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CITY OF
PORTAGE
A Place for Opportunities to Grow

PLANNING COMMISSION

February 4, 2010

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

February 4, 2010
(7:00 p.m.)

Portage City Hall Council Chambers

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

* January 21, 2010

SITE/FINAL PLANS:

* 1. Site Plan: Portage Animal Hospital 8037 Portage Road

PUBLIC HEARINGS:

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

NEW BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

December 2009 Summary of Environmental Activities Report
December 14, 2009 Zoning Board of Appeals meeting minutes
January 12, 2010 City Council meeting minutes

Star (*) indicates printed material within the agenda packet.

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PLANNING COMMISSION

January 21, 2010

The City of Portage Planning Commission meeting of January 21, 2010 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 15 people were in attendance.

MEMBERS PRESENT:

Jim Pearson, Rick Bosch, Cory Bailes, James Cheesebro, Miko Dargitz, Bill Patterson, Paul Welch, Wayne Stoffer and Chairman Thomas Fox.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner; Muhammad Arif, Traffic Engineer and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

The Planning Commission, staff and audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the January 7, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Welch, to approve the minutes as submitted. The motion was unanimously approved 9-0.

PUBLIC HEARINGS:

1. Special Land Use Permit: Imagine Motors, 2312 Winters Drive. Mr. West summarized the staff report dated January 15, 2010 regarding a request by Ms. Bonnie Granado, on behalf of Imagine Motors, to establish a used car sales facility at 2312 Winters Drive. Mr. West stated that the majority of the automobile sales business will be conducted via the internet and through vehicle auctions with no more than five vehicles at any one time being displayed for sale at the site. Mr. West stated the application fulfills ordinance requirements and is recommended for approval subject to the three conditions referenced in the staff report.

Ms. Bonnie Granado (applicant/property owner) and Mr. Gilbert Gonzales (Imagine Motors) were present to support the application. Ms Granado described the proposed automobile sales use with minimal walk-in customers and indicated any damaged vehicles purchased through the business would be temporarily stored inside the building and then transferred off-site for repair. Ms. Granado restated that no more than five vehicles would be displayed on-site at any one time. The public hearing was opened by Chairman Fox. No additional citizens spoke in regard to the special land use permit application. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved. After a brief discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to approve the Special Land Use Permit for Imagine Motors, 2312 Winters Drive, subject to the following conditions: 1) Maximum of five vehicles displayed on-site at one time; 2) Any damaged vehicles that are temporarily stored on

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site must be within the building; and 3) During the Imagine Motor tenancy and City Transfer tenancy, no new tenants can be established on the parcel and zoning lot. The motion was unanimously approved.

2. Special Land Use Permit/Site Plan: Portage Animal Hospital, 8037 Portage Road. Mr. Forth summarized the staff report dated January 21, 2010 involving the special land use permit/site plan submitted by Chester, Inc., on behalf of Portage Road Investments LLC, to construct a new approximate 5,700 square foot veterinary hospital building and associated improvements at 8037 Portage Road. Mr. Forth discussed the most recent site plan submittal by the applicant and a January 18th telephone conversation with Attorney Nelson Karre. According to Attorney Karre, negotiations with Treystar Holdings regarding a shared/cross access agreement were still ongoing; however, Portage Animal Hospital requested action on the special land use permit and site plan at the January 21st meeting. Mr. Forth provided background information regarding discussions of a shared/cross access arrangement between the Portage Animal Hospital site and the adjacent Centreport Commons development which began in 2006. Mr. Forth also discussed the shared/cross access commitment which was agreed upon by Treystar Holdings, approved by the Planning Commission and included as a note on the approved site plan for Centreport Commons. As proposed, Mr. Forth stated the Portage Animal Hospital project is inconsistent with the Access Management Ordinance in regards to distance between driveways, alignment of driveways on opposite sides of street and vehicular connections. Regarding the special land use permit/site plan, Mr. Forth reviewed four options for Planning Commission consideration which are detailed in the January 21st staff report. Finally, Mr. Forth stated the goal of staff throughout the review process is to facilitate the development project while implementing provisions of the Access Management Ordinance as one of several goals/objectives established by City Council regarding traffic flow and safety along major thoroughfares and ensure conditions attached to the CentrePort Commons approved site plan are satisfied.

Dr. Cynthia Lunney and Dr. Andrew Helmholdt of the Portage Animal Hospital, Attorney Nelson Karre (attorney representing Portage Animal Hospital), Mr. Steve DeBold, Mr. Pete Brandon, Mr. Pete Peuquet and Mr. Tony Peuquet of Chester, Inc. (architects/engineers representing Portage Animal Hospital) were present to support the application. Dr. Lunney provided a brief history of the animal hospital use at the site and the growth of the practice since her and Dr. Helmholdt purchased property in 2005. Dr. Lunney summarized previous discussions with Treystar and the City of Portage regarding a shared/cross access arrangement between the two developments but a loss of direct access from Portage Road was not envisioned. Dr. Lunney stated she opposed a fee to Treystar for access through their property. Dr. Helmholdt expressed concerns over the potential loss of direct access to Portage Road stating he believes it devalues the property. Attorney Karre stated the Planning Commission has the ability under the Access Management Ordinance to waive provisions of the ordinance. Attorney Karre indicated that he believes the presentation by Chester, Inc. representatives will show that the proposed access arrangement is safer than a shared/cross access arrangement with the adjacent Treystar development.

