

City of Portland

Portland, Michigan

Minutes of the City Council Meeting

Held on Monday, August 19, 2013

In Council Chambers at City Hall

Present: Mayor Barnes, Mayor Pro-Tem VanSlambrouck, Council Members Fabiano and Krause; City Manager Dempsey; City Clerk Miller; Police Chief Knobelsdorf

Absent: Council Member Calley

Guests: Kathy Parsons; Patrick Fitzsimmons, Candidate for City Council; Pat Weller, Parks and Recreation Board Chairman; Dan Lawless of Portland St. Patrick's; Tom Thelen of the Review & Observer

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

Motion by Krause, supported by VanSlambrouck, to approve the Proposed Agenda as presented.

Yeas: Krause, VanSlambrouck, Fabiano, Barnes

Nays: None

Absent: Calley

Adopted

Motion by VanSlambrouck, supported by Krause, to excuse the absence of Council Member Calley.

Yeas: VanSlambrouck, Krause, Fabiano, Barnes

Nays: None

Absent: Calley

Adopted

Under the City Manager Report, City Manager Dempsey presented information on the action items for consideration on the Agenda and provided information for discussion of tabled Ordinance 171B under Old Business, and Ordinance 1A for consideration under New Business. Information for the discussion of the fee for special events using the River Trail was also provided.

City Manager Dempsey also reported that Market St. at I-96 should be reopened Wednesday, August 21st.

City Manager Dempsey also stated that Roger Swets, bond counsel for the City, congratulated the City of Portland on locking in a rate of 1.45% on the 2013 General Obligation Limited Tax Bonds. This is an excellent rate as rates appear to be on their way up.

The steeple at the Congregational Church has structural issues and will be removed by a Contractor very soon. In the meantime the sidewalk in the area has been blocked to pedestrian traffic.

Under Old Business, the Council discussed proposed Ordinance 171B.

At the August 5th City Council meeting the Council tabled the First Reading of proposed Ordinance 171B to amend Chapter 16, Article 1, Section 16-1 of the City Code of Ordinances regulating the division of land in the City and to add Sections 16-2, 16-3, 16-4 and 16-5 to the City Code of Ordinances to provide application standards, procedure, approval standards, and consequences for noncompliance with land division approval requirements. The ordinance was prepared after City Manager Dempsey provided the Council with a memo at the July 15th meeting stating that County Treasurer July Clark had requested the City amend its lot split approval process to include checking with the County Treasurer's office to verify there are no outstanding taxes before approving an application in order to eliminate "stand alone" years on delinquent taxes. When a parcel is split or combined and there are delinquent taxes on the prior years, the new parcel number will not show the delinquent taxes. This is a problem for new owners who are not aware of the delinquent taxes and makes collecting delinquent taxes more difficult for the County. As part of the memo City Manager Dempsey recommended revising the ordinance to include sections that would detail application standards, procedure, approval standards, and consequences for noncompliance that could be processed administratively rather than presenting the application to the Planning Commission for a recommendation to the City Council.

At the August 19th City Council meeting concern was expressed about changing the review and approval process from the Planning Commission and City Council to the Assessor and about going from a one section regulation to multiple sections. It was requested that the City Manager prepare an alternate Ordinance 171B to revise the existing regulation only by adding the requirement that outstanding taxes and assessments that are due and payable be paid before processing the lot split.

City Manager Dempsey noted that while there are requirements to be met, there is no discretion to be exercised when processing lot splits that do not require a plat or site plan under the State Land Division Act. A survey of some other Michigan communities showed that the vast majority handle the lot split process administratively. The tabled ordinance is longer than the alternate ordinance so that it can inform readers about the process and what is required rather than in a separate application or information book. City Manager Dempsey recommended that if the Council desires to move forward with the shorter, alternate ordinance they should approve a resolution for an application with the application standards, procedure and approval standards.

City Manager Dempsey also noted that the agenda for last week's Planning Commission meeting included a land division request; they were unable to get a quorum to hold the meeting. To meet the 45-day processing requirement in the Land Division Act a Special Meeting of the Planning Commission needs to be held before the next Council meeting on September 3rd. Administrative processing would eliminate the need to schedule a meeting just to process a land division request.

