

CITY COUNCIL MEETING MINUTES FROM SEPTEMBER 6, 2016

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

At the request of Mayor Strazdas, Pastor Chad Wells of the First Baptist Church gave the invocation and City Council and the audience recited the Pledge of Allegiance.

At the request of Mayor Strazdas, the City Clerk called the roll with the following members present: Councilmembers Richard Ford, Jim Pearson, Patricia M. 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 City Clerk James R. Hudson.

PROCLAMATION: Mayor Strazdas issued a Portage Senior Center – National Senior Center Month Proclamation and introduced Senior Citizens Manager Kim Phillips, who indicated that Friends of the Portage Senior Center Chair Kimberly Middleton and Senior Citizens Advisory Board Chair Bill Wieringa would read the Proclamation. She then introduced Senior Citizens Advisory Board Member Art Roberts and Portage Senior Center Trip Coordinator Dawn Shiltz and discussion followed. Councilmember Urban expressed his disappointment that Portage has not been able to obtain a bond proposal to expand the Senior Center and explained. Discussion followed.

APPROVAL OF MINUTES: Motion by Pearson, seconded by Ford, to approve the August 23, 2016 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 2 with Councilmember Reid and Mayor Pro Tem Ansari abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember Randall indicated that she would be abstaining from Item F.2, Final Preliminary Plat (Engineering Plans) for Whispering Meadows No. 4, and asked that Item F.4, Purchase of Body Worn Cameras and Data Storage, be removed from the Consent Agenda. Mayor Strazdas removed Item F.5, Permit for Fireworks Display on September 25, 2016, by the Kalamazoo Family Valley Church.

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

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF SEPTEMBER 6, 2016:** Motion by Urban, seconded by Randall, to approve the Accounts Payable Register of September 6, 2016. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Friends of the Portage Senior Center Chair Kimberly Middleton, 65480 22nd Street, Mattawan, spoke on behalf of the Friends of the Portage Senior Center and invited everyone to the Generation Celebration event in partnership with the Portage Senior Center to celebrate “Elderhood” on Sunday, September 11 that will take place along the Bicentennial Trail between the Portage Senior Center and Celery Flats. Discussion followed.

Aaron Johnson, 1698 Drayton Court, expressed an interest in addressing Item F.5, Permit for Fireworks Display on September 25, 2016, by the Kalamazoo Family Valley Church, and Mayor Strazdas indicated it is forthcoming, but not yet.

Ashley Serne, 5841 Missouri Avenue, and Andrea Hudson, 423 West Van Hoesen Boulevard, presented a petition from residents asking for relief from mosquito infestation in the neighborhood retention basins from residents living on West Van Hoesen Boulevard, Missouri Avenue, Palm Street and Admiral Avenue. Discussion followed and Council expressed their empathy. Motion by Pearson, seconded by Ford, to receive the Petition and refer it to the Administration for review and a report back with recommendations. Upon a voice vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

* **REZONING APPLICATION #16/17-1 (10332 SHAVER ROAD):** Motion by Urban, seconded by Randall, to accept Rezoning Application #16/17-1 for first reading and set a public hearing for October 4, 2016; and subsequent to the public hearing, consider approving Rezoning Application #16/17-1 (10332 Shaver Road), with a change from R-1B, one family residential, to B-3, general business. Upon a roll call vote, motion carried 7 to 0.

* **FINAL PRELIMINARY PLAT (ENGINEERING PLANS) FOR WHISPERING MEADOWS NO. 4, 6513 ANGLING ROAD:** Motion by Urban, seconded by Randall, to approve the Final Preliminary Plat (engineering plans) for Whispering Meadows No. 4, 6513 Angling Road. Upon a roll call vote, motion carried 6 to 0 with Councilmember Randall abstaining.