Mr. DeBold and Mr. Brandon reviewed the proposed site plan and access arrangement and asked whether the existing Portage Animal Hospital driveways were considered with the CentrePort Commons site plan approval. Mr. DeBold discussed how vehicles would access the Portage Animal Hospital site, through the CentrePort Commons development, if no direct access was provided from Portage Road. Mr. DeBold stated that elimination of a direct access to the Portage Animal Hospital site devalues the property and is more detrimental to traffic flow and safety along Portage Road. Mr. Forth discussed how the Access Management Ordinance is applied to new developments and redevelopment projects. Mr. Pete Peuquet stated he has not seen any traffic study for the CentrePort Commons development. Mr. Peuquet indicated that no cross access easement to the Portage Animal Hospital site was included in the CentrePort Commons condominium documents. Mr. Forth stated that a traffic study was completed for the CentrePort Commons development, however, was never requested by Chester, Inc. or the Portage Animal Hospital.

Attorney Brown reviewed the City's responsibilities when considering the site plan for the Portage Animal Hospital. Attorney Brown stated there is no right to direct access to a public street and the ordinance requires that each parcel be provided "reasonable" access. Attorney Brown indicated the approved site plan for CentrePort Commons and the associated shared/cross access commitment and obligation affords the Portage Animal Hospital the opportunity for reasonable access. Attorney Brown stated that CentrePort Commons is obligated to negotiate

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in good faith and third party mediation is an option, if necessary. Attorney Brown also indicated that discussions of fee or payment for shared/cross access should be left to the two private property owners to negotiate. Attorney Karre restated that he does not believe Treystar has not been negotiating in good faith; however, believes the proposed access arrangement as shown on the site plan is safer than a shared/cross access arrangement. Attorney Karre indicated that the Planning Commission has the authority to approve the proposed site plan and access arrangement and was requesting that approval be granted with no connection to the Treystar development. Attorney Brown discussed the five requirements listed in Section 66-84 for Appeals under the Access Management Ordinance and indicated that it is customary for the applicant to provide expert testimony and allow staff and the Planning Commission adequate time to review the information, prior to taking action.

Commissioner Stoffer asked whether a 300-foot public notice to surrounding property owners was provided for the CentrePort Commons development. Mr. Forth indicated that State statute and local ordinance does not require public notice for site plan review. Mr. Forth discussed the original December 2008 approval of the CentrePort Commons site plan and the subsequent July 2009 reapproval of the site plan which was required since construction did not commence within the required six month period. Mr. Tony Peuquet asked what constitutes commencement of construction. Mr. Forth reviewed activities which have occurred with the CentrePort Commons development project including demolition of the former Clark gas station building, issuance of a soil erosion permit, tree removal in driveway locations, completion of engineering plans and issuance of State permits for public water main and sanitary sewer main extensions and a preconstruction meeting for the infrastructure improvements. Attorney Brown stated that collectively these activities, as described by staff, constitute commencement of construction under the Zoning Code.

The Planning Commission, staff and the applicant representatives discussed the proposed access arrangement, a possible shared/cross access arrangement with the adjacent CentrePort Commons development, payment of monthly fees to Treystar, provisions of the Access Management Ordinance and the Appeal criteria/requirements, the chronology of discussions which occurred between staff, Treystar and the Portage Animal Hospital regarding shared/cross access, traffic engineering credentials of Chester Inc., the progress of the Centreport Commons development and anticipated construction schedules for both CentrePort Commons and the Portage Animal Hospital. Mr. Pete Peuquet stated his clients were concerned about closing the Portage Road driveway for the Animal Hospital before completion of the CentrePort Commons project. Mr. Peuquet stated that once the CentrePort Commons drives have been constructed, the Portage Road driveway for the Animal Hospital can be closed but does not believe the Animal Hospital should have to pay for the cross access.

The public hearing was reconvened by Chairman Fox. Two citizens spoke in regards to the proposed development project: Mr. Dennis Laskowsky (1814 Thrushwood Avenue) and Mr. William Peet (1735 Thrushwood Avenue). Mr. Laskowsky commented on 1) driveway spacing requirements and 2) notifying the Portage Animal Hospital prior to approval of the CentrePort Commons site plan. Mr. Peet believed that paying a "toll" to Treystar for access through the CentrePort Commons development is unreasonable. No additional citizens spoke in regards to the proposed development project. A motion was then made by Commissioner Welch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved.

