

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
February 9, 2010**

7:30 p.m. Call to Order.

Invocation: Pastor Jeff Jones of the Kalamazoo Valley Family Church.

Pledge of Allegiance.

Roll Call.

Proclamation:

- A. Approval of the January 26, 2010 Regular Meeting Minutes.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Check Register of February 9, 2010, as presented.
- D. Public Hearing:
 - 1. Communication from the City Manager recommending that City Council approve Ordinance Amendment #09-A, and
 - a. adopt 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;
 - b. repeal Zoning Code Sections 42-320 to 42-330, Flood Hazard Areas;
 - c. repeal Zoning Code Section 42-162(D)(1)(2), Flood Boundaries; and
 - d. adopt the Resolution to Manage Floodplain Development for the National Flood Insurance Program, required by the Federal Emergency Management Agency.
 - 2. Communication from the City Manager recommending that City Council adopt Resolution No. 3 for the West Lake Management Program Special Assessment District No. 011-Q, directing the preparation of the special assessment roll.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
 - * 1. Communication from the City Manager recommending that City Council adopt the Resolution awarding the bid for the City of Portage Michigan Transportation Fund Refunding Bonds, Series 2010 in the amount of \$6,725,000 to Stifel, Nicolaus & Co., Inc., at 2.752054 percent.
 - * 2. Communication from the City Manager recommending that City Council:
 - a. accept Ordinance Amendment #09-C, Home Occupation regulations, for first reading and establish a public hearing on March 9, 2010; and
 - b. subsequent to the public hearing, consider approval of Ordinance Amendment #09-C.
 - * 3. Communication from the City Manager recommending that City Council approve a one-year renewal with Peters Construction Company for the Sanitary Sewer Service Repair Call-in Contract at the original not-to-exceed amount of \$26,212.87 and authorize the City Manager to execute all documents related to the contract on behalf of the city.
 - * 4. Communication from the City Manager recommending that City Council authorize payment for the emergency purchase of one HP Proliant virtual server and related hardware components at a cost of \$12,381 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

- * 5. Communication from the City Clerk recommending that City Council grant the request from Carrabba's/Birchwood, Limited Partnership (A Florida Limited Partnership), to transfer ownership of the 2009 Class C licensed business, located at 5690 South Westnedge, Portage, to Carrabba's Italian Grill, LLC (A Florida Limited Liability Company).

G. Communications:

H. Unfinished Business:

* I. Minutes of Boards and Commissions Meetings:

- 1. Portage Board of Education Regular of December 14, 2009, and Committee of the Whole Work Session of January 11, 2010.
- 2. Portage Park Board of January 6, 2010.
- 3. Portage Planning Commission of January 7, 2010.

J. Ad-Hoc Committee Reports:

- 1. Communication from the City Council Assessing Issues Task Force recommending that City Council adopt the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter.

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council award an engineering professional services contract to Prein & Newhof, Incorporated, for the South Westnedge Avenue/Trade Centre Way Realignment in the not-to-exceed amount of \$56,072 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

M. Other City Matters:

- 1. Statements of Citizens.
- 2. From City Council and City Manager.

* 3. Reminder of Meetings:

- a. Wednesday, February 10, 7:00 p.m., Environmental Board, City Hall Room #1.
- b. Monday, February 15, 8:00 a.m., Kalamazoo Regional Chamber of Commerce Legislative Roll Call, The Chamber Building, 346 W. Michigan Avenue, Kalamazoo.
- c. Wednesday, February 17, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
- d. Thursday, February 18, 7:00 p.m., Portage District Library Board, Portage District Library.
- e. Thursday, February 18, 7:00 p.m., Planning Commission, City Council Chambers.
- f. Tuesday, February 23, 8:00 a.m., Portage Mayor and Council for the Day Program, City Hall Room #1.
- g. Tuesday, February 23, 7:00 p.m., Portage Mayor and Council for the Day Discussion, City Council Chambers.

N. Materials Transmitted of January 22 and 26, 2010.

Adjournment.

CITY COUNCIL MEETING SUMMARY

January 26, 2010

CHECK REGISTER

- ◆ Approved the Check Register of January 26, 2010, as presented.

PETITIONS AND STATEMENTS OF CITIZENS

- ◆ Received the letter in opposition from Craig L. Butler, 2012 Eckener Drive, to the Resolution of Intent for the City of Portage to join the Public Media Network for the provision of Cable Access Public, Education and Government programming services within the community adopted by City Council on December 15, 2009.

REPORTS FROM THE ADMINISTRATION

- ◆ Referred the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter to the City Council Assessing Issues Task Force Committee.
- ◆ Adopted Resolution No. 2 for the West Lake Management Program Special Assessment District No. 011-Q, setting a public hearing of necessity on February 9, 2010, at 7:30 p.m. or as soon thereafter as may be heard.
- ◆ Adopted the Resolution for Charitable Gaming License recognizing Cole Community Solutions, Inc., as a nonprofit organization in the City of Portage.
- ◆ Approved a budget amendment authorizing the City Manager to transfer \$17,000 from Fund 226 Fund Balance to Fund 226 Leaf Pickup Overtime.
- ◆ Postponed any action on the recommendation from the City Manager to direct the City Administration and the City Attorney to develop an ordinance that would ban the use of hand-held devices while driving and that would make any violation a primary offense until such time as the Michigan Legislature has fully considered and passed or rejected legislation on that topic.
- ◆ Approved a policy that burial plots may be reserved for six (6) months following a written request submitted to the Office of the City Clerk, with the reservation to be released at the expiration of the reservation period if payment is not made in full within six (6) months of receipt of reservation request.
- ◆ Accepted the order of the Construction Board of Appeals to demolish the house located at 4130 Branch Avenue; and authorized the City Administration to take the necessary action to demolish the house at 4130 Branch Avenue, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance.
- ◆ Set a meeting to consider the disposition of legal matters on Tuesday, March 9, 2010, City Hall Conference Room #1, beginning at 5:30 p.m.
- ◆ Received the communication from the City Manager regarding the Kalamazoo County Local Housing Assistance Fund as information only and a presentation of statistical data from David Artley of the Kalamazoo County Public Housing Commission.
- ◆ Received the communication from the City Manager regarding the December 2009 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports from the various city departments.

COMMUNICATIONS

- ◆ Received the communication from Portage Park Board Chairperson Mark Anthony Martin regarding the Spraypark initiative.
- ◆ Received the letter of support from Environmental Board Chairperson William Schwartz for the Kalamazoo County Fairgrounds to serve as the host location for the 2010 Michigan Energy Fair.

AD HOC COMMITTEE REPORT

- ◆ Affirmed that the City Council Assessing Issues Task Force continue to address issues one through four (whether the Board of Review dates were appropriate; whether to increase the membership on the Board of Review or not; whether an Alternate Term Member is feasible; and to determine the best method for providing education to Board of Review Members) as presented in the City Council Assessing Issues Task Force Report dated January 26, 2010, address the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter and assign the Board of Review topic to the City Council Advisory Board Review Committee.

BID TABULATION

- ◆ Awarded a construction contract for the Ohio Avenue Sanitary Sewer Lift Station Renovations to Balkema Excavating, Incorporated, at a total bid price of \$209,088.75 and authorized the City Manager to execute all documents related to the contract on behalf of the city.

STATEMENTS OF CITY COUNCIL

- ◆ Councilmember Reid provided local contact information for the Census Bureau: Miguel Rodriguez, Community Action Agency Census Committee, 269/532-7210, and announced that those wishing to work for the Census Bureau should bring two (2) pieces of identification and attend an informational meeting at Cooper Township Hall, at 10 a.m. or 1 p.m. on the Wednesdays in February for an interview and testing.
- ◆ Mayor Strazdas concurred with Mayor Pro Tem Sackley on the importance of an accurate census in the County of Kalamazoo, indicated that he would not be at the February 9, 2010 City Council Meeting and announced that Mayor and City Council for the Day would take place on February 23, 2010.