* **ICE CONTROL SALT PURCHASE – COOPERATIVE PURCHASING:** Motion by Urban, seconded by Randall, to award a contract to Morton Salt Company in the amount of \$44.67 per ton for 3,000 tons of ice control salt at a total cost of \$134,010 for early delivery and a contract to Detroit Salt Company in the amount of \$50.01 per ton for 1,500 tons of ice control salt at a total cost of \$75,015 for seasonal backup on an as needed basis, and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

PURCHASE OF BODY WORN CAMERAS AND DATA STORAGE: Councilmember Randall opened the discussion with a review of the original purchase of ten body worn cameras, noted that there has been no feedback on this pilot program and asked for additional information. At the request of Mayor Strazdas, City Manager Larry Shaffer reflected on the initial purchase as a test to ascertain whether the City of Portage could retain value from the installation and operation of body worn cameras. He indicated that these devices have become an important tool in police departments throughout the country as a means of providing a great deal of real time information on how an event might have unfolded between citizens and members of the Police Department. He estimated that it takes out a great deal of the ambiguity and conflict between a citizen and police officer observation regarding what is actually occurring in a situation. He said it also brings about civility and better behavior on the part of all of the people being filmed and the officer as well.

Mr. Shaffer introduced Public Safety Director Richard White, who provided examples of the uses for cameras in the police cars and how important the cameras have been to the ability to critique police performance in various situations. He indicated that the missing piece in the recording is the ability to capture events outside the audio range of the police car camera since everything does not happen in front of the police car. He gave support to the Panasonic camera that was selected; cited that there were 696 incidents or interactions in the community; and explained the process of review using the equipment. He then described the configuration of the computers and the advantages associated with merging the technologies.

In answer to Councilmember Randall, and the issue of confidentiality when there is a domestic call, for example, and the Police Officer sees things that should not be subject to the Freedom of Information Act (FOIA), Chief White indicated that currently anything captured is subject to FOIA, but the State of Michigan is working on what is discoverable and what is not and cited a House Bill introduced in 2015 that is still being worked on called the Michigan Police Body Camera Act. He explained that there is a fine line if the Department deletes something because of the perception that the Police did something wrong, so for complete transparency, the number of times a situation is not recorded has to be very, very limited. As a result, he indicated that the policy is a compilation of the best research in the country and explained that the police officer announces that he is recording, so it is on the system. He also indicated that some of the advantages of filming are: accountability and

credibility for law enforcement in the country as it makes a law enforcement officer behave better and citizens behave better; the body worn camera is an excellent tool for training and follow-up.

Councilmember Randall asked whether there is buy-in from all of the police officers, or is technology pushing some people too fast where they feel that it is an infringement on their ability to perform. Chief White responded that he has “not seen that” and reflected on some Union concerns twenty years ago with the advent of the cameras in the police cars and concerns that “Big Brother” is watching everything police officers do. However, he indicated that over time the cameras provide a level of credibility since the video is there to refute allegations that are unfounded. He sees officers are so used to that equipment that it has been easy for them to adapt to the body worn camera as he has had no complaints from officers who wore this device and virtually no complaints from the community.

City Manager Shaffer cited an example where a suspect was apprehended in a closet of a dwelling and the entire incident was on tape, so there was no question that all of the protocols were practiced by the police officers. Councilmember Pearson suggested that, especially in difficult situations, police officers liberally announce that they are on camera in case there is hostility, to protect and for purposes of liability. Chief White indicated that that is exactly what the Portage Police Division Policy reads and is based on diligent research and comparisons among departments that gave great discretion when to announce versus those that announced that the filming is taking place, and explained.

Councilmember Urban asked whether there is a capability to accommodate privacy issues with the body worn cameras, and Chief White explained that there is the hope for State legislation on this matter, and discussion followed. He also indicated that at the final step of this project, probably a year from now, this vendor is looking at some redaction software and explained. City Attorney Randy Brown concurred with Chief White that FOIA is broad and that there are several specific exemptions. He indicated that privacy is one of those exemptions, and all FOIA responses are treated with the same exemptions and redactions. He expressed hope that the State will be forthcoming with laws to specifically address body camera redactions, but until then the privacy exemption will be honored and each film will be reviewed to determine if the exemption is warranted.

Councilmember Reid asked if each video that is requested under FOIA is reviewed, is there a charge for the review. Chief White responded that costs for review are recoverable at the lowest rate of the person capable of performing the review. City Attorney Brown deferred to City Clerk James Hudson, who indicated that review costs are recoverable, including the time for the City Attorney, under the new law. Councilmember Reid pointed out there is a difference between the two skill sets of editing a film and knowing what should be redacted, and Chief White confirmed that the Police have already encountered this with the cameras that are currently in the police cars. Discussion followed regarding problems associated with data storage, a retention policy and the requirement that access to the Police systems by police personnel only. Discussion followed.