After additional discussion, a motion was made by Commissioner Cheesebro, seconded by Commissioner Dargitz, to approve the Special Land Use Permit for Portage Animal Hospital, 8037 Portage Road, subject to the same conditions that may be subsequently approved with the site plan. Upon a roll call vote: Stoffer (abstain), Patterson (yes), Welch (yes), Pearson (yes), Bosch (yes), Dargitz (yes), Bales (yes), Cheesebro (yes) and Fox (yes), the motion was approved 8-0-1. A motion was then made by Commissioner Welch, seconded by Commissioner Bailes, to adjourn the Site Plan and possible Access Management Ordinance Appeal for the Portage Animal Hospital, 8037 Portage Road, to the February 4, 2010 meeting. The motion was unanimously approved.

3. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the final staff report dated January 15, 2010 regarding proposed changes to Sections 42-545(A), 42-550(A) and 42-551(A) of the Zoning Code. The public hearing was reconvened by Chairman Fox. One citizen, Mr. Garnet Eckstrand (5015 Glencove Court) spoke during the public hearing. Mr. Eckstrand asked how the proposed changes would affect existing uses that have received variances or that have developed under the previous

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ordinance. Mr. Eckstrand specifically referenced the Valley Family Church – Kalamazoo located on Vincent Avenue. Mr. Forth stated the Zoning Board of Appeals approved the wall sign variance for Valley Family Church – Kalamazoo subject to no freestanding sign. No additional citizens spoke in regards to the proposed ordinance amendment. A motion was then offered by Commissioner Cheesebro, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved. The motion was unanimously approved.

4. Final Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the final staff report dated January 15, 2010 regarding proposed changes to the home occupation regulations. The public hearing was reconvened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Welch, seconded by Commissioner Pearson, to recommend to City Council that Ordinance Amendment 09-C, Home Occupation Regulations, be approved. The motion was unanimously approved. Commissioner Pearson indicated staff and the Planning Commission spent a considerable amount of time developing the ordinance language and was pleased with the final outcome. Chairman Fox added that the ordinance amendment was also a product of goals and objectives identified during the Portage 2025 Visioning Project.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Christopher T. Forth, AICP
Deputy Director of Planning and Development Services

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CITY OF
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A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** January 29, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Special Land Use Permit/Site Plan: Portage Animal Hospital, 8037 Portage Road

Following is an update on this subject.

During the January 21, 2010 meeting, the Planning Commission adjourned consideration of the site plan, and an Access Management ordinance appeal, should an appeal be submitted, until the February 4, 2010 commission meeting. Following the January 21st Commission meeting, staff met with Terry Patterson, Treystar, on Monday, January 25th and urged Treystar to work with the owners of the Portage Animal Hospital to find a cross access solution acceptable to both parties consistent with the site plan approval of the Treystar project. Mr. Patterson indicated that discussions with the owners of the Portage Animal Hospital would occur.

On Wednesday, January 27th, staff contacted Attorney Karre representing the Portage Animal Hospital to obtain a progress update for the Commission regarding negotiations with Treystar and/or an Access Management ordinance appeal. Attorney Karre indicated discussions were occurring and he would further inform staff by the end of the workday on Thursday, January 28th.

Since additional information has not yet been received for staff and Planning Commission consideration, the Commission is advised to adjourn further consideration of the site plan for the Portage Animal Hospital, 8037 Portage Road, until the meeting of February 18, 2010.

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MATERIALS TRANSMITTED

SUMMARY ENVIRONMENTAL ACTIVITY REPORT
December 2009 (*updates in italics*)

Project/Activity	**Description**	**Status**
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation on April 10, 2007 to perform annual groundwater sampling. The site groundwater data will be monitored to confirm continuation of the natural attenuation process. Consultant completed 2007 sampling and analysis in June 2007 and submitted the report to MDEQ. Sampling shows continued improvement in groundwater quality. Sampling performed in May 2009. Annual report submitted in June 2009. General groundwater quality continues to improve.
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. *-Review of 3 site/building plans and/or plats completed in December 2009.*
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	*-Sanitary sewer hookup permits issued in December 2009*: 3 *residential, 0 commercial. One connection is part of the Mandatory Sewer Connection Program.*
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process initiated (Resolution #1) on December 7, 2004. Resolution #3 was approved by City Council on January 11, 2005. Resolution #5 was adopted by City Council on February 8, 2005. On March 22, 2005, City Council approved a contract with Aquatic Services, Goodrich, MI, to perform annual weed treatment. West Lake currently working with the Kalamazoo County Drain Commissioner to create a filtration system on the Austin Lake Drain. On July 10, 2007, City Council authorized the Administration to submit a grant application in the amount of $5,000 to the Kalamazoo Foundation to assist funding the filtration system. Construction bids received by the Drain Commissioner on November 14, 2006. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008 . On July 8, 2008, City Council awarded contracts to Aquatic Services, Inc. for the 2008 Weed Treatment Program and