**COMPLETE MINUTES OF EACH CITY COUNCIL MEETING AND ALL CITY BOARDS AND COMMISSIONS
ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEMI.GOV, IN CITY HALL AND IN THE DISTRICT
LIBRARY.**

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CITY COUNCIL MEETING MINUTES FROM JANUARY 26, 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 and Claudette S. Reid, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Terry R. Urban was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Mrs. Heather Pownell of The Bridge in 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 January 12, 2010 Special and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Councilmember Campbell asked that Item F.5, Ordinance to Ban the Use of Hand-Held Devices While Driving, be removed from the Consent Agenda, and City Manager Evans asked that Item F.1, Board of Review, be removed from the Consent Agenda. Motion by Sackley, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF CHECK REGISTER OF JANUARY 26, 2010:** Motion by Sackley, seconded by Reid, to approve the Check Register of January 26, 2010. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Motion by O'Brien, seconded by Sackley, to receive the letter in opposition from Craig L. Butler, 2012 Eckener Drive, to the Resolution of Intent for the City of Portage to join the Public Media Network for the provision of Cable Access Public, Education and Government programming services within the community adopted by City Council on December 15, 2009. Upon a voice vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

BOARD OF REVIEW: City Manager Maurice Evans introduced this item and indicated that many questions and concerns had been received regarding the Permitting of a Protest of Assessed Valuation to the Board of Review by Letter, and that he felt that it was appropriate for each City Councilmember to be afforded the opportunity to present questions and concerns beyond that already received. He asked that the matter be referred to the City Council Assessing Issues Task Force Committee and to convene the Committee for the sole purpose of addressing this subject keeping the February 15, 2010 deadline in mind to allow the public to receive all necessary and proper notices. Discussion followed. Mayor Strazdas asked that City Council refer all questions and concerns to the City Manager as soon as possible. Discussion followed.

Motion by Sackley, seconded by Reid, to refer the Communication from the City Manager recommending that City Council adopt the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter to the City Council Assessing Issues Task Force Committee. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

* **WEST LAKE MANAGEMENT PROGRAM NO. 011-Q – RESOLUTION NO. 2:** Motion by Sackley, seconded by Reid, to adopt Resolution No. 2 for the West Lake Management

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Program Special Assessment District No. 011-Q, setting a public hearing of necessity on February 9, 2010, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 6 to 0.

* **NONPROFIT ORGANIZATION RECOGNITION:** Motion by Sackley, seconded by Reid, to adopt the Resolution for Charitable Gaming License recognizing Cole Community Solutions, Inc., as a nonprofit organization in the City of Portage. Upon a roll call vote, motion carried 6 to 0.

* **BUDGET AMENDMENT - FUND 226 LEAF PICKUP:** Motion by Sackley, seconded by Reid, to approve a budget amendment authorizing the City Manager to transfer \$17,000 from Fund 226 Fund Balance to Fund 226 Leaf Pickup Overtime. Upon a roll call vote, motion carried 6 to 0.

ORDINANCE TO BAN THE USE OF HAND-HELD DEVICES WHILE DRIVING:

Councilmember Campbell indicated that this item was a safety issue that was discussed at the City Council Retreat and disclosed that the statistics for accidents for drunk driving was 31% while accidents for cell phones and texting was 28% and explained how dangerous this practice can be. Discussion followed. City Attorney Brown indicated that the Michigan State Senate just passed a bill that, if it came into law, would supercede any ordinance passed by City Council. Discussion followed.

Motion by Sackley, seconded by Campbell, to postpone any action on the City Manager recommendation to direct the City Administration and the City Attorney to develop an ordinance that would ban the use of hand-held devices while driving and that would make any violation a primary offense until such time as the Michigan Legislature has fully considered and passed or rejected legislation on that topic. Upon a roll call vote, motion carried 6 to 0.

* **CEMETERY PLOT RESERVATION POLICY:** Motion by Sackley, seconded by Reid, to approve a policy that burial plots may be reserved for six (6) months following a written request submitted to the Office of the City Clerk, with the reservation to be released at the expiration of the reservation period if payment is not made in full within six (6) months of receipt of reservation request. Upon a roll call vote, motion carried 6 to 0.

* **CONSTRUCTION BOARD OF APPEALS DEMOLITION ORDER – 4130 BRANCH AVENUE:** Motion by Sackley, seconded by Reid, to accept the order of the Construction Board of Appeals to demolish the house located at 4130 Branch Avenue; and authorize the City Administration to take the necessary action to demolish the house at 4130 Branch Avenue, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance. Upon a roll call vote, motion carried 6 to 0.

* **DISPOSITION OF LEGAL MATTERS:** Motion by Sackley, seconded by Reid, to set a meeting to consider the disposition of legal matters on Tuesday, March 9, 2010, City Hall Conference Room #1, beginning at 5:30 p.m. Upon a roll call vote, motion carried 6 to 0.

KALAMAZOO COUNTY LOCAL HOUSING ASSISTANCE FUND – INFORMATION ONLY: City Manager Evans indicated that the City Administration has been working with Office of Resource Development Director David Artley, 10095 Pepperell Court, and has been receiving quarterly reports from them regarding the Kalamazoo County Local Housing Assistance Fund.

Mr. Artley introduced himself and reviewed the 2007 through 2009 homeless prevention statistics, the 2007 through 2009 housing vouchers statistics, the Portage funds through 2009 committed to leveraging, the number of active sponsors, the total sponsor hours donated, lessons learned and the next steps to be taken. Discussion followed.

Motion by O'Brien, seconded by Reid, to receive the communication from the City Manager regarding the Kalamazoo County Local Housing Assistance Fund as information only. Upon a roll call vote, motion carried 6 to 0.

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* **DECEMBER 2009 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Sackley, seconded by Reid, to receive the communication from the City Manager regarding the December 2009 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Sackley, seconded by Reid, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 6 to 0.

COMMUNICATIONS:

PORTAGE PARK BOARD CHAIRPERSON MARK ANTHONY MARTIN: Motion by Sackley, seconded by Campbell, to receive the communication from Portage Park Board Chairperson Mark Anthony Martin regarding the Spraypark initiative. At the request of Councilmember Reid, Mayor Pro Tem Sackley explained that the Park Board discussed this initiative, but indicated that there were no funds for the project, location was still at issue, recommending putting the project on hold for now but, if future funds are available, perhaps in the form of a grant, that the Park Board would be willing to move the project forward. Discussion followed, including other park initiatives. Councilmember Reid offered the annual survey as a means of obtaining public opinion of park needs and funding options, and Mayor Strazdas indicated that the Park Board agreed with this idea. Upon a roll call vote, motion carried 6 to 0.

ENVIRONMENTAL BOARD CHAIRPERSON WILLIAM SCHWARTZ: Motion by Reid, seconded by Campbell, to receive the Letter of support from Environmental Board Chairperson William Schwartz for the Kalamazoo County Fairgrounds to serve as the host location for the 2010 Michigan Energy Fair. When Councilmember Reid expressed her curiosity about what the Energy Fair is, Councilmember O'Brien explained that she had some limited information about the Energy Fair: that thousands of people attended the fair in its previous location in northern Michigan, that Kalamazoo presents a central location right off of the highway and the hope is that more people would attend if the Energy Fair was held here. Upon a roll call vote, motion carried 6 to 0.

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

Portage Environmental Board of November 11, 2009.

Portage Board of Education Special Meeting Minutes of December 2 and 9, 2009.

Portage Human Services Board of December 3, 2009.

Portage Zoning Board of Appeals of December 14, 2009.

Portage Planning Commission of December 17, 2009.

AD HOC COMMITTEE REPORT:

CITY COUNCIL AD HOC COMMITTEE: Mayor Strazdas provided a history of the City Council Assessing Issues Task Force (Mayor Strazdas, Councilmembers O'Brien and Randall) and a summary of the two recent meetings held since the City Council Retreat. Mayor Strazdas noted that the Task Force was looking for direction from the City Council as a whole. He mentioned that the four main areas to be considered are: System Audit and Property Reassessments; Customer Service, Education and Best Assessing Practices. He also mentioned that some new issues need to be reviewed and that the focus would be on the Board of Review, including: whether the Board of Review dates were appropriate; whether to increase the membership on the Board of Review or not; whether an Alternate Term Member is feasible; determining the best method for providing education to Board of

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Review Members; and the appropriateness of the City Assessor acting as Clerk of the Board of Review of Portage. He then deferred to his fellow Assessing Issues Task Force Members for comment. Discussion followed.

Councilmember Randall indicated that she has research that shows that the City Assessor is not appropriate as Clerk of the Board of Review. Discussion followed.

Councilmember O'Brien informed City Council that the Task Force had devised some questions to be asked during interviews of potential Board of Review Members and suggested asking for input from past and present Board of Review members regarding any other ideas or improvements. She asked that City Council not limit input or the review process. She recognized two different avenues to take to assign tasks: either to the City Council Assessing Issues Task Force, or to the City Council Advisory Board Review Committee, Councilmembers Campbell, Randall and Reid. Mayor Strazdas asked for dialogue from City Council regarding these suggestions. Discussion followed.

Mayor Pro Tem Sackley expressed a concern for the amount of time that needed to be devoted to these tasks by only one committee. He also expressed a concern for a potential conflict and advocated having the City Council Advisory Board Review Committee review the appropriateness of the City Assessor acting as Clerk of the Board of Review, an increase in the membership on the Board of Review and the feasibility of Alternates questions, as that Board would be separate from the Assessing Issues Task Force that would be reviewing System Audit and Property Reassessments, Customer Service, Education and Best Assessing Practices.

