

CITY COUNCIL MEETING MINUTES FROM JUNE 28, 2016

The Regular Meeting was called to order by Mayor Strazdas at 7:30 p.m.

At the request of Mayor Strazdas, Deacon Patricia Catellier of the Chapel Hill United Methodist Church gave the invocation and City Council and the audience recited the Pledge of Allegiance.

At the request of Mayor Strazdas, the Deputy City Clerk called the roll with the following members present: Councilmembers Richard Ford, Jim Pearson, Patricia Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Nasim Ansari and Mayor Peter Strazdas. Also in attendance were City Manager Larry Shaffer, City Attorney Randy Brown and Deputy City Clerk Adam Herringa.

APPROVAL OF MINUTES: Motion by Ansari, seconded by Randall, to approve the June 14, 2016 Regular Meeting Minutes. Upon a voice vote, motion carried 7 to 0.

Motion by Randall, seconded by Reid, to approve the Pre-Council Meeting Minutes of June 27, 2016, as presented. Upon a voice vote, motion carried 5 to 0 with Councilmembers Ford and Urban abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Reid to read the Consent Agenda. No items were removed from the Consent Agenda.

Motion by Reid, seconded by Ansari, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 28, 2016:** Motion by Reid, seconded by Ansari, to approve the Accounts Payable Register of June 28, 2016. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARING:

NON-DISCRIMINATION ORDINANCE: Mayor Strazdas began discussion on the topic by reviewing the process to be followed during the public hearing. He encouraged everyone to be respectful and indicated that everyone who wants to make a public comment would have an opportunity to be heard. Mayor Strazdas then asked Councilmember Urban to initiate the discussion on this topic.

Councilmember Urban informed the audience that he had asked for this ordinance to be developed and that City Council has received numerous communications regarding the topic. Councilmember Urban highlighted one such communications and stated that, in America, we have the freedom to believe what we want, practice our religion freely but government does sometimes force people to do things we might not believe in such as paying taxes, having a driver's license or building a home to certain requirements. Councilmember Urban stated that one thing people do not get to do in this country is to discriminate. He continued by reviewing those categories of people for which protections have been established such as age and gender and stated that this ordinance adds gender identity and sexual orientation to the list. Councilmember Urban strongly emphasized that he does not want to appear inclusive and loving, he intends to be inclusive and loving and that everyone on City Council will vote their convictions. Mr. Urban continued by highlighting some of the key moments in the movement for the rights of Lesbian, Bisexual, Gay and Transgendered (LGBT) individuals. Councilmember Urban concluded his introductory comments with a personal story on the topic and emphasized the present need for laws such as the Non Discrimination Ordinance (NDO).

Mayor Strazdas next invited Amanda Wood, Chairperson of the Human Services Board (HSB), to speak as the HSB was charged with researching and developing the NDO. Ms. Wood provided background as to why the HSB looked into the matter as well as the history which brought the NDO before City Council at this meeting. Ms. Wood reviewed the opportunity for public input into the development process and informed City Council that the HSB voted unanimously to recommend the ordinance to City Council.

Mayor Strazdas thanked Ms. Wood and members of the HSB for their efforts and asked Vicki Georgeau, Director of Community Development, to come forward and review the NDO. Ms. Georgeau reviewed and summarized details of the ordinance section by section along with questions that were raised such as whether there was a mandate for businesses to have unisex or single user restrooms. Ms. Georgeau also reviewed the public input process that was utilized, how the ordinance was thoroughly reviewed, how many other communities in Michigan have enacted similar ordinances and what ordinances were used as models for the one under discussion this evening. Finally, she reviewed the penalty process should provisions of the ordinance be violated.

Mayor Strazdas next opened the public hearing on the Non-Discrimination Ordinance and again reviewed the process that would be followed.

The following individuals spoke in opposition to the Non Discrimination Ordinance: Phil Stinchcomb, 1607 Bellaire Avenue, Portage; Scott McGraw, 10608 Dandale Street, Portage; Jerry Whitaker, 6280 Cully's Trail, Portage; and Ellen Neal, 3496 Woodbridge Lane, Portage.