		awarded a contract to ASI Environmental to perform watershed and vegetation survey. Weed treatment completed in July 2008. Fall weed and fish survey began in September and was completed in October. The Lake Association used Lake Shore Environmental, LLC. Spring 2009 weed control application was completed in June 2009. Lake Association currently working on new 5 year improvement plan and special assessment request.
Retention Basin Sampling Program	Investigation regarding potential impact of retention basins on groundwater.	-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2005 the monitoring program showed stable groundwater impacts due to stormwater infiltration. Alternative road salt practices continue to be considered and evaluated. On April 11, 2006, City Council awarded contract to Kieser & Associates. 2008 semi-annual sampling complete. City staff has initiated a compilation of all city retention basin groundwater levels. 2008 annual report received with consistent water quality results. June 2009 sampling complete. *Winter sampling performed in early December 2009.*
Wellhead Protection Program (WHPP)	Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.	-Wellhead Protection Grant award received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. City staff made a presentation to the American Water Works Association at their April 25, 2008 meeting to highlight current city initiatives. Plan implementation is ongoing.
Leaf Compost Monitoring Program	Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.	-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi annual sampling was performed from 2002 to 2008 in June and January. Sampling and analysis results continue to show no groundwater impacts from the leaf composting. Sampling schedule reduced to annual sampling with results showing continued minor impact on groundwater quality. Sampling completed in July 2008 with minimal groundwater impacts noted. Sampling completed in July 2009 with minimal impacts.
Portage Creek Water Quality Sampling	Expanded program of water quality testing of Portage Creek.	City Council awarded a contract in November 2001 to Kieser & Associates to expand the Consolidated Drain testing to include additional sampling points in Portage Creek. Monitoring and analysis of the basic creek water quality indicates effectiveness of current stormwater practices. Quarterly reports show no detection of hydrocarbons in the South Westnedge Avenue Stormwater

		Treatment and Enhancement Project area and lower levels of water turbidity and nutrients. Sampling completed for June 2006 through 2008 with results continuing to show improved water quality. Semiannual sampling completed February 27, 2007. Latest sampling completed in May 2007 with results showing stable water quality. Current sampling completed in November 2007 and report received in December. Report shows consistent water quality in Portage Creek and West Fork of Portage Creek. Sampling completed in May 2008. Annual report received with consistent water quality results. Staff is currently working on water quality testing at Barberry Avenue and West Lake.
National Pollution Discharge Elimination System (NPDES) permit implementation	Five year plan to implement the current NPDES stormwater permit.	-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. Permit implementation is ongoing. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Stormwater Pollution Prevention Initiative (SWPPI) as required by NPDES permit. SWPPI submitted on October 21, 2005. Revised SWPPI to incorporate watershed management plans. Annual report was submitted December 29, 2006. SWIPPI comments received from the MDEQ and revisions resubmitted. Public education plan submitted to MDEQ on October 31, 2007. Additional NPDES SWIPPI data and public education plan submitted on November 6, 2007. Annual report was submitted December 31, 2007. The MDEQ approved the revised public education plan and SWIPPI on January 15, 2008. Re-application for permit extension was submitted on March 24, 2008. New permit applications are due August 1, 2008 for a 5 year permit cycle. The permit application for the city was submitted to MDEQ on July 31, 2008. Annual permit report submitted in December 31, 2008. Next five year permit expected in fall 2009. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year time frame with first work item (updating the Public Participation Plan) due December 11, 2009. Plan update completed with other local governments and submitted November 24, 2009.
National Pollution Discharge Elimination System (NPDES) permit implementation	Kalamazoo River Mainstem Watershed Management Plan	First meeting was held September 17, 2004. The public participation plan for the Watershed was submitted on November 22, 2004. The Public Education Plan was submitted December 31, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Watershed Committee meeting held November 22, 2005. Watershed planning focused on threatened uses and potential correction of water quality. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. Public information meeting was

		held at County Fairgrounds on October 24, 2006. Revised Watershed Plan submitted November 30, 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009.
	Portage River Watershed Management Plan	Public participation plan submitted June 28, 2004. The Public Education Plan was submitted December 31, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. First watershed meeting was held November 29, 2005. Meeting focused on water quality in the watershed and identification of pollution sources. Draft watershed plan submitted to MDEQ on December 30, 2005. Follow-up meetings are held monthly to facilitate an implementation schedule. Portage River Watershed public meeting held in Vicksburg on April 11, 2006. Review comments received from MDEQ and revised watershed plan due November 2006. Revised Watershed Plan submitted November 30, 2006, follow up meetings to be held as necessary. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009.
	Five year plan to implement an Illicit Discharge Elimination Plan (IDEP).	-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections". On May 27, 2003, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the West Fork element of the IDEP. On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of $152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of $184,264 for the remainder of the IDEP for the entire city. Due to a less than anticipated number of illicit connections, city staff asked MDEQ to expand mapping activities under the grant program. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly.
Garden Lane Arsenic Removal Facility	Construction of a water treatment facility at the Garden Lane Wellfield to remove arsenic, iron and manganese from the groundwater.	City Council approved an agreement with Fishbeck, Thompson, Carr & Huber, Inc. on January 10, 2006 to prepare a feasibility study to meet new USEPA arsenic standards for drinking water. Feasibility study completed in August 2006. Feasibility study recommended construction of a filter system using various filter media materials. Small scale pilot studies began in spring 2007.