Councilmember Reid expressed her concern that Customer Service be consistent throughout the city, so the Council Advisory Board Review Committee should consider Customer Service in the interest of continuity and consistency. Councilmember O'Brien concurred and recognized that Councilmember Randall serves on both committees and could act as a liaison to help ensure that there are no duplications of effort and no contradictions. Mayor Strazdas asked for a motion at this time.

Motion by O'Brien, seconded by Reid, to affirm that the City Council Assessing Issues Task Force continue to address issues one through four (whether the Board of Review dates were appropriate; whether to increase the membership on the Board of Review or not; whether an Alternate Term Member is feasible; and to determine the best method for providing education to Board of Review Members) as presented in the City Council Assessing Issues Task Force Report dated January 26, 2010, and assign the Board of Review topic to the City Council Advisory Board Review Committee. Discussion followed. Councilmember Reid asked that the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter be added. City Attorney Brown indicated that it could be added to emphasize the matter and there was no problem making the same motion twice. Motion by O'Brien, seconded by Reid, to approve the City Council Assessing Issues Task Force Committee address the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter, also. Discussion followed. Mayor Strazdas complimented Councilmembers O'Brien and Randall for their expertise and assistance on the Assessing Issues Task Force Committee. Upon a roll call vote, motion carried 6 to 0.

BID TABULATION:

* **OHIO AVENUE SANITARY SEWER LIFT STATION RENOVATIONS:** Motion by Sackley, seconded by Reid, to award a construction contract for the Ohio Avenue Sanitary Sewer Lift Station Renovations to Balkema Excavating, Incorporated, at a total bid price of \$209,088.75 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 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Reid provided local contact information for the Census Bureau: Miguel Rodriguez, Community Action Agency Census Committee, 269/532-7210, and announced that those wishing to work for the Census

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Bureau should bring two (2) pieces of identification and attend an informational meeting at Cooper Township Hall, at 10 a.m. or 1 p.m. on the Wednesdays in February for an interview and testing.

Mayor Strazdas concurred with Mayor Pro Tem Sackley on the importance of an accurate census in the County of Kalamazoo, indicated that he would not be at the February 9, 2010 City Council Meeting and announced that Mayor and City Council for the Day would take place on February 23, 2010.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:13 p.m.

James R. Hudson, City Clerk

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

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 2, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Check Register

ACTION RECOMMENDED: That City Council approve the Check Register of February 9, 2010 as presented.

Attached please find the Check Register for the period January 20, 2010 through February 2, 2010, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
01/22/2010	269407	A I S CONSTRUCTION EQUIP. CO.	640		9,248.35
01/22/2010	269408	ABONMARCHE CONSULTANTS, INC	597		4,308.54
01/22/2010	269409	ACCURINT	3491		150.00
01/22/2010	269410	ADMIRAL LOCK & KEY SERVICE	104		228.55
01/22/2010	269411	AIR GAS GREAT LAKES	977		138.48
01/22/2010	269412	AIRGAS GREAT LAKES	106		19.28
01/22/2010	269414	ALLEGRA PRINT & IMAGING	533		1,877.63
01/22/2010	269415	ALLIED WASTE SERVICES #249	3078		40,106.15
01/22/2010	269416	AMERICAN SAFETY & FIRST AID	113		272.03
01/22/2010	269417	AMERICAN VILLAGE BUILDERS	999999		66.68
01/22/2010	269418	AMERICAN WATER WORKS ASSOC.	773		330.00
01/22/2010	269419	GAIL ANDRUS TRAVEL	2071		1,054.00
01/22/2010	269420	ANIMAL REMOVAL SERVICE, LLC	3428		675.00
01/22/2010	269421	ANY CUTTING & WELDING	3347		200.00
01/22/2010	269422	TODD ARBANAS ENTERPRISES INC.	1704		400.00
01/22/2010	269423	ARISTA TRUCK SYSTEMS	4459		440.27
01/22/2010	269424	ARROW UNIFORM RENTAL	4058		105.60
01/22/2010	269425	AUTOMATIC DATA PROCESSING	3305		1,187.19
01/22/2010	269426	B & B YARDSCAPE	3114		12,780.00
01/22/2010	269427	B D O SEIDMAN	136		39.03
01/22/2010	269428	BAC TAX SERVICES CORPORATION	999999		2,114.81
01/22/2010	269429	BALKEMA EXCAVATING, INC.	130		8,500.00
01/22/2010	269430	BALL, CRAIG OR LESA	1123		347.98
01/22/2010	269431	BEARING SERVICE	1157		1,620.00
01/22/2010	269432	BELL EQUIPMENT COMPANY	3844		122.22
01/22/2010	269433	BITTERSWEET ACRES	1123		39.03
01/22/2010	269434	BLUE CROSS/BLUE SHIELD OF MICH	642		2,114.81
01/22/2010	269435	BOOTH NEWSPAPERS INC	89		350.00
01/22/2010	269436	BORGESS HEALTH ALLIANCE	151		48,570.42
01/22/2010	269437	BRENNER OIL CO.	3545		85.00
01/22/2010	269438	BRINK'S, INC	153		17,486.42
01/22/2010	269439	BRONSON VICKSBURG HOSPITAL	157		225.40
01/22/2010	269440	BROWN EQUIPMENT CO., INC.	3185		200.00
01/22/2010	269441	BROWNELL'S INCORPORATED	2677		114.84
01/22/2010	269442	BYHOLT INC.	68		82.90
01/22/2010	269443	C & C AUTO & TRUCK SERVICE, IN	4434		2,167.36
01/22/2010	269445	CAMPBELL AUTO SUPPLY	437		630.00
01/22/2010	269446	CASEY'S AUTO ELECTRIC SERVICE	1593		1,198.11
01/22/2010	269447	CATHOLIC FAMILY SERVICES	752		895.00
01/22/2010	269448	CHARTER COMMUNICATIONS	3080		5,568.50
01/22/2010	269449	CITIMORTGAGE INC	999999		28.00
01/22/2010	269450	CLEAN CORNER CAR WASH	999999		135.14
01/22/2010	269451	CLEAN EARTH ENVIRONMENTAL SERV	1821		24.89
01/22/2010	269452	COMERICA BANK	999999		750.00
01/22/2010	269453	CONSUMERS ENERGY - KALAMAZOO	190		125.00
01/22/2010	269455	CONSUMERS ENERGY-BILL PMT CNT	189		4,130.00
01/22/2010	269456	CONTINENTAL LINEN SUPPLY CO.	191		66,775.32
01/22/2010	269457	CROSSROADS CAR WASH	195		40.63
01/22/2010	269458	CROSSROADS EXPERT AUTO SERVICE	4109		12.00
01/22/2010	269459	SPARTAN STORES	1620		467.01
01/22/2010	269460	DEPATIE FLUID POWER CO., INC.	211		7.40
					683.75

