was absent).

Accounts Payable Register Motion by Knapp, seconded by Reid, to approve the Accounts Payable Register of April 27, 2021, as presented. Upon a roll call vote, motion carried 7 to 0.

Public Hearing on Fiscal Year 2021-2022 Budget Motion by Knapp, seconded by Reid, to adopt the Resolution setting a public hearing on May 11, 2021 for the Fiscal Year 2021-2022 Proposed City Budget and the proposed 2021 tax levy.

Minutes of Boards & Commissions: Motion by Knapp, seconded by Reid, to receive the Minutes of the Planning Commission of February 18, 2021; Planning Commission of April 1, 2021, and Zoning Board of Appeals of March 8, 2021. Upon a roll call vote, motion carried 6 to 0 (Councilmember Ledbetter was absent).

Materials Transmitted: Motion by Knapp, seconded by Reid, to receive the Materials Transmitted of April 13, April 16, and April 19, 2021.

Calendar of Meetings: Motion by Knapp, seconded by Reid, to receive the Calendar of Meetings as presented. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

Frances Vicioso (Oshtemo Township) stated she works for Truth, Racial Healing & Transformation Kalamazoo and spoke in support of the Hate Condemnation Resolution.

Elena Mireles-Hill (6527 Hampton Street) stated she also works for Truth, Racial Healing & Transformation Kalamazoo and spoke in support of the Resolution.

Maribeth Henry (2621 Bach Avenue) first spoke positively of the Youth Advisory Committee's recent Green-A-Thon event and then spoke in favor of the Resolution development under her request and guidance. She expressed concern with the Resolution's lack of a specific action plan and highlighted recent legislation that could assist the city in the development of its next steps.

Daniel Smith (3022 Fleetwood) spoke in support of the Resolution, echoing Ms. Henry's comments regarding the next steps.

Paul McMullen (1522 Schuring Road) also spoke in support of the Resolution, as well as expressed support for the multi-family residential plan for Woodbridge Hills.

Debbie Frieman (3218 Bennington Court) spoke in support of the Resolution and encouraged publicizing methods to prevent such hateful acts.

PUBLIC HEARINGS:

Tentative Plan Amendment for Woodbridge Hills Planned Development, 4100 West Centre Avenue: Development Services Director Peterson summarized the proposal. Councilmember Urban inquired about two parking spaces and traffic flow in the driving lane. Director Peterson confirmed the location of the two parking spaces. Councilmember Knapp highlighted the letters City Council received from the Marsh Pointe Condominium owners and requested clarification regarding the point of access relating to a proposed traffic light and party responsible for the street's future maintenance. Councilmember Knapp also asked about the privacy screening to the north and northwest of the subject parcel and whether the existing vegetation would be retained. Applicant Andrew DeNooyer of the 633 Group responded, noting the site plan included a cross easement agreement for the Marsh Pointe driveway owned by the Marsh Pointe Condominium Association. Councilmember Knapp noted the Marsh Pointe residents' concerns regarding increased traffic and road maintenance and suggested the parties renegotiate the original agreement. Mr. DeNooyer stated he was willing to renegotiate and share the financial burden of road maintenance. He further stated that contacts with the Marsh Pointe Condominium Association had not been answered to date. Mr. DeNooyer then answered Councilmember Knapp, stating that some of the current vegetation on the northwest border near the Marsh Pointe Condominiums would be retained, but was currently unsure on the status of the vegetation along the northern border because the property line had yet to be staked. Councilmember Urban inquired about the parcel's zoning designation at the time of the original easement. Mr. DeNooyer responded that the parcel was still commercial at the time and stressed multi-family residential would have less traffic than another commercial use, such as a hotel.

Councilmember Urban then asked for clarification regarding the proposed tree height in the plan submittal. Mr. DeNooyer responded that the site engineer had modified the tree line based on prior city meeting discussions. Councilmember Reid noted the Marsh Pointe residents would be subjected to the new apartments allowing dogs and asked for clarification regarding pet waste management. Mr. DeNooyer confirmed the apartment complex plan included the allowance of dogs with the hope to attract tenants. He stated there would be pet waste stations provided and owner responsibility encouraged similarly to the adjacent Woodbridge Hills development. Mayor Randall asked for clarification regarding the number of units proposed and the type of resident expected for the complex. Mr. DeNooyer confirmed 57 to 60 units with 50 percent single bedroom and 50 percent two bedrooms planned with a focus on young professionals and empty-nesters hoping to downsize but stay within the Portage area. Mayor Randall then asked about the number of residents in the Marsh Pointe complex. Director Peterson confirmed there were 55 units but was unsure about the number of residents. Mayor Randall asked Mr. DeNooyer to confirm the date of the original easement agreement. Mr. Craig DeNooyer responded that it was the 1980s. Councilmember Urban asked for ownership and zoning clarification regarding 4012 West Centre Avenue and 4180 West Centre Avenue. Mr. Andrew DeNooyer responded that 4012 Centre Avenue is designated as commercial and 4180 is not owned by the 633 Group. Councilmember Urban then asked about the status of the traffic light proposal. Director Peterson confirmed that the traffic light installation is part of the 2021-2022 Capital Improvement Program and would be warranted if the new development was approved.

