



# City of Portland

Portland, Michigan

Minutes of the City Council Meeting

**Held on Monday, August 5, 2024**

In the City Council Chambers at City Hall

259 Kent St., Portland, MI 48875

Present: Mayor Barnes, Mayor Pro-Tem VanSlambrouck, Council Members Johnston, and Sheehan; Interim City Manager Terry; City Clerk Miller; Finance Director Tolan; DDA Director ConnerWellman

Absent: Council Member Fitzsimmons

Guests: Jon Moxey of Fleis & VandenBrink; April and Anthony Vogl of OM's Garden; Eric Gibbs; Bill Fabiano; Denise Barnes; Jerry Tolan; Kathy Parsons; Mike Judd; Kathy Burns; Larry Tygesen; Tim Fuller; Rachel Gross; Erica Patrick; Dr. Jason Williamson; Rick Davison; DJ; City Employees Barb Brown and Erin Fair

The meeting was called to order at 7:00 P.M. by Mayor Barnes with the Pledge of Allegiance.

Motion by VanSlambrouck, supported by Sheehan, to approve the proposed Revised Agenda amended to add a motion to excuse Council Member Fitzsimmons

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

Motion by Johnston, supported by Sheehan, to excuse the absence of Council Member Fitzsimmons,

Yeas: Johnston, Sheehan, VanSlambrouck, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

Under Public Comment, Tim Fuller noted the Council made an official statement at the July 31, 2024, City Council meeting regarding allegations made against the former City Manager and stated he was thrown back by the statement the allegations were not filed correctly, did not have merit, and has been held up by process. He stated he has been questioning the process and pulled the City Employee Handbook which states complaints should be sent to a Department Head or City Manager. Mr. Fuller read from the Handbook the procedure for how the City Manager is supposed to handle a complaint. He asked what provision addresses when the City Manager is the accused. He stated he went to the January 18, 2016, City Council minutes where the current City Employee Handbook was approved. The version of the handbook that was replaced allowed a complaint to be made to the City Council. He asked why this provision was changed and noted it appears the City Manager proposed the change. Mr. Fuller noted his expectation that the Council would've stepped up to the right thing and done an investigation as the accused person can't possibly decide the outcome of the issue. Mr. Fuller further noted the community continues to be stonewalled by what is happening with this situation. He extended kudos to Mayor Pro-Tem VanSlambrouck

for trying to do the right thing and noted he may be the only member of Council who remains. There is a group working with the Attorney General's office to have the Council removed and another group working on a recall of the Council. He stated that someone was hurt on the Council's watch. There are two whistleblowers ready to testify to violations of the Open Meetings Act in addition to the inappropriate handling of this complaint. Mr. Fuller stated the Mayor told the public last week the City Council was going to hire a new City Manager and didn't need the public's opinion; the Council will do what they need to do. He also noted the Mayor's comment that the City Manager is the Council's responsibility; and then stated it is the one and only employee the Council has to keep track of and the Council failed to do so. He stated his feeling that Mayor Pro-Tem VanSlambrouck is trying to do the right things but is being stifled. Mr. Fuller stated someone was hurt on the Council's watch and they did nothing to help. If the allegations come to light, he hopes the Council won't want to be known as protecting a predator. Mr. Fuller stated the Council sits there and still doesn't do the right thing. The Council's job is to listen to the people. He hopes the Council members have the guts to do the right thing; resign, or vote the others out. He further stated the first Council member that needs to go is the Mayor.

Mayor Barnes clarified the misstatements of what he said at the meeting last week. A City employee has made a serious allegation regarding the City's work environment. The employee chose not to follow City procedure but instead hired an attorney to pursue the matter. The City knew nothing of the issue prior to hearing from the employee's attorney. As a result of the employee's choice, the City has engaged legal counsel to work with the employee's attorney to gather evidence to the allegations. To this point, this has been a slow process, with no significant evidence forthcoming. While the City has been aware of the allegations Mr. Gorman left employment under positive circumstances pursuant to a job search that began before the allegations were received by the City. Mayor Barnes further stated when he heard of the allegations they were immediately forwarded to the City's attorney and insurance company.