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
01/22/2010	269461	DON'S BRAKES, MUFFLERS & MORE	2825	70.33
01/22/2010	269462	DRISENGA & ASSOCIATES, INC.	3277	2,275.02
01/22/2010	269463	DUTHLER FORD TRUCKS, INC.	223	153.91
01/22/2010	269464	EARTH TECH	224	28,317.28
01/22/2010	269466	EMERGENCY VEHICLE PRODUCTS	2948	3,700.77
01/22/2010	269467	EMPLOYMENT GROUP, INC.	959	117.00
01/22/2010	269468	ENGINEERED PROTECTION SYSTEMS,	2973	194.25
01/22/2010	269469	ENGINEERING SUPPLY & IMAGING	2615	2,349.00
01/22/2010	269470	EQUAL EXCHANGE	4465	333.90
01/22/2010	269471	EXPRESS YOUR HEALTH	999999	150.00
01/22/2010	269472	PARTNERSHIP FOR FAIR HOUSING	1385	1,000.00
01/22/2010	269473	FINNERMANS FARM & GARDEN SERVI	13	1,168.06
01/22/2010	269474	FIRE SERVICE MANAGEMENT	2608	453.49
01/22/2010	269475	FLETCHER ENTERPRISES	1399	1,463.00
01/22/2010	269476	FREIGHTLINER OF GRAND RAPIDS,	4400	1,573.98
01/22/2010	269477	FRETZ PST-B, KRYSTAL M	999999	48.27
01/22/2010	269478	GONGWER NEWS SERVICE	4365	2,100.00
01/22/2010	269479	GORDON FOOD SERVICE	502	75.13
01/22/2010	269480	GORDON WATER SYSTEMS	517	27.00
01/22/2010	269481	GREGWARE EQUIPMENT CO.	4397	1,194.11
01/22/2010	269482	GRIFFIN PEST CONTROL, INC.	598	75.00
01/22/2010	269483	GRYPHON PLACE	3419	1,336.00
01/22/2010	269484	HARRIS, ROGER	999999	60.00
01/22/2010	269485	B L HARROUN & SON INC.	124	451.70
01/22/2010	269486	HI-TECH ELECTRIC CO.	1327	6,886.62
01/22/2010	269487	HOEKSTRA TRUCK EQUIPMENT CO IN	54	53.03
01/22/2010	269488	HOLMES, AMANDA	999999	100.00
01/22/2010	269489	HOME DEPOT	691	532.73
01/22/2010	269490	HOUSING RESOURCES, INC.	750	12,151.00
01/22/2010	269491	HUNT, BARBARA	999999	131.00
01/22/2010	269492	HUSTED, CHRIS	999999	55.18
01/22/2010	269493	I S G	3433	67.50
01/22/2010	269494	IERVOLINA, SUSAN	2074	75.00
01/22/2010	269495	INDUSCO SUPPLY CO., INC.	63	885.38
01/22/2010	269496	INT'L PERSONNEL MGMT ASSOC	1048	1,400.95
01/22/2010	269497	INTERSECT TECHNOLOGIES	379	181.00
01/22/2010	269498	KALAMAZOO COUNTY TREASURER	514	38,266.41
01/22/2010	269499	KALAMAZOO GAZETTE	999999	171.48
01/22/2010	269500	KALAMAZOO REG'L EDUC SVS AGENG	721	94,398.89
01/22/2010	269501	KALAMAZOO REGIONAL CHAMBER	3499	5,000.00
01/22/2010	269502	KALAMAZOO VALLEY COMMUNITY COL	230	20,795.95
01/22/2010	269503	KERRY STUART	999999	25.20
01/22/2010	269504	KEYSTONE AUTO REPAIR, INC.	984	2,191.48
01/22/2010	269505	KIESER & ASSOCIATES	234	5,612.50
01/22/2010	269506	KNAPP ENERGY, INC.	235	1,150.70
01/22/2010	269507	KOTECKI, CHRISTOPHER	2546	420.00
01/22/2010	269508	KZOO TIRE COMPANY	564	640.00
01/22/2010	269509	LAWSON PRODUCTS, INC	240	2,725.93
01/22/2010	269510	LONG LAKE BOARD	1720	2,006.25
01/22/2010	269511	LOWE'S HOME CENTER	2630	900.85
01/22/2010	269512	LUKE'S TRUCK SERVICE, INC.	815	4,974.16

PROGRAM: GM350L
 CITY OF PORTAGE FROM 01/20/2010 TO 02/02/2010 *ALL*

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
01/22/2010	269513	M & M MOTOR MALL	2132		77.34
01/22/2010	269514	MCDONALD'S TOWING & RESCUE, IN	728		127.00
01/22/2010	269515	MCNALLY ELEVATOR CO.	256		81.78
01/22/2010	269516	MICHIGAN ASSOCIATION OF FIRE C	3204		170.00
01/22/2010	269517	MICHIGAN ELECTION RESOURCES, L	264		6,098.75
01/22/2010	269518	MID-AMERICAN AEL	3848		93.55
01/22/2010	269519	MILLER, WILLIAM	999999		44.00
01/22/2010	269520	MML UNEMPLOYMENT FUND	4476		397.48
01/22/2010	269521	T MORGAN INC.	376		391.82
01/22/2010	269522	MULDERS LANDSCAPE SUPPLIES INC	286		16,832.00
01/22/2010	269523	National Hospitality Institute	999999		150.00
01/22/2010	269524	NATIONAL RECREATION & PARK AS.	919		55.00
01/22/2010	269525	NEW FRESH CLEANING SERVICE	4351		164.50
01/22/2010	269526	A NEW LEAF	635		85.00
01/22/2010	269527	NICHOLSON, SANDY	999999		480.00
01/22/2010	269528	OFFICE DEPOT, INC.	1721		318.30
01/22/2010	269529	OFFICEMAX INCORPORATED	301		205.60
01/22/2010	269530	ONE WAY PRODUCTS	440		448.50
01/22/2010	269531	JAROTH - P T S	3957		303.00
01/22/2010	269532	PARADIGM DESIGN, INC.	3306		1,662.50
01/22/2010	269533	GERIATRIC RESOURCE NETWORK	4500		1,000.00
01/22/2010	269534	PETERS CONSTRUCTION CO.	1638		2,241.12
01/22/2010	269535	PETTY CASH-CITY HALL	767		816.99
01/22/2010	269536	PETTY CASH-CITY MANAGER	805		243.20
01/22/2010	269537	PETTY CASH-FIRE	610		96.86
01/22/2010	269538	PETTY CASH-PARKS	536		327.66
01/22/2010	269539	PETTY CASH-SENIOR CENTER	537		106.39
01/22/2010	269540	PFIZER	999999		15.82
01/22/2010	269541	PORTAGE PUBLIC SCHOOLS	590		98,470.64
01/22/2010	269542	COLLEEN POTTER	3460		1,350.00
01/22/2010	269543	PRECISION PRINTER SERVICES INC	2584		1,330.68
01/22/2010	269544	PROCARE TREE SERVICE LLC	4452		15,200.00
01/22/2010	269545	QUALITY AIR HEATING & COOLING,	3621		832.33
01/22/2010	269546	QUALITY TRANSMISSION INC.	2927		2,888.93
01/22/2010	269547	RATHCO SAFETY SUPPLY, INC.	327		405.25
01/22/2010	269548	RIDGE AUTO NAPA	438		1,492.86
01/22/2010	269550	ROAD EQUIPMENT PARTS CENTER	339		2,979.33
01/22/2010	269551	ROE-COMM, INC.	341		655.70
01/22/2010	269552	ROOT SPRING SCRAPER CO.	344		1,054.00
01/22/2010	269553	ROSE PEST SOLUTIONS	634		31.00
01/22/2010	269554	ROWLEY BROTHERS, INC.	346		681.10
01/22/2010	269555	S B F/CORONA GRAPHICS	3481		813.24
01/22/2010	269556	SAFETY SERVICES, INC.	349		283.59
01/22/2010	269557	SARCOM, INC.	1194		40,416.67
01/22/2010	269558	SARCOM	2076		330.46
01/22/2010	269559	SEVERANCE ELECTRIC COMPANY, INC	353		2,600.00
01/22/2010	269560	SHULTS EQUIPMENT	1042		2,539.53
01/22/2010	269561	SIEGFRIED, PHIL	999999		290.00
01/22/2010	269562	SKILLQUEST INTERNATIONAL LLC	456		285.00
01/22/2010	269563	SNELLING PERSONNEL SERVICES	2107		913.50
01/22/2010	269564	STATE OF MICH - STATE POLICE	367		50.00