The following individuals spoke in support of the Non Discrimination Ordinance: Jennifer Robinson, 622 Cliffwood Avenue, Portage; Andrew Robinson, 622 Cliffwood Avenue, Portage; Sheila Bigelow, 731 Cottondale Avenue, Portage; Dr. Colleen Thebert-Wright, 6623 Evergreen Street, Portage; Reverend Doctor David Moffett-Moore of the Portage United Church of Christ, 1718 Greenbriar Drive, Portage; Bob Betzig, 7000 Portage Road, Portage, Interim Site Leader for the Pfizer Portage location read a letter of support on behalf of the Pfizer Corporation; Gary Pilnick, 3426 Sandhill Lane, Portage, Vice-President of the Kellogg Company, spoke on behalf of the Kellogg Company; Cheryl Gilliam, 9727 Southern Oaks Court, Portage; Ginger Clifton, 3429 Woodhams Avenue, Portage; Kathy Greaves, 2651 Woody Noll Drive, Portage, spoke in support and read a letter of support from John Bryant, Chairman of the Board and CEO of the Kellogg Company; Dr. Bill Clegg, 10639 Sudan Street, Portage; Stasia Taverna, 5105 Bronson Boulevard, Portage; Sunny Sahu, 7414 Starbrook Street, Portage; Nicholas Dennert, 10539 Woodlawn Drive, Portage; Dalee Camp, 341 Admiral Avenue, Apartment 1, Portage; Lindy Nebiolo, 7437 Oak Shore Drive, Portage; Reverend Dr. Deborah Kohler, 6839 Keystone Street, Portage; Jason Foster, 620 Calico Avenue, Portage; Monica Padula, 2007 Elkerton Avenue, Apartment 215, Kalamazoo; Reverend Duffy Peet spoke for himself and on behalf of Unitarian Universalist Church of SW Michigan, 8353 Greenspire Drive, Portage; Olivia Gratz, 10217 Periwinkle, Portage; Pastor John Fisher spoke on behalf of the Oshtemo United Methodist Church, 3506 East Shore Drive, Portage; Dr. Romeo Phillips, 1983 Brighton Lane, Portage; Love Chambers, 4812 Pinefield Avenue, Portage; Damon Chambers, 4812 Pinefield Avenue, Portage; Erin Bissonnette, 6950 Orchard Meadow Court, Portage; Nadean Makin, 7585 Timbercreek Court, Apartment 1, Portage; Paul Dearing, 1815 West Kilgore Drive, Portage; Michael Hanley, 6323 Echo Court, Apartment 2A, Portage; Chris Buckley, Executive Director of the Portage Community Center (PCC), spoke on behalf of the PCC, 1429 Wickford Drive, Kalamazoo; Tom Taverna, 5105 Bronson Boulevard, Portage; Esther Gray, 3821 Old Colony Road, Portage; Daniel Smith, 3022 Fleetwood Drive, Portage; and Michael Quinn, 7025 Rockford Street, Portage.

Pastor Paul Naumann, 1749 Greenbriar Drive, Portage, of St. Michael Lutheran Church also spoke and stated that while he has concerns about the ordinance, he appreciates the desire for no discrimination and for people to live without fear, believes that liberty and justice for all are of paramount importance and encouraged City Council to make the reasonable decision that is best for everybody. He did not advocate for or against the proposed ordinance.

There being no others in the audience wishing to speak, motion by Reid, seconded by Ford, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Mayor Strazdas asked City Attorney Randy Brown to respond to questions that were raised in the hearing and to offer some thoughts on the discussion that was just heard and on the ordinance. City Attorney Brown reviewed the topic of bathroom usage and informed the audience that there is no law in Michigan that prohibits a man from entering a woman's restroom or vice versa. He also stated that there is no constitutional right to privacy in a bathroom. Attorney Brown recognized the passion involved in the issue and addressed concerns raised about whether the NDO creates a private right to sue a business. He continued by reviewing the penalty/enforcement process and that the ordinance is designed to protect those people who have experienced proven discrimination.

City Manager Shaffer addressed additional questions that were raised in the hearing such as how many businesses and how many people were consulted with regard to the NDO. Mr. Shaffer highlighted the opportunities for input that have been afforded to the public throughout the process.

Mayor Strazdas thanked those in the audience for the excellent and respectful discussion and asked City Council for their thoughts on the proposed ordinance. He then asked to get a motion on the ordinance. Motion by Urban, seconded by Randall, to approve the Non Discrimination Ordinance as presented.