		Pilot studies completed with generally favorable results. Geotechnical soils report completed in April 2007 and wetlands delineation received in May. Operating plants visited in May to familiarize staff with various arsenic removal processes. City staff currently evaluating three possible treatment vendors to make a final equipment selection. Engineering proposals for the project were received August 14, 2007. Project engineering awarded to Earth Tech by City Council on September 11, 2007. Project design to include Leadership in Energy and Environmental Design (LEED) criteria. Project construction bids were bids received on November 25, 2008. Contract awarded by City Council on December16, 2008 to Adams Building Contractors, Inc., Jackson, Michigan. Preconstruction meeting was held January 29, 2009. Construction underway with clearing and earth work complete. Underground piping and foundation work complete. Concrete floors and wall construction complete. Outside piping and inside plumbing complete. *Building interior and exterior site work complete. Interior painting ongoing.* Garden Lane Well #4 drilling is complete and well building is underway. *Anticipated project start up in January 2010, with final completion in spring 2010.*
Environmental Incident/Spill Clean Up Notification	Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.	*The number of environmental incident/spill investigations performed in December 2009-0. The number of incidents requiring city forces/contractor emergency cleanups–1. Close out of gasoline spill on Sprinkle Road near Zylman Road due to a vehicle crash is ongoing.*
Localized Groundwater Table Investigation	Hydrogeologic study of the Portage area, especially in the Sprinkle Woods plat area, to determine causes of increase in groundwater elevation.	On April 29, 2008, City Council awarded a contract to American Hydrogeology Corporation to investigate the reason and extent of seasonally high groundwater elevation. Special emphasis will be placed on the Black Forest plat area to suggest possible solutions to the basement leaking problems experienced in the area. Study was transmitted to City Council on July 22, 2008. Current activities are focused on assisting the affected property owners with possible solutions. A storm drainage line extension project has been designed with a bid opening set for September 18, 2008. City Council awarded a contract to Peters Construction Company on September 23, 2008. Construction began in mid October. Project was extended to serve 3 additional properties. Work was completed on October 31, 2008. City staff continues to investigate other remedies for local groundwater table issues. Work underway on compiling a history of local groundwater table elevations at 19 city-owned retention basins with data from 1994 to 2009. Data from the analysis shows a general upward trend through the Portage area from 2005 to present. Five monitoring wells were installed in the Jamaica Lane area as a result of a number of citizen

concerns. *Analysis of the Jamaica Lane wells shows that seasonal groundwater table levels have dropped approximately 18" from spring 2009 levels and level has stabilized in December.* Sampling will continue through the fall and winter months.

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CITY OF PORTAGE ZONING BOARD OF APPEALS
Minutes of Meeting – December 14, 2009

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Henry Kerr at 7:00 p.m. in the Council Chambers. Six people were in the audience.

MEMBERS PRESENT: David Felicijan, Betty Schimmel, Henry Kerr, Rob Linenger, Lowell Seyburn, Marianne Singer, Timothy Bunch (alt.)

MEMBERS EXCUSED: Donald Mordas (alt.)

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Charlie Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Felicijan moved, and Linenger seconded a motion to approve the October 12, 2009 minutes with two modifications. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 09-11, 6026, South Westnedge Avenue: Staff summarized the request for a 75 square-foot variance from the maximum permitted 100 square-foot wall sign size for a portion of the building that will be occupied by ABC Warehouse. Steve VanderSloot, Jim Meinershagen, and Tim Timmons were present on behalf of Sign Art, ABC Warehouse, and Southland Acquisitions, LLC respectively. VanderSloot acknowledged the sign code was amended in 2003, but explained that ABC Warehouse had exceptional circumstances in that it is a larger retailer with 27,000 square feet of leased space, 140 feet of lineal wall length, and because the tenant space was a little short of the 200-foot wall length, additional sign area is not permitted, resulting in a situation where the adjacent tenant with only 48 feet of lineal wall length gets the same size wall sign. VanderSloot noted the previous tenant, Circuit City received a wall sign variance based on setback and visibility, and during the ensuing decade more building pad sites had been developed in front of the mall, and the trees obscuring site visibility had grown larger. Kerr indicated the 2003 amendment was developed to eventually achieve consistency with sign size. VanderSloot indicated the proposed sign is in proportion with the size of the wall area for the tenant space and other existing signs in Southland Mall. Schimmel and Linenger noted the text on the bottom portion of the proposed sign was too small to be legible, and store identification could be improved if the business name was increased and the small text was eliminated. VanderSloot responded that ABC Warehouse was a national chain and seeks to maintain uniform branding at all locations, including the text on the bottom of the wall sign. Linenger observed that several chains appeared to have block lettering on the freestanding signs that did not match the styles found on their wall signs. Timmons clarified the property owner tries to maintain uniformity on the freestanding signs, whereas the tenants wall signs can be consistent with tenant branding. Felicijan inquired regarding the size of the existing ABC Warehouse wall sign and how many other stores have signs at or under 100 square feet in size. Meinershagen indicated the existing ABC Warehouse wall sign is roughly 150 to 170 square feet in size, and he knows of only two other stores with smaller wall sign sizes.

