

City of Portland

Portland, Michigan

Minutes of the City Council Meeting

Held on Monday, November 19, 2012

In Council Chambers at City Hall

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

Guests: Stephen Seger, Mike Hoorman of the Brick House Grille

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

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

Yeas: Krause, Fabiano, VanSlambrouck, Calley, Barnes

Nays: None

Adopted

Under the City Manager Report, City Manager Dempsey presented information on the action items for consideration on the Agenda.

In addition to information for Resolution 12-100 for the approval of a Revised Budget for Fiscal Year 2012-2013 for the Portland Area Fire Authority City Manager Dempsey noted the Authority Board announced it would be taking applications for the Fire Chief position.

City Manager Dempsey also reported a resident expressed concern about the \$4,900 cost of the Critical Bridge inspection approved at the November 5th meeting. City Manager Dempsey contacted the Engineers and requested they provide additional detail on what the fracture critical piece entails. Due to the configuration of the Bridge Street Bridge, the MDOT under-bridge inspection vehicle that is available isn't practical. Therefore, the engineers will be accessing the structure "at arm's length" by using several different ladders with fall protection equipment. This is quite a bit more time consuming than a ride along with MDOT. The cost of the initial fracture critical inspection is quite a bit higher than is anticipated for future cycles. The initial field work will take longer because they have to develop procedures to safely access the structure. There are several items that have to be prepared once for use on future inspections. Once this first inspection is completed, the engineers think the fracture critical component on future inspection cycles will cost approximately \$1,000 to \$1,500.

The City received bids from 3 local concrete contractors and selected the low bidder, On the Level Concrete, to install a pedestrian sidewalk ramp on Oak Street so the northbound pedestrian traffic could cross on the east side of Lincoln Street to Oakwood Elementary School. The City's DPW assisted with removing curb and top soil and painting the stop bar and new crosswalk. On the Level had some additional concrete so they replaced a bad square of sidewalk on the north side of the intersection at no additional cost.

City Manager Dempsey described the Commercial and Industrial and Residential Energy Optimization Incentives included in the payables this month.

The Holidayfest 2012 was a big success. Many people came down for the snowball drop on Friday evening and the parade on Saturday. The horse drawn carriage rides were again a popular event. City Manager Dempsey expressed compliments to Main Street and the Arts Council on a job well done.

City Manager Dempsey acknowledged the Portland High School and St. Patrick's football teams on their great seasons; making it into post season play. The Portland Raiders continue to play after rebounding from an early 11-point deficit with 22 straight points and held on for a 28-23 victory over Ann Arbor Gabriel Richard on Saturday, November 17th, sending the Raiders to their first state championship game in school history.

City Manager Dempsey read a comment from a parent of an Ann Arbor Gabriel Richard player to PHS Athletic Director Veale commending the PHS players and fans for their character and good sportsmanship.

Mayor Barnes asked Council Member Fabiano if there were minutes available documenting the discussion of the decision to post the Fire Chief position.

Council Member Fabiano stated there was not as it was handled by the Personnel Committee and was a recommendation to the Board. He was not aware that minutes of the committees were required. Other big decisions have been handled by the committees.

City Manager Dempsey stated minutes may be required if making big decisions; if recommendations to the Board are made for approval then they may not be.

Council Member Fabiano stated it may not be a bad idea to have minutes of the committee meetings.

Mayor Barnes asked if a Personnel Policy had been completed and on what basis they would hire a new Fire Chief.

Council Member Fabiano stated a Personnel Policy had not been developed yet.

Council Member Krause stated that if this policy has not been made yet then what is this job posting based on?

Council Member Fabiano stated he is not comfortable commenting on specific issues. The decision to post the Fire Chief position was based on the fact that there has been no formal procedure in the past. This seems like the appropriate time to make sure the Fire Authority has the most qualified person as the Fire Chief.

Mayor Barnes stated that this "sounds" good but isn't in the spirit of the Fire Authority agreement. The agreement states that no employee who is transferred to the Fire Authority would be placed in any worse position.

Council Member Fabiano stated that the intent of the agreement was followed; all employees were transferred to the Fire Authority.

Mayor Barnes inquired if a performance review had been done.

Council Member Fabiano stated that he was not aware of one being done. He further stated the current Fire Chief is welcome to apply for the position.

Mayor Barnes stated that given the lack of process in a day and age of transparency this seems like a thinly veiled effort to give the position to someone else.