Mayor Pro Tem Ansari stated that he abhors discrimination but does not like the process of singling out certain classes of people for protection. He stated that he would like the ordinance to state simply: "Thou shall not discriminate." He explained that he believed the "special class system" is flawed and that people claim to be united and yet create classes and categories. Mr. Ansari continued by stating that he believes additional consideration should be given to determine unintended consequences of the ordinance and that he is not aware of any complaints in the community to which instituting this ordinance would apply.

Councilmember Reid stated that while the City Council and City Administration may not have heard any complaints she believe that is, in part, due to the fact that there is no ordinance on the books related to this topic. With regard to the topic of compelling businesses to serve LGBTQ individuals, she opined that businesses are already mandated to serve a lengthy list of customers. Ms. Reid continued by emphasizing the importance of safety and the misunderstandings that have been generated during this process. She reviewed the need and authority for City Council to take action on this item rather than sending it for a public vote and stated her belief that enacting this ordinance would be a step forward for the City of Portage.

Councilmember Randall thanked everyone who came to the hearing and expressed her appreciation for the atmosphere in the room and articulate comments that have been shared. Ms. Randall stated that she is a "numbers person" and shared that 28 states have laws in place similar to the proposed NDO along with 39 cities in Michigan. She continued by stating that only five cities ended up having a referendum on the topic and that the referendums passed overwhelmingly in each one. She concluded by stating that it is City Council's responsibility to lead, that passage of the NDO is the right thing to do and that it will be a "win-win" for everyone.

Councilmember Ford thanked everyone for coming forward as well as Councilmember Urban and the Human Services Board for their work on this topic. He continued by stating that he is somewhat persuaded by the argument for a referendum on the matter but pointed out there is a process available by which the public can put the question before the voters. He concluded by stating his support of the motion and by quoting Martin Luther King, Jr. and stated that he hopes his children and all Portage residents will be "evaluated by the content of their character."

Mayor Strazdas discussed how the proposed NDO strongly aligns with both his personal values and the values of the community. He cited the phrase "peace, progress and prosperity" that is on the City Seal and how this proposed ordinance aligns with all three. Mayor Strazdas explained that people and communities do change over time and that this is a vote for the future of the City of Portage.

Councilmember Urban spoke and expressed his appreciation for the support of City Council and also expressed his regret that he had not pushed for the development of the Non Discrimination Ordinance before now.

Mayor Pro Tem Ansari stated that he is not tolerant of discrimination for any reason and highlighted some of the ways in which he has fought against discrimination at the County level.

Councilmember Pearson shared that he previously had several questions surrounding the proposed NDO but that staff and the City Attorney had satisfactorily answered them in advance of the hearing. He continued by stating that the answers were logical and sensible and that he would be supporting the ordinance.

Upon a roll call vote, motion carried 6 to 1 with Mayor Pro Tem Ansari voting no.

Mayor Strazdas asked the City Attorney to review the next steps in the process and informed the public to contact City Administration with any questions or concerns especially since administrative rules and procedures were going to be developed.

REPORTS FROM THE ADMINISTRATION:

* **FOUR YEAR AGREEMENT FOR SOFTWARE MAINTENANCE:** Motion by Reid, seconded by Ansari, to approve a four-year renewal agreement to Tyler Technologies (formerly New World Systems, Inc.) for software maintenance to the Police Division's computer-aided-dispatch and records management system at a total cost of \$610,584 for the period of July 1, 2016 through June 30, 2020 and authorize the City Manager to execute all related documents. Upon a roll call vote, motion carried 7 to 0.

* **CREATION OF A RESOLUTION FOR ESTABLISHMENT OF A GOVERNMENTAL LAKE BOARD:** Motion by Reid, seconded by Ansari, to direct the City Attorney to prepare a Resolution to provide for the establishment of a Governmental Lake Board in accordance with part 309 of Public Act 451 for Gourdneck Lake. Upon a roll call vote, motion carried 7 to 0. Resolution recorded in City of Portage Resolution Book No. 187.

* **SOLE SOURCE PURCHASE OF ROAD SAFETY RS-4000 SYSTEMS:** Motion by Reid, seconded by Ansari, to approve the sole source purchase of ten Road Safety RS-4000 systems from ZOLL Data Systems, Inc., at a total cost of \$45,425 and authorize the City Manager to execute all related documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **SOLE-SOURCE CONTRACT FOR THE GARDEN LANE #3 PUMP AND MOTOR REPLACEMENT:** Motion by Reid, seconded by Ansari, to award a sole-source contract for the Garden Lane #3 pump and motor replacement to Peerless-Midwest, Incorporated, in an amount not to exceed \$39,816 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.