A public hearing was opened. Tim Timmons, Southland Acquisitions, spoke in favor of the request and noted the same practical difficulty still exists when Circuit City was granted a variance. As no further public comments were received, the public hearing was closed. Seyburn noted the proposed sign is proportional to the size of the wall area and that the building setback has always been an issue for Southland Mall.

A motion was made by Felicijan, supported by Singer, to deny a 75 square-foot variance from the maximum permitted 100 square-foot wall sign size for a portion of the building that will be occupied by ABC Warehouse for the following reasons: there are no exceptional circumstances applying to the property that do not generally apply to others in the same zoning district; and the variance would materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Upon roll call: Linenger-Yes, Kerr-Yes, Seyburn-No, Schimmel-Yes, Felicijan-Yes, Singer–Yes, Bunch–Yes. Motion carried 6-1.

Kerr inquired if the Board wanted to make an alternative motion. A motion was made by Seyburn to grant a 50 square-foot variance from the maximum permitted 100 square-foot wall sign for a portion of the building that will be occupied by ABC Warehouse for the following reasons: 1) there is a significant reduction in the nonconformity of the existing sign; 2) the existing space which was designed for a sign façade will be out of proportion for the sign permitted; 3) the applicant's region-wide logo would have to be drastically altered from all of its other signs in order to fit the required 100 square foot space; 4) the spirit of the ordinance which deals with buildings 300 feet back from the road would not be infringed upon as this building is 460 feet back, and because of that there are exceptional circumstances applying to the property that do not generally apply to others in the same zoning district; the variance is necessary for the preservation and enjoyment of a

substantial property right, the right for the property to be identified from the road; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance would not be detrimental to adjacent property and surrounding neighborhood; and the variance would not materially impair the intent and purpose of the ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. As no support for the motion was offered, the motion failed.

ZBA# 09-12, 665 Mall Drive: Staff summarized the request for a variance to erect two 288 square-foot wall signs where a maximum 175 square feet is permitted. Justin VanderArk of the Home Builders Association of Greater Kalamazoo was present present to explain the request and the history of the Home Expo event. The building at 665 Mall Drive is larger than the last venue and over 15,000 visitors are anticipated. However, 80% of guests come from outside Portage and outside the Kalamazoo County area, and wall signs are proposed to ensure the event can be easily located. In response to Kerr, the applicant indicated the signs would be removed no later than March 22, 2010. In response to Singer, VanderArk clarified the location of the proposed signs. Felicijan inquired if the sign on the north wall of the building will be illuminated and visible from the residential area. VanderArk indicated they would not illuminate the sign on the north wall, and staff indicated it would be visible from the multi-family developments to the north. Felicijan inquired how the Home Expo event advertised changes in venue in the past. VanderArk indicated large signs were placed close to the road. In response to Felicijan, staff clarified if signs are illuminated, lighting would have to be accomplished so as not to create glare. Schimmel inquired if temporary directional signs are allowed. Staff indicated yes, on-site directional signs are permitted. Linenger asked if the existing pylon sign would be used. VanderArk indicated specific plans have not yet been developed for the freestanding sign. While the use is temporary, Linenger indicated a concern with the requested 576 square feet of wall signs.

A public hearing was opened. Tim Timmons, Southland Acquisitions, and Bard Overlander, Don's Card Hut both spoke in favor of the request for a short-term use that will generate significant traffic in the area. Faith Cervin, 678 Edgefield, also spoke in favor of the request. Letters of support from the following individuals were also read into the record: Tim Timmons, Southland Acquisitions; Don Bloomand, World of Floors; Cindy Schur, Hannapel Home Center. There being no further comments, the public hearing was closed. Felicijan indicated a desire to assist with the request, but noted a need to be in keeping with the ordinance. Linenger suggested a lesser variance to permit two 8 foot by 12 foot signs. VanderArk indicated such signs would be too small. Dale Shugars, Home Builders Association, noted the project and location are unique, the temporary event will create jobs and activity in the area, and recommended the Board vote in accordance with the staff recommendation.