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VENDOR NAME

VENDOR #

BANK CODE

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CHECK NUMBER	CHECK DATE	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
269565	01/22/2010	STATE OF MICHIGAN (DOT)	368		16,486.91
269566	01/22/2010	STATE OF MICHIGAN (MDEQ)	820		400.00
269567	01/22/2010	STATE SYSTEMS RADIO, INC	369		4,174.43
269568	01/22/2010	STEENSMAN LAWN & POWER EQUIPMENT	3222		4,000.00
269569	01/22/2010	STEVE ELLIS TOURS	999999		500.00
269570	01/22/2010	SUITS U TAILOR SHOP INC	4237		225.00
269571	01/22/2010	T-MOBILE USA INC	3665		29.99
269572	01/22/2010	TAX MANAGEMENT ASSOCIATES, INC	2458		2,500.00
269573	01/22/2010	TERRA ABATEMENT SERVICES, LLC	4245		1,673.25
269574	01/22/2010	THOMPSON, HELENE	4417		102.00
269575	01/22/2010	TIGER DIRECT, INC.	4272		199.99
269576	01/22/2010	TRACTOR SUPPLY CORP.	2817		78.83
269577	01/22/2010	TRIGO BREAD CO. LLC	4158		78.48
269578	01/22/2010	TRUE-TECH INDUSTRIES CO.	4069		205.62
269583	01/22/2010	U S BANK	3497		10,537.50
269584	01/22/2010	U S POSTMASTER	391		3,400.00
269585	01/22/2010	UNITED PARCEL SERVICE	545		136.22
269586	01/22/2010	UNITED PETROLEUM	396		786.31
269587	01/22/2010	UNITED WATER NACO LLC	4304		165.22
269588	01/22/2010	US DEPT OF HUD	999999		161,579.63
269589	01/22/2010	VALKNER, JEANETTE	999999		131.00
269590	01/22/2010	VARNUM, RIDDERING, SCHMIDT & H	402		8,503.00
269591	01/22/2010	VERES, ANDREW	999999		78.20
269592	01/22/2010	WEEKS FOREST PRODUCTS, INC.	3498		1,733.97
269593	01/22/2010	WELLER TRUCK	1594		1,075.00
269594	01/22/2010	WEST MICHIGAN GLASS SOCIETY	999999		144.00
269596	01/22/2010	WESTERN MICHIGAN INT'L TRUCKS	4306		6,682.43
269597	01/22/2010	WHITELEY, JERE H	999999		22.62
269598	01/22/2010	WINDER POLICE EQUIPMENT, INC.	429		413.92
269599	01/22/2010	WINGFOOT COMMERCIAL TIRE	2613		2,138.27
269600	01/22/2010	WISSOTA MANUFACTURING CO.	4137		286.00
269601	01/22/2010	WOLVERINE LAWN SERVICE, INC.	1089		4,562.00
269603	01/22/2010	XEROX CORP.	2684		1,050.19
269604	01/22/2010	Y W C A, INC	751		5,367.00
269605	01/22/2010	ZBATTERY.COM	2558		72.24
269606	01/22/2010	360 SERVICES, INC.	637		2,684.82
269607	01/22/2010	56TH DISTRICT COURT B	999999		85.00
269608	01/22/2010	81ST DISTRICT COURT	999999		1,000.00
269609	01/28/2010	GREATER KALAMAZOO FOP LODGE 98	623		4,920.50
269610	01/28/2010	GREATER KALAMAZOO UNITED WAY	628		1,241.90
269611	01/28/2010	PORTAGE FIREFIGHTERS	625		1,543.20
269612	01/28/2010	PORTAGE ON-CALL FIREFIGHTERS	504		124.74
269613	01/28/2010	PORTAGE POLICE OFFICERS ASSOC	624		156.80
269614	01/28/2010	U A W, LOCAL 2290	1862		421.54
269615	01/29/2010	A T & T LONG DISTANCE	4060		39.91

DATE RANGE TOTAL * 947,307.79 *

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 1, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Ordinance Amendment #09-A, Flood Hazard Management Regulations

ACTION RECOMMENDED: That City Council approve Ordinance Amendment #09-A, and

- a. adopt 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;
- b. repeal Zoning Code Sections 42-320 to 42-330, Flood Hazard Areas;
- c. repeal Zoning Code Section 42-162(D)(1)(2), Flood Boundaries; and
- d. adopt the Resolution to Manage Floodplain Development for the National Flood Insurance Program, required by the Federal Emergency Management Agency.

On August 17, 2009, the Federal Emergency Management Agency (FEMA) notified the city that the update of the Flood Insurance Study and the Flood Insurance Rate Maps was complete. FEMA initiated the update process in September 2005, provided the preliminary study and flood maps to the city in August 2007, published base flood elevation information in the Kalamazoo Gazette in January 2009 and conducted the final appeal period that ended in May 2009. As required by FEMA, the City of Portage must ensure that flood hazard management regulations in the city are consistent with the National Flood Insurance Program (NFIP) requirements by February 17, 2010. The city has participated in the NFIP since the early 1980s and adopted floodplain regulations in 1983.

The Department of Community Development and the City Attorney have reviewed the State of Michigan model ordinance, which includes adoption of Appendix G of the 2006 State of Michigan Construction Code. The existing Zoning Code sections referencing flood hazard areas were also reviewed. To facilitate compliance with the NFIP, and consistent with the recommendation by the Michigan Department of Environmental Quality, adoption of Appendix G of the State Construction Code, with the repeal of Zoning Code Sections 42-320 through 330 and 42-162, are recommended.

The Planning Commission reviewed the proposed ordinance modifications during the November 19, 2009 meeting and conducted a public hearing at the December 3rd and 17th, 2009 meetings. After discussion of the issues and proposed ordinance changes, the Planning Commission voted 7-1 to recommend to City Council that Ordinance Amendment #09-A be adopted. The City Administration also recommends that the resolution required by FEMA also be approved.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: February 1, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Ordinance Amendment #09-A, Flood Hazard Management Regulations

The City of Portage has participated in the National Flood Insurance Program (NFIP) since the early 1980s when the Federal Emergency Management Agency (FEMA) issued Flood Insurance Rate Maps that identified the Special Flood Hazard Areas in the city. FEMA has advised the city in a letter dated August 17, 2009 that the 2009 review and update process of the Flood Insurance Study and Flood Insurance Rate Maps for the City of Portage has been completed and, as a result, the city must now ensure that flood hazard management regulations in effect in the community are consistent with NFIP requirements by February 17, 2010.

As you know, the City Administration regularly communicates information to Portage residents about flood hazards. The publication of the Portager is used and has contained articles about flood hazards and the city participation in the NFIP Community Rating System. As of May 2009, Portage was one of 20 communities in the state that participated in this program. Also, in January 2009, information about the new flood study and new flood hazard area maps were the subject of an article in the Portager.

The Department and the City Attorney have reviewed the State of Michigan model ordinance, which includes adoption of the attached Appendix G of the 2006 State of Michigan Construction Code. The existing Zoning Code sections referencing flood hazard areas were also carefully examined. Appendix G essentially continues the current practices in the city. While Appendix G does not list specific types of land uses or structures that are permitted in flood hazard areas, this state-recommended regulation ensures that construction activities will occur consistent with stringent floodplain requirements, will be accomplished in a manner that minimizes or eliminates the loss of life and/or property, and construction will not impede the flow of flood waters. The Zoning Code will continue to regulate the types of land uses and the setbacks, mass and density of development based on the established and applicable residential, commercial and industrial zoning districts.

The existing flood hazard area regulations in the Zoning Code were adopted in 1983, subsequent to FEMA issuing the first Flood Insurance Rate Maps for the City of Portage. With the improved data about areas subject to flood hazards and the sophistication of construction practices new, more appropriate regulation of private property is necessary. Michigan communities are fortunate that the State Construction Code has been adopted and provides for uniform regulations. The State Construction Code contains flood hazard area management regulations, which are applicable to development activities in the flood hazard areas. These regulations establish the framework for consistent flood hazard area management throughout the State of Michigan and communities are encouraged to adopt the model ordinance, which exceeds the minimum NFIP requirements. Several other Michigan communities including the City of Kalamazoo, Texas Township, the cities of Midland, Sterling Heights and Troy have adopted Appendix G to manage development activities in flood hazard areas. Furthermore, the City of Kalamazoo and Texas Township have repealed existing, dated Zoning Code regulations related to flood hazard management with adoption of Appendix G, and Oshtemo Township is in process.

In the December 11, 2009 Department of Community Development report, staff recommended the following ordinance modifications:

- 1) Adopt 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;
- 2) Repeal Zoning Code Sections 42-320 to 42-330, Flood Hazard Areas; and
- 3) Repeal Zoning Code Section 42-162(D)(1)(2), Flood Boundaries.

At the December 17, 2009 meeting, the Planning Commission voted 7-1 to recommend that City Council approve Ordinance Amendment #09-A, as proposed by the Community Development Department. Attached find the Planning Commission transmittal and draft meeting minutes, Department of Community Development communication and related materials for your information and review.

Finally, and subsequent to the December 2009 report, the City Administration was advised by the State of Michigan National Flood Insurance Program coordinator that the attached resolution must be adopted and accompany the ordinance amendment when it is submitted to FEMA. As a result, the approval of the resolution by the City Council is also advised.

Attachments: Appendix G, State of Michigan Construction Code
Planning Commission transmittal dated December 29, 2009
Planning Commission Minutes dated November 19th, December 3rd and December 17th, 2009
Department of Community Development report dated December 11, 2009
Ordinance Amendment
Resolution to Manage Floodplain Development for the National Flood Insurance Program

APPENDIX G

FLOOD-RESISTANT CONSTRUCTION

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION G101 ADMINISTRATION

G101.1 Purpose. The purpose of this appendix is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas designed to:

1. Prevent unnecessary disruption of commerce, access and public service during times of flooding;
2. Manage the alteration of natural flood plains, stream channels and shorelines;
3. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential;
4. Prevent or regulate the construction of flood barriers which will divert floodwaters or which can increase flood hazards; and
5. Contribute to improved construction techniques in the flood plain.