Council Member Fabiano said that it may appear that way. This issue was discussed at length and was not meant to be back-handed. This was approved unanimously by the Fire Authority Board on recommendation from the committee. There is currently no personnel issue with the current Fire Chief.

Mayor Barnes stated the Fire Authority Agreement was adopted with specific language; his goal is to assure the agreement is being adhered to. The big question for him is why the need for change if there is no personnel issue.

Council Member Fabiano stated the Fire Chief position has never been posted; it has always been appointed by the City Manager. The hiring of the Fire Chief should go through a proper procedure and the top person in the Fire Department should be the most qualified.

Mayor Barnes inquired if the criteria for the Fire Chief, when developed, would include some type of interface with the Ambulance Department. It seems there would be a need for a good working relationship between these two departments.

Council Member Fabiano stated it is not necessary for a fireman to be a paramedic; he doesn't see the necessity that both departments be run by the same person.

Council Member Krause asked what procedure in the agreement is being used for this decision.

Council Member Fabiano stated there has been no set procedure; the Authority is trying to set a new procedure by going through this process.

Council Member Krause stated she believes the Agreement reads that the legislative body should establish the procedures. She further stated the agreement states that no City Employee who is transferred to the Fire Authority would be placed in any worse position. This process could put our current Fire Chief in a worse position.

Council Member Fabiano stated that the Fire Authority approved and took on all current employees of the Fire Department when the Agreement was put into effect.

Council Member Krause stated her belief that this is a breach of Article 1, Section 1.3 (c).

Mayor Pro-Tem VanSlambrouck commented this issue seems to be a timeline issue. He inquired what the timeline is for this process.

Council Member Fabiano stated the process will begin immediately as the Fire Authority is newly formed.

Mayor Pro-Tem VanSlambrouck stated his understanding that as transfer to the Fire Authority has occurred this is now under the jurisdiction of the Authority Board. They have the authority to make changes. The Fire Chief position is the only position that is paid. This process would not apply to the fireman, etc.

Council Member Krause stated that if the agreement is interpreted to mean the Fire Chief should reapply for his position then the same provision would apply to all employees of the Authority. What would be next? Will all firemen have to reapply? If the Authority starts chipping away at the Contract what will be next. There may be other implications, although not intended.

Council Member Fabiano stated it is not the intent of the Board to replace every firefighter. Each employee of the Fire Authority is an at-will employee. They are only looking at the most important position on the Fire Department.

City Manager Dempsey gave his interpretation of the issue at hand. It seems there is a concern over the provision of transferring employees and whether they may be put in a worse position. There is a question about whether any policies or procedures have been established for hiring or staffing positions. The Agreement says they will develop those policies and procedures to do so. It sounds like there is a concern that everything has been going along smoothly until the Authority is created. Once the Authority is in place the Board is looking for a new Chief. It appears as if someone is being put in a worse position because of the transfer to the Authority. There has been no performance review done calling into question the performance by the Fire Chief. There is no timeline in place. The minutes don't provide enough information; so there is concern the Authority is not following the agreement. It seems there is a request for additional information.

Council Member Fabiano stated there is no malicious intent in taking applications for the Fire Chief position; only looking out for the best interest of the Fire Department.

Council Member Calley stated when he approved the Fire Authority Agreement he didn't anticipate the Fire Chief would have to reapply for his job. He further stated that from a layman's point of view he is taken by surprise by this action. Although he sees both sides of the issue he didn't expect this to happen.

Mayor Barnes stated he was under the impression the Fire Department would transfer the employees and the employees would remain the same; unless there was some issue necessitating a change in personnel. It has only been 4 months since the formation of the Authority. He set out to make sure no one was harmed by this agreement. He believes that basically the tenure of the Fire Chief is being terminated and he is being told he can reapply.

City Manager Dempsey gave his explanation of the process he uses in the hiring or appointment of Department Heads. Historically, succession planning has been used in trying to train individuals within departments to take over.

There was some debate between City Manager Dempsey and Council Member Fabiano on how this process has been used historically for the Fire Chief.

Council Member Krause stated she feels the Authority Board is trying to get rid of the current Chief. If this is truly needed then the proper procedures need to be followed; this type of decision should not be made "willy-nilly".

Council Member Fabiano stated the decision was not made "willy-nilly".

Council Member Krause further stated she feels this section of the agreement has need of clarification; this issue may need to go to mediation.