Councilmember Burns stated he was pleased to see multi-family residential proposed for Portage, noting a recent Kalamazoo County study showed existing housing was 97 percent full with a demand for multi-family residential. He noted that there is a need to address traffic in the area but agreed that a multi-family apartment complex was the best use of the parcel. Mayor Randall then opened the public comment session.

Jim Lance, attorney with Kreis Enderle representing the Marsh Pointe Association first clarified Mr. DeNooyer's earlier comments and stated Marsh Pointe has responded to Mr. DeNooyer's inquiries. Mr. Lance expressed concern with the 633 Group's representations that the complex has not been open to discussions and stressed the need for transparency with the proposed development. He also expressed concern with the traffic studies to date and stated that the Marsh Pointe Association is strongly against the proposed development. Following City Council discussion with Mr. Lance regarding the Marsh Pointe Condominium Association's position on the proposal, Mayor Randall requested that City Manager La Margo collaborate with both the 633 Group and the Marsh Pointe Condominium Association to work on a revised easement agreement that would benefit both parties. City Manager La Margo confirmed he would reach out to both entities.

Kay Kossen, an attorney also from Kreis Enderle, also spoke as legal representation on behalf of the Marsh Pointe Condominium Association. She confirmed that the Association would be happy to discuss the easement agreement for the roadway but noted the Association is still concerned with the use of the road with it having been recently repaved last year at the Association's cost. She further clarified that Marsh Pointe entailed 60 residents and noted that all owned the condominiums and did not rent them. There being no further comments, motion by Reid, seconded by Burns, to close the public hearing. Upon roll call vote, motion carried 7 to 0.

Councilmember Urban shared Councilmember Burns' enthusiasm for the type of development for that general area but expressed a desire for a bigger parcel. Councilmember Knapp also echoed the comments from Councilmember Burns and shared Councilmember Urban's concerns with the parcel size but expressed a preference for the multi-family residential use for the location instead of a hotel. She inquired whether she should modify the proposed motion to include a request to update the easement agreement. City Attorney Kaufman opined that City Council could not bind other parties not involved in the application process. Councilmember Reid agreed with Councilmember Knapp and requested an updated agreement before the presentation of the final development plan to the City Council.

Motion by Burns, seconded by Ledbetter, to adopt the Tentative Plan Amendment for Woodbridge Hills Planned Development (4100 West Centre Avenue) including the five conditions in the February 12, 2021 Department of Community Development report. Upon a roll call vote, motion carried 7 to 0.

2021 Utility Rate Financial Study: Councilmember Burns summarized the background on the 2021 Utility Rate Study. He noted that the study includes a 46-cent increase to sewer rates as a result of pass-through costs from the City of Kalamazoo due to capital improvement program costs and fund balance increases. Councilmember Burns stated the increase will total between $700,000 and $800,000. He highlighted that the two city's sewer systems are conjoined, negating leverage for the City of Portage but he promised to collaborate with City of Kalamazoo officials to minimize future increases. Councilmember Burns then stated the water commodity rate will remain the same. He thanked his fellow Utility Rate Study Committee members and relayed that the 2021 Study was unanimously approved by the Committee.

Councilmember Reid asked how other municipalities were handling the sewer rate increase and inquired whether there was discussion on a joint response from other municipalities addressing the rate increase with the City of Kalamazoo. Councilmember Burns responded that he was not aware of any such discussion on a joint response to the City of Kalamazoo but noted there was ongoing litigation. City Attorney Catherine Kaufman confirmed that neighboring municipalities were in the process of litigation with the City of Kalamazoo regarding the water rates and would move on to the sewer rates when done as townships were absorbing the costs. Councilmember Burns relayed that a recent national survey showed slower price increases for sewer rates. Motion by Ledbetter, seconded by Reid, to close the public hearing. Upon roll call vote, motion carried 7 to 0.

Motion by Reid, seconded by Pearson, to adopt the 2021 sewer and water rate resolutions establishing sewer and water utility rates, sewer and water franchise area fees, service fees, and charges outlined in the 2021 Utility Rate Financial Study as recommended by the City Administration and the City Council Water and Sewer Rate Study Committee, with rates to be effective July 1, 2021. Upon a roll call vote, motion carried 7 to 0.