G101.2 Objectives. The objectives of this appendix are to protect human life, minimize the expenditure of public money for flood control projects, minimize the need for rescue and relief efforts associated with flooding, minimize prolonged business interruption, minimize damage to public facilities and utilities, help maintain a stable tax base by providing for the sound use and development of flood-prone areas, contribute to improved construction techniques in the flood plain and ensure that potential owners and occupants are notified that property is within flood hazard areas.

G101.3 Scope. The provisions of this appendix shall apply to all proposed development in a flood hazard area established in Section 1612 of this code, including certain building work exempt from permit under Section 105.2.

G101.4 Violations. Any violation of a provision of this appendix, or failure to comply with a permit or variance issued pursuant to this appendix or any requirement of this appendix, shall be handled in accordance with Section 113.

SECTION G102 APPLICABILITY

G102.1 General. This appendix, in conjunction with the *International Building Code*, provides minimum requirements for development located in flood hazard areas, including the subdivision of land; installation of utilities; placement and replacement of manufactured homes; new construction and repair,

reconstruction, rehabilitation or additions to new construction; substantial improvement of existing buildings and structures, including restoration after damage; and certain building work exempt from permit under Section 105.2.

G102.2 Establishment of flood hazard areas. Flood hazard areas are established in Section 1612.3 of the *International Building Code*, adopted by the governing body on [INSERT DATE].

SECTION G103 POWERS AND DUTIES

G103.1 Permit applications. The building official shall review all permit applications to determine whether proposed development sites will be reasonably safe from flooding. If a proposed development site is in a flood hazard area, all site development activities (including grading, filling, utility installation and drainage modification), all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) and certain building work exempt from permit under Section 105.2 shall be designed and constructed with methods, practices and materials that minimize flood damage and that are in accordance with this code and ASCE 24.

G103.2 Other permits. It shall be the responsibility of the building official to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development.

G103.3 Determination of design flood elevations. If design flood elevations are not specified, the building official is authorized to require the applicant to:

1. Obtain, review and reasonably utilize data available from a federal, state or other source, or
2. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a registered design professional. Studies, analyses and computations shall be submitted in sufficient detail to allow review and approval by the building official. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

G103.4 Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the building official shall not permit any new construction, substantial improvement or other development, including fill, unless the applicant demonstrates that the cumulative effect of the proposed devel-

opment, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 1 foot (305 mm) at any point within the community.

G103.5 Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the building official shall require submission of a certification, along with supporting technical data, that demonstrates that such development will not cause any increase of the level of the base flood.

G103.5.1 Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a conditional Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency (FEMA).

G103.6 Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the building official shall require the applicant to provide notification of the proposal to the appropriate authorities of all affected adjacent government jurisdictions, as well as appropriate state agencies. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

G103.6.1 Engineering analysis. The building official shall require submission of an engineering analysis which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased. Such watercourses shall be maintained in a manner which preserves the channel's flood-carrying capacity.

G103.7 Alterations in coastal areas. Prior to issuing a permit for any alteration of sand dunes and mangrove stands in flood hazard areas subject to high velocity wave action, the building official shall require submission of an engineering analysis which demonstrates that the proposed alteration will not increase the potential for flood damage.

G103.8 Records. The building official shall maintain a permanent record of all permits issued in flood hazard areas, including copies of inspection reports and certifications required in Section 1612.

SECTION G104 PERMITS

G104.1 Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the building official and shall obtain the required permit.

G104.2 Application for permit. The applicant shall file an application in writing on a form furnished by the building official. Such application shall:

1. Identify and describe the development to be covered by the permit.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or

similar description that will readily identify and definitely locate the site.

3. Include a site plan showing the delineation of flood hazard areas, floodway boundaries, flood zones, design flood elevations, ground elevations, proposed fill and excavation and drainage patterns and facilities.
4. Indicate the use and occupancy for which the proposed development is intended.
5. Be accompanied by construction documents, grading and filling plans and other information deemed appropriate by the building official.
6. State the valuation of the proposed work.
7. Be signed by the applicant or the applicant's authorized agent.

G104.3 Validity of permit. The issuance of a permit under this appendix shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the building official from requiring the correction of errors. The building official is authorized to prevent occupancy or use of a structure or site which is in violation of this appendix or other ordinances of this jurisdiction.

G104.4 Expiration. A permit shall become invalid if the proposed development is not commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

G104.5 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under this appendix wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

SECTION G105 VARIANCES

G105.1 General. The board of appeals established pursuant to Section 112 shall hear and decide requests for variances. The board of appeals shall base its determination on technical justifications, and has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of this appendix and Section 1612.

G105.2 Records. The building official shall maintain a permanent record of all variance actions, including justification for their issuance.

G105.3 Historic structures. A variance is authorized to be issued for the repair or rehabilitation of a historic structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a his-

toric structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

Exception: Within flood hazard areas, historic structures that are not:

1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or
2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

G105.4 Functionally dependent facilities. A variance is authorized to be issued for the construction or substantial improvement of a functionally dependent facility provided the criteria in Section 1612.1 are met and the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to methods and materials that minimize flood damages during the design flood and create no additional threats to public safety.

G105.5 Restrictions. The board of appeals shall not issue a variance for any proposed development in a floodway if any increase in flood levels would result during the base flood discharge.

G105.6 Considerations. In reviewing applications for variances, the board of appeals shall consider all technical evaluations, all relevant factors, all other portions of this appendix and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and flood plain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and

repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

G105.7 Conditions for issuance. Variances shall only be issued by the board of appeals upon:

1. A technical showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site renders the elevation standards inappropriate;
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and
5. Notification to the applicant in writing over the signature of the building official that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

SECTION G201 DEFINITIONS

G201.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 for general definitions.

G201.2 Definitions.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, operations and other land disturbing activities.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading or unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

MANUFACTURED HOME. A structure that is transportable in one or more sections, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Mobile Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

* **VARIANCE.** A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION. A development that is not fully compliant with this appendix or Section 1612, as applicable.

SECTION G301 SUBDIVISIONS

G301.1 General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards.

G301.2 Subdivision requirements. The following requirements shall apply in the case of any proposed subdivision, including proposals for manufactured home parks and subdivisions, any portion of which lies within a flood hazard area:

1. The flood hazard area, including floodways and areas subject to high velocity wave action, as appropriate, shall be delineated on tentative and final subdivision plats;
2. Design flood elevations shall be shown on tentative and final subdivision plats;
3. Residential building lots shall be provided with adequate buildable area outside the floodway; and
4. The design criteria for utilities and facilities set forth in this appendix and appropriate *International Codes* shall be met.

SECTION G401 SITE IMPROVEMENT

G401.1 Development in floodways. Development or land disturbing activity shall not be authorized in the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the level of the base flood.

G401.2 Flood hazard areas subject to high velocity wave action.

1. Development or land disturbing activity shall only be authorized landward of the reach of mean high tide.
2. The use of fill for structural support of buildings is prohibited.

G401.3 Sewer facilities. All new or replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with Chapter 8, ASCE 24, to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, or impairment of the facilities and systems.

G401.4 Water facilities. All new or replacement water facilities shall be designed in accordance with the provisions of Chapter 8, ASCE 24, to minimize or eliminate infiltration of floodwaters into the systems.

G401.5 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

G401.6 Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

SECTION G501 MANUFACTURED HOMES

G501.1 Elevation. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the lowest floor of the manufactured home is elevated to or above the design flood elevation.

G501.2 Foundations. All new and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on a permanent, reinforced foundation that is designed in accordance with Section 1612.

G501.3 Anchoring. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage. Manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

SECTION G601 RECREATIONAL VEHICLES

G601.1 Placement prohibited. The placement of recreational vehicles shall not be authorized in flood hazard areas subject to high velocity wave action and in floodways.

G601.2 Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than 180 consecutive days.

G601.3 Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section G501 for manufactured homes.

SECTION G701 TANKS

G701.1 Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

G701.2 Above-ground tanks. Above-ground tanks in flood hazard areas shall be elevated to or above the design flood elevation or shall be anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

G701.3 Tank inlets and vents. In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood.
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

SECTION G901 REFERENCED STANDARDS

ASCE 24-05	Flood Resistance Design and Construction	G103.1, G401.3, G401.4
HUD 24 CFR Part 3280 (1994)	Manufactured Home Construction and Safety Standards	G201
IBC-06	International Building Code	G102.2

SECTION G801 OTHER BUILDING WORK

G801.1 Detached accessory structures. Detached accessory structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood. Fully enclosed accessory structures shall have flood openings to allow for the automatic entry and exit of flood waters.

G801.2 Fences. Fences in floodways that may block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the requirement of Section G103.5.

G801.3 Oil derricks. Oil derricks located in flood hazard areas shall be designed in conformance with the flood loads in Sections 1603.1.6 and 1612.