Council Member Calley stated he hopes the intent of the Board in taking applications for the Fire Chief position is not because he is an employee of the City and needs to be gotten rid of. He cautioned this issue should be handled very carefully.

Council Member Fabiano stated he agrees and stated that is not the intent.

Mayor Barnes commented this is why a proper procedure and criteria should be put in place. The “spirit” of the agreement may be violated.

Mayor Pro-Tem VanSlambrouck asked if a job description is available.

Council Member Fabiano stated there currently is not.

Mayor Pro-Tem VanSlambrouck stated there is much to be done before the position can be posted.

Under New Business was the First Reading of Ordinance 194B to amend Section 28-6 of the Code of Ordinances to provide regulations for Community Event Signs and to permit Temporary Banner Signs. The Planning Commission met on November 14th and held a public hearing on the proposed changes to the Sign Ordinance. This ordinance would allow a community event sign of up to 24 square feet to be placed up to 14 days in advance of an event and required it be removed within 3 days after the event. Community event signs are exempt from the permit requirement. This Ordinance would allow Temporary Banner Signs of up to 24 square feet in all non-residential districts for up to 30 days per calendar year with a permit. The time limitation may be used for one sign or split among different Temporary Banner Signs throughout the year. The Planning Commission unanimously voted to recommend approval of Ordinance 194B to the Council.

The Council considered Resolution 12-97 to approve the Mayor’s appointment of Brian Grapentien as the City’s Dangerous Building Hearing Officer. The City’s Dangerous Building Ordinance is found in Section 8-120 through 8-128 of the Portland Code of Ordinances. Those sections define what constitutes a dangerous building and provide a procedure to have such a building demolished or otherwise made safe. The procedure calls for notice to the building owner and an opportunity to appear before a Hearing Officer. This matter is coming up now because the City is seeking to demolish a fire-damaged structure on Quarterline Street that is now owned by the lender. It currently appears the lender is going to voluntarily cooperate with taking the building down; it is not likely to have to go through the Dangerous Building process.

Council Members Krause and Calley both expressed their faith in Mr. Grapentien’s qualifications and thanked him for his willingness to serve in this capacity.

Motion by Calley, supported by Krause, to approve Resolution 12-97 approving the Mayor’s appointment of Brian Grapentien as the City’s Dangerous Building Hearing Officer.

Yeas: Calley, Krause, VanSlambrouck, Fabiano, Barnes

Nays: None

Adopted

The Council considered Resolution 12-98 to authorize the Mayor and Clerk to sign a License Agreement with Mike Hoorman to permit the Brick House Grille, 205 Kent Street, to use City property to use and maintain the exhaust vent on the South wall of that building and to place a trash receptacle adjacent to City owned property.

Mr. Hoorman addressed the Council and stated he will be opening a full service restaurant offering steaks, ribs, chops, pasta, and seafood along with high quality desserts. There will be no counter service; there will be waiters and waitresses. The restaurant is planned to be upscale and will offer some catering.

Motion by Krause, supported by VanSlambrouck, to approve Resolution 12-98 approving, authorizing, and directing the Mayor and Clerk to sign a License Agreement with Mike Hoorman to permit the Brick House Grille to use City property.

Yeas: Krause, VanSlambrouck, Calley, Fabiano, Barnes

Nays: None

Adopted

The Council considered Resolution 12-99 to approve the Economic Development Corporation's recommendation to approve an exclusive Listing Agreement with Coldwell Banker Frewen Realty to market the vacant land at Cutler Rd. and Grand River Ave. The prior listing with CBRE expired at the end of last month. The EDC met on October 22nd to decide whether to renew the listing or give Coldwell Banker Frewen Realty an opportunity to list the property. After listening to a presentation from Terry Frewen the EDC approved a recommendation to the City Council to approve the listing.

Council Member Calley inquired about the minimum \$1,500 commission fee noted in the agreement.

City Manager Dempsey explained this is in the event the City were to sell property to a developer for a \$1.00, for example, the realtor would receive a \$1,500 commission.

Motion by VanSlambrouck, supported by Fabiano, to approve Resolution 12-99 approving the Economic Development Corporation's recommendation to approve an exclusive Listing Agreement with Coldwell Banker Frewen Realty to market the vacant land at Cutler Rd. and Grand River Ave.