Mayor Strazdas thanked Chief White for his work with body worn cameras, summed up the request and stressed that this technology is necessary and important to protect citizens, albeit expensive. Discussion followed.

Motion by Urban, seconded by Randall, to approve the purchase of 50 body worn cameras and supporting equipment from CDW-G at a cost of \$73,054.73; and computer hardware and software for storage of video/audio data from Data Strategy at a cost of \$153,312.15; for a total cost of \$226,366.88 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.

PERMIT FOR A FIREWORKS DISPLAY ON SEPTEMBER 25, 2016, BY THE KALAMAZOO VALLEY FAMILY CHURCH: City Council received a communication via Materials Transmitted dated September 2, 2016, from Daniel Smith and Jeannette Greselin, 3022 Fleetwood Drive, in opposition to granting the Fireworks Permit for a Fireworks Display on September 25, 2016, sponsored by the Kalamazoo Valley Family Church that listed several reasons for their position on this matter.

Councilmember Pearson asked how many private displays take place each year, and City Clerk Hudson replied that the research found no private displays. Councilmember Urban cited the Public High School Displays at the halftime of the Portage Northern vs. Portage Central High School football games between 2001 and 2006. Mr. Hudson indicated that these can be distinguished as these high schools are public, and Kalamazoo Valley Family Church is a nonprofit, religious entity. City Attorney Brown reviewed the legal requirements under the law for the Fire Marshall who has to investigate, review the forms submitted and make a recommendation to Council. He responded to Councilmember Pearson that both public and private displays will follow these requirements. Discussion followed. Mr. Brown answered the concern from Mayor Pro Tem Ansari that the sound ordinance requirements do not apply in this situation since Council can set whatever rules that are appropriate given the recommendation from the Fire Marshall and explained. Discussion followed.

At the request of Mayor Strazdas, Mr. Johnson explained that the Church has been in Portage for 25 years, so this is a specific event to celebrate the 25th Anniversary of the Kalamazoo Valley Family Church and explained September 25 is the closest date for the celebration. Discussion followed and, in answer to Mayor Strazdas, Mr. Johnson outlined the procedures the Church followed in order to inform and alert the area residents of the Fireworks Display based on the recommendation of the City staff. City Manager Shaffer offered to send out a Portage Alert notifying the neighborhood that the fireworks would begin at 8:30 p.m., should Council choose to approve this request.

Councilmember Reid asked if the proximity to I-94 is going to distract drivers. At the request of Mayor Strazdas, Mr. Shaffer indicated that he asked that question specifically of Deputy Fire Chief John Podgorski, who indicated it should not pose a hazard since fireworks are traditionally utilized at any time of the year and is not typically viewed as a safety hazard on the highway. Councilmember Urban asked whether the smoke cloud that may cross the highway with winds out of the north was considered. Mr. Shaffer answered that he had not broached the smoke cloud issue with Mr. Podgorski; however, he indicated that they did discuss the proximity of the fireworks display to I-94 and whether it represented any concern, and Mr. Podgorski indicated it represented none from his perspective. Discussion followed and Mr. Shaffer offered to present this issue directly to Mr. Podgorski; however, Council is being asked to consider from a community perspective if this event makes sense to the community, and Mr. Shaffer recommended his approval based on the approval of the Fire Marshal, who will take into consideration all of the safety factors. Discussion followed.

Motion by Randall, seconded by Reid, to approve a Permit for a Fireworks Display on September 25, 2016, sponsored by the Kalamazoo Valley Family Church. Upon a roll call vote, motion carried 6 to 0 with Councilmember Ford abstaining.