G801.4 Retaining walls, sidewalks and driveways. Retaining walls, sidewalks and driveways shall meet the requirements of Section 1803.4.

G801.5 Prefabricated swimming pools. Prefabricated swimming pools in floodways shall meet the requirements of Section G103.5.

method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

**SECTION 105
PERMITS**

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

105.1.1 Annual permit. In place of an individual permit for each alteration to an already approved electrical, gas, mechanical, or plumbing installation, the enforcing agency is authorized to issue an annual permit upon application therefore to any person, firm, or corporation. The applicant shall be licensed in accordance with the requirements of 1956 PA 217, MCL 338.881 et seq., 1984 PA 192, MCL 338.971 et seq., or 2002 PA 733, MCL 338.3511 et seq.

105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under an annual permit. Access to the records shall be provided at all times and the records shall be filed with the enforcing agency.

105.2 Work exempt from permit. Exemptions from permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits shall not be required for any of the following:

- (a) Building permits shall not be required for any of the following:
 - (i) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m²).

- (ii) A fence that is not more than 6 feet (1 829 mm) high.
 - (iii) Oil derricks.
 - (iv) A retaining wall that is not more than 4 feet (1 219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II or III-A liquids.
 - (v) A water tank supported directly upon grade if the capacity is not more than 5, 000 gallons (18 927 L) and the ratio of height to diameter or width is not greater than 2 to 1.
 - (vi) A sidewalk or driveway that is not more than 30 inches (762 mm) above grade and is not over any basement or story below and which are not part of an accessible route.
 - (vii) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - (viii) Temporary motion picture, television and theater stage sets and scenery.
 - (ix) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in section 101.2, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19 000 L) and are installed entirely above ground.
 - (x) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
 - (xi) Swings and other playground equipment accessory to 1- and 2-family dwellings.
 - (xii) Window awnings supported by an exterior wall which do not project more than 54 inches (1 372 mm) from the exterior wall and do not require additional support of group R-3, as applicable in section 101.2 and group U occupancies.
 - (xiii) Movable cases, counters, and partitions.
- (b) Electrical permits shall not be required for any of the following:
- (i) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
 - (ii) Radio and television transmitting stations: The provisions of the code do not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and to the installation of towers and antennas.
 - (iii) Temporary testing systems: A permit is not required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
- (c) Mechanical permits shall not be required for any of the following:
- (i) Portable gas heating appliance.

- (ii) Replacement of any minor part that does not alter approval of equipment or make the equipment unsafe.
 - (iii) Portable heating appliance.
 - (iv) Portable ventilation equipment.
 - (v) Portable cooling unit.
 - (vi) Steam, hot or chilled water piping within any heating or cooling equipment regulated by the code.
 - (vii) Replacement of any part that does not alter its approval or make it unsafe.
 - (viii) Portable evaporative cooler.
 - (ix) Self-contained portable refrigeration unit that is not more than 1.5 horsepower (1119 W).
- (d) Plumbing permits shall not be required for any of the following:
- (i) The stopping of leaks in drains, water, soil, waste, or vent pipe. However, if any concealed trap, drainpipe, water, soil, waste, or vent pipe becomes defective and it becomes necessary to remove and replace the drain or pipe with new material, then the work is considered new work and a permit shall be obtained and inspection made as provided in the code.
 - (ii) The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, and the removal and reinstallation of water closets, if the repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 106.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

R 408.30409

105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

105.2.2 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

105.2.3 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefor in writing on a form

pletion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

**SECTION 111
SERVICE UTILITIES**

111.1 Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

111.2 Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

111.3 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

**SECTION 112
BOARD OF APPEALS**

112.1 Means of appeal. An interested person may appeal a decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The decision of a local board of appeals may be appealed to the construction code commission in accordance with the act and time frames.

Exception: Requests for barrier free design exception shall be in accordance with 1966 PA 1, MCL 125.1352 to 125.1356.

R 408.30414

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

112.3 Qualifications. The board of appeals shall consist of members who are qualified in accordance with the act.

R 408.30414

**SECTION 113
VIOLATIONS**

113.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

113.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

113.4 Violation penalties. It is unlawful for any person, firm, or corporation to violate a provision of the code or fail to conform with any of the requirements thereof, or erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, or equipment regulated by the code, or cause work to be performed or done, in conflict with or in violation of the approved construction documents or directive of the enforcing agency, or a permit or certificate issued under the code. A violator shall be assessed a fine in accordance with the act.

R 408.30410

**SECTION 114
STOP WORK ORDER**

114.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.

114.2 Issuance. Upon notice from the enforcing agency, work on any building or structure that is being done contrary to the code or in a dangerous or unsafe manner shall immediately cease. Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition is subject to the penalty provisions prescribed in the act.

R 408.30411

**SECTION 115
UNSAFE STRUCTURES AND EQUIPMENT**

115.1 Conditions. Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ven-

1611.2 Ponding instability. For roofs with a slope less than $\frac{1}{4}$ inch per foot [1.19 degrees (0.0208 rad)], the design calculations shall include verification of adequate stiffness to preclude progressive deflection in accordance with Section 8.4 of ASCE 7.

1611.3 Controlled drainage. Roofs equipped with hardware to control the rate of drainage shall be equipped with a secondary drainage system at a higher elevation that limits accumulation of water on the roof above that elevation. Such roofs shall be designed to sustain the load of rainwater that will accumulate on them to the elevation of the secondary drainage system plus the uniform load caused by water that rises above the inlet of the secondary drainage system at its design flow determined from Section 1611.1. Such roofs shall also be checked for ponding instability in accordance with Section 1611.2.

SECTION 1612 FLOOD LOADS

1612.1 General. Within flood hazard areas as established in Section 1612.3, all new construction of buildings, structures and portions of buildings and structures, including substantial improvement and restoration of substantial damage to buildings and structures, shall be designed and constructed to resist the effects of flood hazards and flood loads. For buildings that are located in more than one flood hazard area, the provisions associated with the most restrictive flood hazard area shall apply.

1612.2 Definitions. The following words and terms shall, for the purposes of this section, have the meanings shown herein.

BASE FLOOD. The flood having a 1-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

BASEMENT. The portion of a building having its floor subgrade (below ground level) on all sides.

DESIGN FLOOD. The flood associated with the greater of the following two areas:

1. Area with a flood plain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

DESIGN FLOOD ELEVATION. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).

DRY FLOODPROOFING. A combination of design modifications that results in a building or structure, including the attendant utility and sanitary facilities, being water tight with

walls substantially impermeable to the passage of water and with structural components having the capacity to resist loads as identified in ASCE 7.

EXISTING CONSTRUCTION. Any buildings and structures for which the "start of construction" commenced before the effective date of the community's first flood plain management code, ordinance or standard. "Existing construction" is also referred to as "existing structures."

EXISTING STRUCTURE. See "Existing construction."

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD DAMAGE-RESISTANT MATERIALS. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

FLOOD HAZARD AREA. The greater of the following two areas:

1. The area within a flood plain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

FLOOD HAZARD AREA SUBJECT TO HIGH VELOCITY WAVE ACTION. Area within the flood hazard area that is subject to high velocity wave action, and shown on a Flood Insurance Rate Map (FIRM) or other flood hazard map as Zone V, VO, VE or V1-30.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency containing the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map (FBFM), the water surface elevation of the base flood and supporting technical data.

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

LOWEST FLOOR. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of this section.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.

START OF CONSTRUCTION. The date of permit issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for [INSERT NAME OF JURISDICTION]," dated [INSERT DATE OF ISSUANCE], as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

1612.3.1 Alternate flood hazard provisions. Absent the adoption of a flood hazard map and supporting data, flood hazard areas as determined by the state under its administration of the Part 31, floodplain regulatory authority of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, shall become the basis for regulation of floodplain development within the community and section 1612 shall apply to buildings and structures within those areas.

1612.4 Design and construction. Buildings and structures as defined in ASCE 24 table 1-1, listed in chapter 35, and located in flood hazard areas shall be designed and constructed in accordance with sections 1512.4.1 to 1612.4.5 of the code.

1612.4.1 Buildings and structures located in flood hazard areas subject to high velocity wave action shall be designed and constructed in accordance with flood hazard areas subject to high velocity wave action of ASCE 24 listed in chapter 35.

1612.4.2 Type II buildings located in flood hazard areas not subject to high velocity wave action shall be designed and constructed in accordance with section 2.0 basic requirements for flood hazard areas and shall have the lowest floors elevated 1 foot (305 mm) above the 100-year design flood elevation.

1612.4.3 Type III and IV buildings located in flood hazard areas not subject to high velocity wave action shall be designed and constructed in accordance with section 2.0 basic requirements for flood hazard areas and shall have the lowest floors elevated 1 foot (305 mm) above the 500-year flood level.