Eric Gibbs stated he heard the word "disgusting" after the meeting adjourned last Wednesday. The residents, even the Interim City Manager, requested more time be taken in the hiring of a new City Manager. Those requests were ignored. Mr. Gibbs read information related to how Andrew Dymczyk, the chosen City Manager candidate by the City Council, handled an incident involving a Police Officer at DeWitt Charter Township. He further noted the Council didn't have any questions for the candidates involving previous incidents in their communities. Regarding the changes made by Resolution 16-03 to the City of Portland Employee Handbook he asked why the City Council was removed from the complaint process. Employees with a complaint against the City Manager are left without a clear process to address their concerns. Mr. Gibbs stated that Mayor Barnes statement said evidence is being gathered. He noted Barry County Commissioner, Mike Callton's statement in regard to hiring former City Manager Gorman noted that Mayor Barnes told him he wouldn't hesitate to hire again but that Mr. Callton himself couldn't hire someone with that serious of an unresolved allegation. Mr. Gibbs noted what a stark difference between the City of Portland and Barry County and noted it raises critical questions about how this affects the confidence of City employees. Mr. Gibbs further noted that Mayor Barnes made it very clear that the decision to hire a new City Manager lies with the City Council and not the public. He stated the public can engage in grassroots efforts to inform the community about what is going on, they can contact news outlets, they can request the involvement of the Attorney General's office to review and address concerns, they can ensure the City Council will not run unopposed at the next election by getting 24 signatures, and they can recall the City Council. Mr. Gibbs requested the City Council undertake an independent, 3<sup>rd</sup> party investigation of the allegations and the reevaluation of the City Manager candidates. If these requests are not met, then the Council can expect a contentious remainder of their terms. He further stated his hope for the resolution of these issues for the betterment of the community.

Rick Davison stated that Mayor Barnes said in his statement that the employee didn't follow proper procedure and further noted the proper procedure would be for her to bring her complaint to the person she was accusing of violating her. He asked, why would she do that?

DJ noted he is not a tribe but is on team don't be an abhorrent human being. People need to do the right thing when someone is being hurt. Now is the time when complacency turns into complicity. People talk in small towns and the people want answers. He further noted the Council is losing the good faith of the community. Some sort of transparency is needed.

Jerry Tolan noted the Matthew West song, "Do Something". He stated that God created us to do something right. When allegations of sexual harassment come forward, he asked the Council what they would want done if these had happened to one of their loved ones. He noted we live in a country where people are innocent until proven guilty. Mr. Tolan further noted the lawyer statements made by the Mayor make some potentially defamation comments about the accuser. Typically would expect a lawyer's statement to note no comment about something when there is a pending investigation. If there is a pending investigation you wouldn't be able to say the evidence hasn't been strong, or the accuser followed the wrong protocol. Mr. Tolan further stated that during the tornado there were shirts that said "Portland Strong" and noted if the Council keeps going down the wrong path there might be shirts that say "Portland Wrong".

Under Interim City Manager Report, Interim City Manager Terry noted he had nothing at this time.

Under Presentations, Jon Moxey of Fleis & VandenBrink provided updates on ongoing projects including the bridge inspections, the Divine Highway Bridge design with construction targeted for next year's construction season, the Wastewater Treatment Plant Improvement Project which is nearly complete, the Sanitary Sewer Crossing, the Kent Street Improvement Project, the Looking Glass Plaza Project, the River Trail Improvement Project, and the TMF Water Service Project.

DDA Director ConnerWellman provided her Downtown Report.

Council Member Sheehan inquired about the development of a tequila bar that had been proposed several months ago.

DDA Director ConnerWellman stated there has been no movement on that project.

Under New Business, Interim City Manager Terry requested the approval to engage the services of Labor Attorney David Revore, of McGinty, Hitch, Person, Anderson & Revore, P.C. for assistance with updating the personnel policy and other issues the administration finds that need to be addressed.

Mayor Pro-Tem VanSlambrouck noted his appreciation for the efforts being made.

Motion by VanSlambrouck, supported by Sheehan, to engage the services of Labor Attorney David Revore, of McGinty, Hitch, Person, Anderson & Revore, P.C.

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-60 to approve the payment of legal services provided by Dickinson Wright PLLC, for the months of May and June, in the amount of \$19,698.00.

Tim Fuller asked what the legal services are for.

Interim City Manager Terry stated the legal services are for conversations related to personnel issues and former City Manager Gorman.

Motion by Johnston, supported by Sheehan, to approve Resolution 24-60 to approve the payment of legal services provided by Dickinson Wright PLLC.