* **SPECIAL MEETING FOR BOARD AND COMMISSION APPLICANTS:** Motion by Urban, seconded by Randall, to set a Special Meeting on Tuesday, October 4, 2016, beginning at 5:15 p.m., to interview Board and Commission applicants. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

DANIEL SMITH AND JEANNETTE GRESELIN, 3022 FLEETWOOD DRIVE, AND THOMAS A. PAULL, 10055 PORTAGE ROAD: In response to the request for comment from Mayor Strazdas, City Manager Shaffer indicated he has met with a number of the Kalamazoo Bike Organization, and the representatives are advocating that the City of Portage consider a comprehensive bike safety ordinance. He indicated that the Administration is discussing and drafting an ordinance, but it is not ready for consideration at this time. Mayor Strazdas said that the Kalamazoo City Commission is working on a Complete Streets Ordinance and a Three-foot Clearance Ordinance, noted that it is a difficult ordinance to enforce and recognized that Portage has already approved a Complete Streets Ordinance. Discussion followed.

Councilmember Randall recognized the frustration as bicyclists and automobile drivers try to share the roadway. She advocated education, gave praise to Assistant to the City Manager Mary Beth

Block and her recent letter in the Portager on this subject. She cited Goshen and Shipshewana in Indiana as places where horse and buggy, bicycles, walkers and automobiles coexist and explained. She commented that sidewalks are for walkers and many times there are signs that read “No Bicycles.” Discussion followed. She asked the public to be considerate of the white line for bicycles on brush day, garbage day, etc. She recommended continuing bicycle education, including maps.

Motion by Ansari, seconded by Randall, to refer the communication from Valerie Rineveld, 10624 South Westnedge Avenue, regarding issues she has encountered regarding bicycle traffic, specifically on Lovers Lane, and the request to have bicyclists respect single file cycling in the roadway, or use sidewalks when available, and the communication from Thomas A. Paul, 10055 Portage Road, who indicated that bicycles and vehicles do not belong together on any road or street with traffic volume requiring four or more lanes or where the speed limit is over 35 miles per hour, and large enough for pedestrians and bicycles together, and his request that something be done with the snow from the snow plow on sidewalks in the winter and that sidewalks be made “wider and away from the curb” to the Administration for discussion when drafting a proposed bike ordinance.

Councilmember Pearson commented that some of the bike lanes are narrow and asked if the City should widen those lanes as a part of this effort. Mayor Strazdas concurred and asked that the City Manager take this into consideration since there are roadways in the city where a three foot bike lane is not possible.

Councilmember Randall indicated that there is a lot of development in the City and there are some bike lanes that are washed out from the rain, full of sand, which makes a dangerous situation for a bicyclist and asked if there was some way to keep those lanes clear. Discussion followed.

Councilmember Reid concurred with Councilmember Randall and Mayor Strazdas on the educational aspects of this issue, and recalled complaints from citizens who have experienced chip seal in the roadway, similar to the washout situation.

Mayor Strazdas called the question. Upon a roll call vote, motion carried 7 to 0.

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

Portage Senior Citizen Advisory Board of July 20, 2016.

Portage Park Board Minutes of August 3, 2016.

BID TABULATION:

* **SHAVER ROAD RECONSTRUCTION - VANDERBILT AVENUE TO WEST CENTRE AVENUE:** Motion by Urban, seconded by Randall, to award a contract to perform engineering services for the reconstruction of Shaver Road (Vanderbilt Avenue to West Centre Avenue) to OMM Engineering, Inc., in the amount not to exceed \$145,600 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: Councilmember Reid proudly announced that she has a new grandson.

Councilmember Randall wished a good school year for everyone, reminded everyone to be careful since more automobiles and students will be sharing the sidewalks and roadways, and wished City Manager Larry Shaffer a Happy Birthday.

Councilmember Pearson suggested using “98 % DEET” to ward off mosquitoes.

Mayor Pro Tem Ansari announced the monthly meeting of the Michigan Asian Pacific American Affairs Commission will take place on Saturday, September 10, 2016, 8 a.m. until 2 p.m., City Hall Council Chambers.

Mayor Strazdas commented on the success of the 2016 construction season and concurred with Councilmember Randall that we all should be careful since more automobiles and students will be sharing the sidewalks and roadways.

MATERIALS TRANSMITTED:

* **MATERIALS TRANSMITTED OF AUGUST 23, 2016:** Motion by Urban, seconded by Randall, to receive the Materials Transmitted of August 23, 2016. Upon a roll call vote, motion carried 7 to 0.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:00 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.