Mayor Barnes commented that all of the concerns discussed at the August 19th meeting are valid and City Manager Dempsey has tried to address all of them.

Council Member Fabiano asked if alternate Ordinance 171B had any changes from the current ordinance other than the addition of the "due & payable taxes".

City Manager Dempsey stated the language is identical except the last sentence.

Council Member Krause stated her agreement with the alternate Ordinance 171B but would like to see an additional change to streamline the process without the Planning Commission approval with a grievance process to the City Council in order to make the process easier for the applicant.

Mayor Barnes stated he likes the idea of streamlining the process as the Planning Commission and City Council have no grounds to disapprove a land division request if all the requirements have been met.

Council Member Fabiano asked why the Council would change an Ordinance simply to make a change. This change would put land division requests in the hands of a part-time assessor and circumvent the Planning Commission.

There was continued discussion.

Mayor Pro-Tem VanSlambrouck stated that the Planning Commission and City Council have no authority in making a decision on a land division request if all of the requirements have been met. He also noted that the assessor is overseen by the City Manager. He further stated that if the votes of the Planning Commission and City Council members have no authority and can be handled administratively at a lower level then why not make that change.

City Manager Dempsey stated that the current process also extends the time process if there is a denial because a requirement has not been met as the same process is followed. The time frame is lengthened for an applicant in a “review” process. Typically there are approximately 1 to 2 lot splits per year; this is not something that happens frequently. There have been no complaints with the timeliness of the current process. It does create a problem when a quorum of the Planning Commission cannot be met.

Motion by Krause, supported by VanSlambrouck to remove tabled Ordinance 171B to amend Chapter 16, Article 1, Section 16-1 of the City Code of Ordinances regulating the division of land in the City and to add Sections 16-2, 16-3, 16-4 and 16-5 to the City Code of Ordinances to provide application standards, procedure, approval standards, and consequences for noncompliance with land division approval requirements from the table.

Yeas: Krause, VanSlambrouck, Barnes

Nays: Fabiano

Absent: Calley

Adopted

Motion by VanSlambrouck, supported by Krause, to move forward with the First Reading of the original version of Ordinance 171B to amend Chapter 16, Article 1, Section 16-1 of the City Code of Ordinances regulating the division of land in the City and to add Sections 16-2, 16-3, 16-4 and 16-5 to the City Code of Ordinances to provide application standards, procedure, approval standards, and consequences for noncompliance with land division approval requirements at the next City Council meeting.

Yeas: VanSlambrouck, Krause, Barnes

Nays: Fabiano

Absent: Calley

Adopted

Under New Business, the Second Reading and consideration of Ordinance 1A to repeal Section 14-3 of the City Code of Ordinances and to add Article II, Section 14-10 through 14-15 to the City Code of Ordinances to regulate the discharge of consumer fireworks in the City. This ordinance would make it a municipal civil infraction to discharge consumer fireworks in the City of Portland except between the hours of 8:00 a.m. and 1:00 a.m. on the day before, day of, and day after a National Holiday. The City's nuisance ordinance will remain in force during the hours permitted to address firework discharges that annoy, injure or endanger the safety, health, comfort or repose of the public.

Motion by Krause, supported by VanSlambrouck, to approve Ordinance 1A to repeal Section 14-3 of the City Code of Ordinances and to add Article II, Section 14-10 through 14-15 to the City Code of Ordinances to regulate the discharge of consumer fireworks in the City.

Yeas: Krause, VanSlambrouck, Fabiano, Barnes

Nays: None

Absent: Calley

Adopted

The Council considered Resolution 13-67 to authorize the issuance of 2013 General Obligation Limited Tax Bonds for \$1,400,000. The resolution authorizes the closing on the bonds after the 45-day Notice of Intent to Issue Bonds was published. The bond proceeds will be used to fund upcoming street projects.

Motion by Krause, supported by VanSlambrouck, to approve Resolution 13-67 to authorize issuance of 2013 General Obligation Limited Tax Bonds.