A motion was made by Linenger, supported by Felicijan, to approve a variance for two 128 square-foot signs, which would be 8 foot by 16 foot and located as indicated on the elevations shown in the agenda, for the following reasons: there are exceptional circumstances or conditions applying to the property that do not generally apply to others in the same zoning district; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to advertise temporarily for a regional event; the variance would not be detrimental to adjacent property and surrounding neighborhood; and because it is temporary, the variance would not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-No, Felicijan-Yes, Singer–Yes, Bunch–Yes. Motion carried 6-1.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:10 p.m.

Respectfully submitted,

Jeff Mais, Zoning & Codes Administrator

CITY COUNCIL MEETING MINUTES FROM JANUARY 12, 2010

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

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Dr. Bill Abernathy of the Berean Baptist Church of Portage, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES: Motion by Sackley, seconded by O'Brien, to approve the December 15, 2009 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Reid to read the Consent Agenda. Councilmember Reid asked that Item F.1, Ordinance Amendment #09-A, Flood Hazard Management Regulations, be removed from the Consent Agenda, and Councilmember O'Brien asked that Item F.3, West Lake Weed Management – 2010 Application Program, be removed from the Consent Agenda. Motion by O'Brien, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF JANUARY 12, 2010:** Motion by O'Brien, seconded by Urban, to approve the Check Register of January 12, 2010. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Representative Larry DeShazor of Michigan State House provided a summary of the Revenue Estimating Conference held in January (and May) and announced that he renewed his call for monthly State Revenue Estimating Conferences because of the need for estimates on a more frequent basis in order to more accurately balance the budget and ensure full funding without having to raise taxes because of a hunch. He discussed school aid, the overall deficit, unfunded mandates, inflation and compared the current, past and projected unemployment rates for Michigan with the National levels and the National per capita ranking of Michigan. He asked that City Council submit the top three (or more) unfunded state and/or federal mandates imposed upon the city.

REPORTS FROM THE ADMINISTRATION:

ORDINANCE AMENDMENT #09-A, FLOOD HAZARD MANAGEMENT REGULATIONS: Councilmember Urban asked that the suggested motion be explained as it appeared to make passage of the ordinance a foregone conclusion after the public hearing. Discussion followed regarding the wording of the item as it appeared on the Agenda Outline. City Clerk Hudson referred to the prepared Consent Agenda Motions that place the item in the form of a motion and not just a business item recommendation, as this is what is voted upon, and City Manager Evans provided assurances that the two items would have the exact same language in the future to eliminate any confusion. Discussion followed. Motion by Reid, seconded by O'Brien, to accept Ordinance Amendment #09-A for first reading and establish a public hearing on February 9, 2010, at 7:30 p.m. or as soon thereafter as may be heard, to consider approval of Ordinance Amendment #09-A; adoption of Appendix G of the 2006 State of Michigan Construction Code, 2009 Flood Insurance Study and 2009 Flood Insurance Rate Maps, which updates Section 42-991 and inserts Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; the repeal of Zoning Code Sections 42-320 to 42-330,

Flood Hazard Areas; and the repeal of Zoning Code Sections 42-162(D)(1)(2), Flood Boundaries. Upon a roll call, motion carried 7 to 0.

* **ADOPTION OF REFUNDING BOND RESOLUTIONS:** Motion by O'Brien, seconded by Urban, to adopt the Refunding Bond Resolution authorizing the sale of Limited Tax General Obligation City Share Refunding Bonds, Series 2010, in an amount not-to-exceed $2,750,000; and adopt the Resolution approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Limited Tax General Obligation City Share Refunding Bonds, Series 2010. Resolutions recorded on pages 441 and 451 of City of Portage Resolution Book No. 43. Upon a roll call, motion carried 7 to 0.

WEST LAKE WEED MANAGEMENT – 2010 APPLICATION PROGRAM: Pat Dugan, 1810 Forest Drive, explained that the five-year special assessment is expiring; therefore, a review is warranted. Mr. Dugan indicated that originally the special assessment was $67 per household, but was reduced to $25 per household when the project account had reached a more than satisfactory level. He also indicated that the West Lake Improvement Association passed a motion to raise the amount to $50 to cover other needs of the lake and a concern to cover costs in case of a catastrophe. Discussion followed.

City Engineer Chris Barnes was present for questions about the intentions of the West lake Improvement Association with regard to herbicide treatment and any questions about costs that may not be covered under special assessments.

When Mayor Strazdas asked City Attorney Brown to investigate a mechanism to provide for proper funding of items not allowed under the special assessment mechanism, Mr. Brown asked for time to research the matter and report back. Discussion followed.