REGULAR BUSINESS AGENDA:

Resolution Condemning Hate Crimes, Hateful Rhetoric, and Hateful Acts: City Manager La Margo summarized the origins and background of the development of the Resolution alongside citizen Maribeth Henry. Councilmember Ledbetter confirmed the citizen requested the inclusion of statements and advice for bystander intervention that were omitted due to liability concerns and the inability to force the public to intervene. City Manager La Margo and Councilmember Ledbetter highlighted the informational campaign planned to educate others on best practices for situations in place of bystander intervention. Further, City Manager La Margo noted the expanded scope of the Resolution to include all members of marginalized populations. Councilmember Reid stated she had also spoken with Ms. Henry and supports the Resolution as currently drafted. Councilmember Urban expressed a desire to read the Resolution into the record in full.

At the invitation of Mayor Randall, Councilmember Urban read the Resolution and subsequently made the motion, seconded by Ledbetter, to adopt the Resolution to Condemn Hate Crimes, Hateful Rhetoric, and Hateful Acts. Upon roll call vote, motion carried, 7 to 0.

Dissolution of the Austin Lake Governmental Lake Board: At the request of Mayor Randall, Councilmember Urban explained his removal of the Austin Lake Governmental Lake Board dissolution request from the Consent Agenda. He expressed concern with the proposed dissolution and asked Mayor Pro Tem Pearson to clarify a comment from the Committee of the Whole Meeting regarding the Austin Lake Governmental Lake Board changing to a riparian association to address weeds on Austin Lake. Councilmember Knapp answered and referred the question to Mr. Larry Pio, Chair of the Austin Lake Governmental Lake Board.

Mr. Pio (2409 Woody Knoll) responded that he didn't have an exact answer regarding the plan for a riparian association but noted a governmental lake board has many legal hurdles under state law and with no project currently in the queue there are funds to return the riparians, as state law prevents remaining funds to be assigned to new projects. Councilmember Urban explained his history with the Gourdneck Lake Governmental Lake board and the Long Lake Governmental Lake Board and noted West Lake is currently handled by a riparian association with the assistance of the city. Councilmember Urban expressed his preference for a governmental lake board versus a riparian association with city assistance. He stated that West Lake currently receives services with city funds and the city takes on the governmental lake board tasks. He expressed concern with this setup and stated he would not support the dissolution of the Austin Lake Governmental Lake Board. He then provided a brief history of prior efforts to dissolve the Austin Lake Governmental Lake Board. Mayor Pro Tem Pearson provided some additional history on the Austin Lake Governmental Lake Board, explaining that the original funding for the South Cove assessment was expended and any current rebate to the residents would be minimal. Councilmember Urban thanked Mayor Pro Tem Pearson for the clarification and expressed support for refunding riparians any remaining funds. Mayor Pro Tem Pearson clarified that there are 435 residents on the lake including funding from the City of Portage, as well as Kalamazoo County.

City Attorney Kaufman noted the steps in the process for a governmental lake board dissolution and agreed with Councilmember Urban regarding refunding the remaining funds. She stated that the action currently proposed includes public hearings and that she directed the Austin Lake Government Lake Board to dissolve before returning any funds. Councilmember Knapp confirmed that the Austin Lake Governmental Lake Board planned to return remaining funds and that the Board was working with City Attorney Kaufman and the Governmental Lake Board attorney to do so correctly. Mr. Pio noted riparians would appreciate a refund of any amount. Councilmember Reid asked whether a governmental lake board was allowed to be put on hold for potential future projects. She asked about rumors regarding future weed abatements projects and addressing those before following through on dissolution. Mr. Pio confirmed that the north end of the lake requires weed removal but stated the Governmental Lake Board is not allowed to initiate a new project based on current laws and the Board continues to incur attorney and insurance fees, which would be unneeded if the board dissolved. Councilmember Reid asked whether the City Council could change the scope of the Austin Lake Board's aim to include weed remediation. City Attorney Kaufman responded that the Board's focus could be adjusted but the bureaucracy has numerous steps that could be better addressed by a special assessment with the City Administration to address weed treatment measures.

Mayor Pro Tem Pearson stated that a governmental lake board makes sense for the two lakes split between two jurisdictions but encouraged city assistance on projects for those lakes that were completely within city boundaries. Councilmember Urban expressed concern with Mr. Pearson's proposal, noting that the city would take on extra costs whereas a governmental lake board would bear the cost in those instances. City Attorney Kaufman stated that the city can also easily bill for any incurred cost such as public notice or attorney fees within a special assessment, which she already does for similar clients. Councilmember Knapp expressed understanding for Councilmember Urban's concerns but noted the governmental lake board and riparians unanimously agree that a lake board is no longer desired and she did not believe a governmental lake board could simply go on hiatus. Councilmember Urban disagreed that a governmental lake board could become inactive noting the prior history with the Austin Lake Governmental Lake Board and the confusion when it was dormant for a period of time. Mayor Pro Tem Pearson noted his prior history with the Austin Lake Governmental Lake Board, stating he was part of a group petitioning against the resumption of the lake board at the time and expressed support for the dissolution of the government lake board.