Yeas: VanSlambrouck, Fabiano, Calley, Krause, Barnes

Nays: None

Adopted

The Council considered Resolution 12-100 to approve a revised budget for Fiscal Year 2012-2013 for the Portland Area Fire Authority. The Fire Board has approved a revised budget for the same total dollar amount but has changed the format and budget for some line items. They have submitted it to the City Council and Township Boards for approval.

Motion by VanSlambrouck, supported by Calley, to approve Resolution 12-100 approving a revised Budget for Fiscal Year 2012-2013 for the Portland Area Fire Authority.

Yeas: VanSlambrouck, Calley, Fabiano, Krause, Barnes

Nays: None

Adopted

The Council considered Resolution 12-101 to approve Pay Request No. 1 and Final for the 2012 Ultra-Thin Overlay Project Contract with Spartan Asphalt. This contract was approved with the City being responsible for City streets for an amount estimated to be \$41,811.25 plus wedging and for the Cherry Hill Condominium Association Streets being responsible for reimbursing the City for its streets for an amount estimated to cost \$18,441.28 plus wedging. City Manager Dempsey requested additional asphalt from the wedging estimate to thicken the asphalt on Market Street where it transitions to gravel so it would not break up and at an approach at an alley to transition grade and avoid ponding alongside the new pavement. The Association approved some additional length on Blossom Drive which

increased the overall contract price by \$6,747.41 with the City paying \$4,087.61 for its portion and the Association paying \$2,656.80 for its portion. Everyone involved with the project seems very pleased with the work. City Manager Dempsey recommended Council approve the payment in the amount of \$66,999.94 to Spartan Asphalt.

Motion by Krause, supported by VanSlambrouck, to approve Resolution 12-101 approving Pay Request No. 1 and Final for the 2012 Ultra-Thin Overlay Project Contract with Spartan Asphalt.

Yeas: Krause, VanSlambrouck, Calley, Fabiano, Barnes

Nays: None

Adopted

The Council considered Resolution 12-102 in support of Portland Main Street's 2013 Great American Main Street Award application. Every year, the National Trust Main Street Center recognizes exceptional Main Street communities that have demonstrated proven success in using the Main Street Four Point Approach to create economic vitality, a unique sense of place, and a strong commitment to the community by all stakeholders. Last year Portland Main Street was one of ten finalists being considered for a Great American Main Street Award (GAMSA) because its successes have served as a model for comprehensive commercial district revitalization. Unfortunately, Portland's program was not selected as one of the 5 Great American Main Streets. The Main Street Board decided to re-apply this year. Approval of this resolution would endorse that application.

Mayor Pro-Tem VanSlambrouck commented that he is very proud of the Portland Main Street program and what it has accomplished. This award would be a great honor to win.

Motion by VanSlambrouck, supported by Krause, to approve Resolution 12-102 supporting Portland Main Street's 2013 Great American Main Street Award Application.

Yeas: VanSlambrouck, Krause, Fabiano, Calley, Barnes

Nays: None

Adopted

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 November 5, 2012, payment of invoices in the amount of \$155,010.12 and payroll in the amount of \$126,063.30 for a total of \$281,073.42. There was a purchase order to Michigan Electric Cooperative Association in the amount of \$7,667.00 for 2013 Safety Dues included.

Yeas: VanSlambrouck, Krause, Calley, Fabiano, Barnes

Nays: None

Adopted

Under Council Comments, Council Member Krause thanked the Main Street program for reapplying for the GAMSA as Portland is the best small town in America. She thanked them for all of their efforts.

Mayor Pro-Tem VanSlambrouck thanked all of the volunteers involved with Holidayfest for their efforts and the residents for coming to the event.

Mayor Pro-Tem VanSlambrouck also reminded everyone the VFW will be serving a Thanksgiving Dinner on Thanksgiving Day, November 22nd for anyone interested in attending. Dinner will be served from Noon to 4:00 P.M.

Mayor Barnes commended St. Pat's for their excellent football season and wished the Portland Raiders well on their trip to the State Football Finals at Ford Field in Detroit. The recognition the team has earned for their good sportsmanship and character is a testament to the leadership of Superintendent Dumas, Athletic Director Veale, and Head Football Coach Novara.

Motion by Fabiano, supported by VanSlambrouck, to adjourn the meeting.

Yeas: Fabiano, VanSlambrouck, Calley, Krause, Barnes

Nays: None

Adopted

Meeting adjourned at 8:09 P.M.

Respectfully submitted,

James E. Barnes, Mayor

Monique I. Miller, City Clerk