Discussion followed regarding a second special assessment should one be necessary, the two drains and one road end that increase the cost of remediation, the special assessment process with regard to remediation and whether the West Lake Improvement Association could provide a presentation at a future meeting to obtain an increase in the amount of the special assessment. Discussion followed.

Motion by O'Brien, seconded by Sackley, to adopt Resolution No. 1, accept the City Manager Report and request preparation of Resolution No. 2 for the West Lake Management Program Special Assessment District No. 011-Q. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 453 of City of Portage Resolution Book No. 43.

* ***PORTAGER* PRODUCTION:** Motion by O'Brien, seconded by Urban, to alter production of the city newsletter, the *Portager*, from monthly to six times per year, commencing with the March 2010 issue. Upon a roll call vote, motion carried 7 to 0.

* **FINAL PLAN FOR OAKLAND HILLS CONDOMINIUM (PHASE II), 8716 OAKLAND DRIVE:** Motion by O'Brien, seconded by Urban, to approve the Final Plan for Oakland Hills Condominium (Phase II), 8716 Oakland Drive. Upon a roll call vote, motion carried 7 to 0.

* **PROPOSED ONE-YEAR LABOR AGREEMENT WITH THE PORTAGE POLICE OFFICERS ASSOCIATION:** Motion by O'Brien, seconded by Urban, to approve a one-year labor agreement between the City of Portage and the Portage Police Officers Association and authorize the Mayor and City Clerk to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **HEALTH INSURANCE CONTRACT RENEWALS:** Motion by O'Brien, seconded by Urban, to approve one-year contract renewals for employee health insurance with Blue Care Network (HMO), Priority Health (HMO), and Blue Cross Blue Shield of Michigan (PPO and Traditional), and a two-year contract renewal with Vision Services Plan, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **ADP PAYROLL SERVICES PRICING AGREEMENT RENEWAL:** Motion by O'Brien, seconded by Urban, to approve a two-year pricing agreement with ADP, Incorporated, to perform payroll services on behalf of the City of Portage at a first-year cost of $32,258 and a second-year cost of $32,850 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.

UNFINISHED BUSINESS:

* **AMENDMENT TO THE CITY OF PORTAGE CODE OF ORDINANCES:** Motion by O'Brien, seconded by Urban, to adopt the proposed amendment to the City of Portage Code of Ordinances by adding Article 7, Indiana & Michigan Power Company Electric Franchise, to Chapter 14, Businesses, Sections 14-192 through 14-202. Upon a roll call vote, motion carried 7 to 0.

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

Portage Senior Citizen Advisory Board of November 18, 2009.
Portage Park Board of December 2, 2009.
Portage Planning Commission of December 3, 2009.
Portage Brownfield Redevelopment Authority Draft of December 21, 2009.

NEW BUSINESS:

* **APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:** Motion by O'Brien, seconded by Urban, to appoint Jay Olweean with term ending January 31, 2013, to the Board of Review; to appoint Jason Koscinski with unfulfilled term ending October 1, 2010, to the Park Board; and, to reappoint Robert Linenger and Betty Schimmel with terms ending February 28, 2013, and appoint Donald Mordas with unfulfilled term ending February 28, 2012, and appoint Daniel Rhodus with unfulfilled alternate term ending February 28, 2012, to the Zoning Board of Appeals. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

* **STATE SYSTEMS RADIO, INC. - POLICE RADIO MAINTENANCE AGREEMENT:** Motion by O'Brien, seconded by Urban, to approve a one-year contract in the not-to-exceed amount of $24,859 with State Systems Radio, Inc., for radio maintenance, with the option to renew for three additional one-year periods, 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 Reid indicated that the report on the bus routes in Kalamazoo County and recommendations for utilization was presented at the Kalamazoo Area Transit Authority Meeting. She said that the three Portage bus routes had the lowest ridership, so a proposal to have four fifteen minute legs in and out of Crossroads Mall that would have three points of transferability to the Kalamazoo downtown area was recommended.

City Manager Evans offered to research and report back on the request from Councilmember Randall that City Council adopt a resolution or ordinance allowing a resident taxpayer to file a protest before the Portage Board of Review by letter without a personal appearance by the taxpayer or an agent in accordance with MCL 211.30(7), and the request from Councilmember O'Brien for an e-mail option.

Councilmember O'Brien indicated that at an informal wastewater meeting, the area townships expressed concern about rate increases and requested a release of the Rate Model from Kalamazoo and echoed unfunded mandate concern expressed by Representative DeShazor and a concern about revenue sharing cuts and a lack of accountability and adherence to the Hedley Amendment.

City Manager Evans extolled the virtues and quality of the recent Customer Service session conducted for staff and City Council by Phil Hedgepeth of SkillQuest International in Portage.

Mayor Pro Tem Sackley indicated that the Environmental Protection Agency issued new ozone attainment standards at an annual cost of $90 billion per year by the year 2020.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:40 p.m.

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James R. Hudson, City Clerk

***Indicates items included on the Consent Agenda.**