Motion by Pearson, seconded by Knapp, to direct the City Attorney to prepare a Resolution for the dissolution of the Austin Lake Governmental Lake Board and establish a public hearing on May 27, 2021, to consider the resolution in accordance with Public Act 451 of 1994. Upon a roll call vote, motion carried 5 to 2. (Note: Date of public hearing administratively corrected to May 25, 2021.)

Application for Liquor License - Lake Burgers (6800 South Westnedge) Councilmember Urban explained that he had removed the item from the Consent Agenda as he had noted the application included wine by the glass. He was concerned whether the applicant's request for a Micro Brew license would address this intent. City Clerk Eklov noted she was facilitating the application but could not answer and referred to the applicant. The applicant confirmed that the application had the option to permit small batches or amounts of wine, such as by the glass as he planned. He noted that he would still pursue his Micro Brew license in the event the Michigan Liquor Control Commission denied his request to include wine.

Motion by Urban, seconded by Pearson, to recommend approval by the Michigan Liquor Control Commission (MLCC) of the Application for a Micro Brew license for Lake Burgers for 6800 South Westnedge (Suite F). Upon a roll call vote, motion carried 7 to 0.

COUNCIL COMMITTEE REPORTS:

Councilmember Reid provided an update regarding the Long Lake Governmental Lake Board, stating that the Board had met after three years in light of the existing five-year special assessment coming due. The Board discussed the next steps for the assessment program. She then provided an update regarding the Kalamazoo County Environmental Health Advisory Council (EHAC), noting that the EHAC was able to finally meet after a year of responding to the COVID-19 pandemic. She stated the EHAC completed testing at the Kalamazoo County airport for PFAS and will be resuming or continuing testing for Eastern Equine Encephalitis, Zika, restaurants, and COVID-19. She stated COVID-19 vaccination efforts continue as well. Councilmember Reid closed by noting the EHAC elected new officers.

Councilmember Urban provided an update regarding the Gourdneck Lake Governmental Lake Board. He stated the Board met to address contracting for services for the fifth year of the special assessment program and discuss whether to start a new assessment program. He stated the Board decided to pursue another special assessment program due to the funds required to continue weed abatement for Gourdneck Lake.

Motion by Burns, seconded by Knapp, to receive the Council Committee Reports as presented. Upon a roll call vote, motion carried 7 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER:

Councilmember Burns expressed appreciation for his household's completed vaccination for COVID-19 citing a recent exposure to a positive case.

Councilmember Ledbetter expressed appreciation for recent citizen phone calls, e-mails, and concerns received regarding agenda items. He stated he was endeavoring to be a good steward of the city and encouraged continued citizen engagement. Councilmember Ledbetter then spoke of the Resolution condemning hate crimes and speech, expressing disappointment that something so formal had to be done. He stated that he is the only member of the City Council whose voting rights are tied to the national Voting Rights Act and noted voting restrictions remain abundant in the country. He noted racism continues and encouraged everyone to continue interactions and education on respect.

Councilmember Reid encouraged continued precautions for the COVID-19 pandemic as case numbers continue to trend upwards within the state. She then highlighted the Resolution for condemning hate crimes, as well as the earlier discussion with lake owners, and noted the overall theme of fairness between the two. Councilmember Reid stressed a consistent approach to addressing lake issues and encouraged all stakeholders to get involved in the process.

Councilmember Urban also highlighted the Resolution for hate crimes and speech, stating that schools are increasing education on inclusion while various state legislatures continue to limit certain groups.

Mayor Pro Tem Pearson expressed appreciation for the engagement and discussion amongst Councilmember during the evening meetings.

Mayor Randall echoed the comments of Mayor Pro Tem Pearson. She then expressed appreciation to Mr. Pearson and Councilmember Knapp for their efforts on the Lake Center District Area Steering Committee. Mayor Randall noted Kalamazoo Bike Week would be from May 9 through May 15, 2021. She then relayed that Pfizer had expressed a desire to join the city's annual Martin Luther King, Jr. event and she was pleased to see Pfizer's increased involvement in matters of the community.

ADJOURNMENT: Mayor Randall adjourned the meeting at 10:00 PM.

Erica L. Eklov, City Clerk