Yeas: Johnston, Sheehan, Barnes

Nays: VanSlambrouck

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-61 to approve Pay Request No. 2 to the State of Michigan in the amount of \$312,443.73 for work done on the Kent Street Improvement Project through June 30, 2024.

Motion by VanSlambrouck, supported by Sheehan, to approve Resolution 24-61 approving Pay Request No. 2 to the State of Michigan for work done on the Kent Street Improvement Project.

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-62 to approve Fleis & VandenBrink's invoice in the amount of \$58,658.54 for construction engineering services related to the Kent Street Improvement Project.

Motion by Sheehan, supported by Johnston, to approve Resolution 24-62 approving Fleis & VandenBrink's invoice for construction engineering services for the Kent Street Improvement Project.

Yeas: Sheehan, Johnston, VanSlambrouck, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-63 approving payment to F&V Construction in the amount of \$74,609.00 for work performed for the Wastewater Treatment Plant Project.

Motion by VanSlambrouck, supported by Sheehan, to approve Resolution 24-63 approving payment for work performed for the Wastewater Treatment Plant Project.

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-64 approving a proposal from GRP Engineering in the amount of \$40,000.00 to provide engineering services for the transition to a single voltage distribution system.

Motion by Johnston, supported by VanSlambrouck, to approve Resolution 24-64 approving a proposal from GRP Engineering to provide engineering services for the transition to a single voltage distribution system.

Yeas: Johnston, VanSlambrouck, Sheehan, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-65 to approve the purchase of transformers from ERMCO Transformers in the amount of \$43,330.00 for the Electric Department.

Motion by VanSlambrouck, supported by Sheehan, to approve Resolution 24-65 approving the purchase of transformers for the Electric Department.

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-66 to appoint Mindy Tolan as the Officer Delegate to represent the City at the 2024 MERS Conference.

Motion by VanSlambrouck, supported by Sheehan, to approve Resolution 24-66 appointing an Officer Delegate to represent the City at the 2024 MERS Conference.

Yeas: VanSlambrouck, Sheehan, Johnston, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

The Council considered Resolution 24-67 to approve Fleis & VandenBrink's proposal to provide Bridge Inspection Services for 2024 to the Grand River Ave Bridge and the Bridge Street Bridge in the amount of \$7,600.00.

Motion by Sheehan, supported by Johnston, to approve Resolution 24-67 approving Fleis & VandenBrink's proposal to provide Bridge Inspection Services for 2024.

Yeas: Sheehan, Johnston, VanSlambrouck, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

Motion by VanSlambrouck, supported by Johnston, to approve the Consent Agenda which includes the Minutes and Synopsis from the Regular City Council Meeting on July 15, 2024, Closed and Open Session Minutes of the Council Work Session held on July 23, 2024, and minutes of the City Council Special Meeting to hold City Manager Interviews held on July 31, 2024, payment of invoices in the amount of \$598,317.59, and payroll in the amount of \$338,259.49, for a total of \$936,577.08. Purchase orders to BS&A Software in the amount of \$6,038.00 for Annual Support Services, Timber Tree Services LLC in the amount of \$6,587.50 for tree trimming, removal, and grinding, Fire Pros in the amount of \$11,128.52 to replace sprinkler heads at City Hall, and Lansing Community College in the amount of \$11,259.00 for State of Michigan Sponsorship of Police Recruits were also included.

Yeas: VanSlambrouck, Johnston, Sheehan, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

Under Interim City Manager Comments, Interim City Manager Terry commended Finance Director Tolan for her efforts to secure the Award of State Disaster Funds for the widespread severe thunderstorms that occurred in late August 2023.

Interim City Manager Terry stated how impressive the Department Heads and staff for the City of Portland are. They are some of the best talent he has seen in his 42-year career.

Interim City Manager Terry stated the past week has been one of the toughest of his career. He reassured the staff and Council he will continue to work hard to ensure a safe working environment and noted that when the City gets through this period of time it will be better for it.

Under Council Member Comments, Mayor Pro-Tem VanSlambrouck stated he wants to see proper communication at the proper levels and to find correct, truthful answers that will be applied to justice. He further noted that his own integrity is on the line.

Motion by Johnston, supported by Sheehan, to adjourn the regular meeting.

Yeas: Johnston, Sheehan, VanSlambrouck, Barnes

Nays: None

Absent: Fitzsimmons

Adopted

Meeting adjourned at 8:13 P.M.

Respectfully submitted,

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James E. Barnes, Mayor

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Monique I. Miller, City Clerk