* **LIQUOR LICENSE FOR CELERY FLATS MUSIC FESTIVAL:** Motion by Reid, seconded by Ansari, to resolve to submit applications to the Michigan Liquor Control Commission (MLCC) for a Special License for the sale of beer and wine for consumption on the premises at Celery Flats (7335 Garden Lane), for The Celery Flats Music Festival on July 10, 2016 and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **SETTING A COMMITTEE OF WHOLE MEETING FOR JULY 26, 2016:** Motion by Reid, seconded by Ansari, to set a Committee of the Whole meeting on July 26, 2016, at 6 p.m. in Conference Room #1 to review the General Fund and Community Development Block Grant human/public service funding application review process. Upon a roll call vote, motion carried 7 to 0.

* **APPOINTMENTS TO THE LOCAL DEVELOPMENT FINANCE AUTHORITY:** Motion by Reid, seconded by Ansari, to confirm City Manager appointments to the Local Development Finance Authority by adopting the Resolution to Appoint Members to the Local Development Finance Authority of the City of Portage. Upon a roll call vote, motion carried 7 to 0.

* **APPOINTMENTS TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Motion by Reid, seconded by Ansari, to confirm City Manager appointments to the Downtown Development Authority of the City of Portage. Upon a roll call vote, motion carried 7 to 0.

* **DOWNTOWN DEVELOPMENT AUTHORITY ANNUAL REPORTS:** Motion by Reid, seconded by Ansari, to accept the Downtown Development Authority Annual Reports as Information Only. Upon a roll call vote, motion carried 7 to 0.

* **LOCAL DEVELOPMENT FINANCE AUTHORITY ANNUAL REPORT:** Motion by Reid, seconded by Ansari, to accept the Local Development Finance Authority Annual Report as Information Only. Upon a roll call vote, motion carried 7 to 0.

* **MAY 2016 ENVIRONMENTAL ACTIVITY REPORT:** Motion by Reid, seconded by Ansari, to receive the May 2016 Environmental Report as Information Only. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

* **COMMUNICATION FROM ENVIRONMENTAL BOARD CHAIR RUTH CAPUTO REGARDING DEER POPULATION CONSIDERATIONS:** Motion by Reid, seconded by Ansari, to receive the communication from Environmental Board Chair Ruth Caputo and instruct the City Manager to coordinate with the Environmental Board on the various issues related to development of a deer management program for the City of Portage. Upon a roll call vote, motion carried 7 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of:

Portage Youth Advisory Committee of May 9, 2016.

BID TABULATIONS:

* **ZYLMAN AVENUE SANITARY SEWER LIFT STATION IMPROVEMENTS:** Motion by Reid, seconded by Ansari, to award a construction contract for the Zylman Avenue Sanitary Sewer Lift Station Improvement Project to Balkema Excavating, Incorporated, at a total price of \$477,325 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.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Urban thanked everyone for coming out this evening.

Councilmember Reid stated that the hearing tonight is an example of how democracy is supposed to work.

Councilmember Randall shared that this has been an inspirational evening and thanked everyone for coming.

Councilmember Ford thanked everyone for coming and shared that he and his wife had a baby daughter eight days earlier and that both baby and mother are doing well.

Councilmember Pearson reminded everyone of the upcoming 4th of July fireworks display sponsored by the Portage Rotary Club and provided details about the event.

Mayor Pro Tem Ansari reiterated his opposition to any sort of discrimination.

Mayor Strazdas explained that City Council is non-partisan and that it is all right for people to disagree as that is part of a healthy democracy. He thanked everyone in the audience for coming together and having a respectful and excellent discussion.

MATERIALS TRANSMITTED:

* **DEPARTMENT MONTHLY REPORTS:** Motion by Reid, seconded by Ansari, to receive the May 2016 Departmental Monthly Reports as information only.

* **MATERIALS TRANSMITTED OF JUNE 14, 2016:** Motion by Reid, seconded by Ansari, to receive the Materials Transmitted of June 14, 2016.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 10:49 p.m.

Adam Herringa, Deputy City Clerk

*Indicates items included on the Consent Agenda.