Yeas: Krause, VanSlambrouck, Fabiano, Barnes

Nays: None

Absent: Calley

Adopted

The Council considered Resolution 13-68 to approve Fleis & VandenBrink's proposal for engineering services associated with the remediation of the fuel spill at the Diesel Generation Plant. The City has been working with the environmental engineering group at Fleis & VandenBrink to make sure all appropriate steps are being taken to remediate the diesel fuel release that occurred with the failure of the underground fuel return line at the Diesel Generation Plant in January of 2009. City Manager Dempsey requested that Fleis & VandenBrink provide an updated proposal for 2013-2014 with a new scope of services and budget for engineering services associated with the remediation effort based on the change in conditions. There continues to be less sampling so the \$13,240 cost of this proposal is the same as last year.

Motion by VanSlambrouck, supported by Fabiano, to approve Resolution 13-68 approving Fleis & VandenBrink's proposal for engineering services associated with the remediation of the fuel spill at the Diesel Generation Plant.

Yeas: VanSlambrouck, Fabiano, Krause, Barnes

Nays: None

Absent: Calley

Adopted

Under the Discussion of the Fee Imposed for Special Events that use the City's River Trail to raise funds City Manager Dempsey noted the memo from Parks and Recreation Director Scheurer outlining the costs associated with these events. The Park and Recreation Board met on August 15th to review the matter and urged the Council to uphold the special events fee to help offset some of the costs associated with these events.

Mr. Lawless requested consideration of a deposit being made for events on the City's River Trail that could be refunded for costs not incurred by the City if the group holding the event takes care of costs to the City.

Mr. Weller stated that after meeting on August 15th the Parks and Recreation Board stands firm with their recommendation to the City Council imposing the fee for special events that use the City's River Trail to raise funds. They believe that the sliding fee scale is fair.

City Manager Dempsey stated there is a tacit implication when an event is published that it will be run in a safe manner. There is some time and effort in ensuring the event will be run safely. He further stated that even with a deposit situation there would still be a need for staff to verify what event volunteers have done on the City's behalf had been done correctly. The City ultimately cannot delegate the responsibility as it is still liable. The City also ensures the River Trail is clean and the lawn is mowed when an event is held; although it is done on a regular schedule.

Mr. Weller gave the example that St. Patrick's has always paid for field usage for ball tournaments. This new fee is not something new; the Board is just adding events as they are becoming more common.

City Manager Dempsey noted that the Portland Community Arts Council uses the band shell for "Thursdays on the Grand" for public enjoyment. There is no fee charged as they are not raising funds. Others that use the band shell pay a reservation fee.

Council Member Krause stated good points have been made in the City protecting the public and stands by the original resolution.

Council Member Fabiano stated his belief that it is a shame to charge people to use the City's beautiful trail when the City tax base is to take care of these types of things.

City Manager Dempsey stated that revenues are tight all across the State of Michigan; it is not unusual to have a cost to things that don't benefit the general public.

Mayor Pro-Tem VanSlambrouck stated that Parks and Recreation are funded through the General Fund which is seeing more and more cuts and has been charged with finding more revenue sources. Until these departments are funded differently the City will continue to see these kinds of issues arise. He further stated he doesn't agree with the fee and stated the Parks and Recreation departments need to be funded appropriately.

Mayor Barnes stated that the board members on City Board and Commissions serve voluntarily and we value their service and recommendations. He suggested trying to address these kinds of issues ahead of time.

Motion by VanSlambrouck, supported by Krause, to approve the Consent Agenda which includes the Minutes and Synopsis from the Regular City Council meeting held on August 5, 2013, payment of invoices in the amount of \$161,869.79 and payroll in the amount of \$116,403.13 for a total of \$278,272.92. There were no purchase orders over \$5,000.

Yeas: VanSlambrouck, Krause, Fabiano, Barnes

Nays: None

Absent: Calley

Adopted

Under Council Comment, Mayor Pro-Tem VanSlambrouck noted that “Wine the Walk” was held Saturday, August 17th. The event was very successful and had beautiful weather.

Motion by Fabiano, supported by Krause, to adjourn the regular meeting.

Yeas: Fabiano, Krause, VanSlambrouck, Barnes

Nays: None

Absent: Calley

Adopted

Meeting adjourned at 8:03 P.M.

Respectfully submitted,

James E. Barnes, Mayor

Monique I. Miller, City Clerk