1612.4.4 If the lowest floor of nonresidential buildings and structures as defined in ASCE 24 listed in chapter 35 are located in flood hazard areas and are not elevated as required in accordance with sections 1612.4.2 and 1612.4.3, Type II buildings shall be flood proofed to 1 foot above the design flood elevations and Type III & IV buildings shall be flood proofed to 1 foot above the 500-year flood level in accordance with the flood proofing requirements contained in ASCE 24 listed in chapter 35.

1612.4.5 Crawl space interior floor grade elevation shall comply with section 1807.1.2.1 of the code.

R 408.30451c

1612.5 Flood hazard documentation. The following documentation shall be prepared and sealed by a registered design professional and submitted to the building official:

1. For construction in flood hazard areas not subject to high-velocity wave action:
 - 1.1. The elevation of the lowest floor, including the basement, as required by the lowest floor elevation inspection in Section 109.3.3.
 - 1.2. For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.6.2.1 of ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.6.2.2 of ASCE 24.
 - 1.3. For dry floodproofed nonresidential buildings, construction documents shall include a statement that the dry floodproofing is designed in accordance with ASCE 24.
2. For construction in flood hazard areas subject to high-velocity wave action:

- 2.1. The elevation of the bottom of the lowest horizontal structural member as required by the lowest floor elevation inspection in Section 109.3.3.
- 2.2. Construction documents shall include a statement that the building is designed in accordance with ASCE 24, including that the pile or column foundation and building or structure to be attached thereto is designed to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components, and other load requirements of Chapter 16.
- 2.3. For breakaway walls designed to resist a nominal load of less than 10 psf (0.48 kN/m²) or more than 20 psf (0.96 kN/m²), construction documents shall include a statement that the breakaway wall is designed in accordance with ASCE 24.

SECTION 1613 EARTHQUAKE LOADS

1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

Exceptions:

1. Detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located where the mapped short-period spectral response acceleration, S_s , is less than 0.4 g.
2. The seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this section.
3. Agricultural storage structures intended only for incidental human occupancy.
4. Structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors.

1613.2 Definitions. The following words and terms shall, for the purposes of this section, have the meanings shown herein.

DESIGN EARTHQUAKE GROUND MOTION. The earthquake ground motion that buildings and structures are specifically proportioned to resist in Section 1613.

MAXIMUM CONSIDERED EARTHQUAKE GROUND MOTION. The most severe earthquake effects considered by this code.

MECHANICAL SYSTEMS. For the purposes of determining seismic loads in ASCE 7, mechanical systems shall include plumbing systems as specified therein.

ORTHOGONAL. To be in two horizontal directions, at 90 degrees (1.57 rad) to each other.

SEISMIC DESIGN CATEGORY. A classification assigned to a structure based on its occupancy category and the severity of the design earthquake ground motion at the site.

SEISMIC-FORCE-RESISTING SYSTEM. That part of the structural system that has been considered in the design to provide the required resistance to the prescribed seismic forces.

SITE CLASS. A classification assigned to a site based on the types of soils present and their engineering properties as defined in Section 1613.5.2.

SITE COEFFICIENTS. The values of F_a and F_v indicated in Tables 1613.5.3(1) and 1613.5.3(2), respectively.

1613.3 Existing buildings. Additions, alterations, modification, or change of occupancy of existing buildings shall be in accordance with Sections 3403.2.3 and 3406.4.

1613.4 Special inspections. Where required by Section 1705.3, the statement of special inspections shall include the special inspections required by Section 1705.3.1.

1613.5 Seismic ground motion values. Seismic ground motion values shall be determined in accordance with this section.

1613.5.1 Mapped acceleration parameters. The parameters S_s and S_1 shall be determined from the 0.2 and 1-second spectral response accelerations shown on Figures 1613.5(1) through 1613.5(14). Where S_1 is less than or equal to 0.04 and S_s is less than or equal to 0.15, the structure is permitted to be assigned to Seismic Design Category A.

1613.5.2 Site class definitions. Based on the site soil properties, the site shall be classified as either Site Class A, B, C, D, E or F in accordance with Table 1613.5.2. When the soil properties are not known in sufficient detail to determine the site class, Site Class D shall be used unless the building official or geotechnical data determines that Site Class E or F soil is likely to be present at the site.

1613.5.3 Site coefficients and adjusted maximum considered earthquake spectral response acceleration parameters. The maximum considered earthquake spectral response acceleration for short periods, S_{MS} , and at 1-second period, S_{M1} , adjusted for site class effects shall be determined by Equations 16-37 and 16-38, respectively:

$$S_{MS} = F_a S_s \quad (\text{Equation 16-37})$$

$$S_{M1} = F_v S_1 \quad (\text{Equation 16-38})$$

where:

F_a = Site coefficient defined in Table 1613.5.3(1).

F_v = Site coefficient defined in Table 1613.5.3(2).

S_s = The mapped spectral accelerations for short periods as determined in Section 1613.5.1.

S_1 = The mapped spectral accelerations for a 1-second period as determined in Section 1613.5.1.

equal to $S_{ds}/2.5$ is used, where S_{ds} is determined in accordance with Section 21.2.1 of ASCE 7.

1802.3 Soil classification. Where required, soils shall be classified in accordance with Section 1802.3.1 or 1802.3.2.

1802.3.1 General. For the purposes of this chapter, the definition and classification of soil materials for use in Table 1804.2 shall be in accordance with ASTM D 2487.

1802.3.2 Expansive soils. Soils meeting all four of the following provisions shall be considered expansive, except that tests to show compliance with Items 1, 2 and 3 shall not be required if the test prescribed in Item 4 is conducted:

1. Plasticity index (PI) of 15 or greater, determined in accordance with ASTM D 4318.
2. More than 10 percent of the soil particles pass a No. 200 sieve (75 μm), determined in accordance with ASTM D 422.
3. More than 10 percent of the soil particles are less than 5 micrometers in size, determined in accordance with ASTM D 422.
4. Expansion index greater than 20, determined in accordance with ASTM D 4829.

1802.4 Investigation. Soil classification shall be based on observation and any necessary tests of the materials disclosed by borings, test pits or other subsurface exploration made in appropriate locations. Additional studies shall be made as necessary to evaluate slope stability, soil strength, position and adequacy of load-bearing soils, the effect of moisture variation on soil-bearing capacity, compressibility, liquefaction and expansiveness.

1802.4.1 Exploratory boring. The scope of the soil investigation including the number and types of borings or soundings, the equipment used to drill and sample, the in-situ testing equipment and the laboratory testing program shall be determined by a registered design professional.

1802.5 Soil boring and sampling. The soil boring and sampling procedure and apparatus shall be in accordance with generally accepted engineering practice. The registered design professional shall have a fully qualified representative on the site during all boring and sampling operations.

1802.6 Reports. The soil classification and design load-bearing capacity shall be shown on the construction documents. Where required by the building official, a written report of the investigation shall be submitted that includes, but need not be limited to, the following information:

1. A plot showing the location of test borings and/or excavations.
2. A complete record of the soil samples.
3. A record of the soil profile.
4. Elevation of the water table, if encountered.
5. Recommendations for foundation type and design criteria, including but not limited to: bearing capacity of natural or compacted soil; provisions to mitigate the effects of expansive soils; mitigation of the effects of liquefac-

tion, differential settlement and varying soil strength; and the effects of adjacent loads.

6. Expected total and differential settlement.
7. Pile and pier foundation information in accordance with Section 1808.2.2.
8. Special design and construction provisions for footings or foundations founded on expansive soils, as necessary.
9. Compacted fill material properties and testing in accordance with Section 1803.5.

SECTION 1803 EXCAVATION, GRADING AND FILL

1803.1 Excavations near footings or foundations. Excavations for any purpose shall not remove lateral support from any footing or foundation without first underpinning or protecting the footing or foundation against settlement or lateral translation.

1803.2 Placement of backfill. The excavation outside the foundation shall be backfilled with soil that is free of organic material, construction debris, cobbles and boulders or a controlled low-strength material (CLSM). The backfill shall be placed in lifts and compacted, in a manner that does not damage the foundation or the waterproofing or dampproofing material.

Exception: Controlled low-strength material need not be compacted.

1803.3 Site grading. The ground immediately adjacent to the foundation shall be sloped away from the building at a slope of not less than one unit vertical in 20 units horizontal (5-percent slope) for a minimum distance of 10 feet (3048 mm) measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit 10 feet (3048 mm) of horizontal distance, a 5-percent slope shall be provided to an approved alternative method of diverting water away from the foundation. Swales used for this purpose shall be sloped a minimum of 2 percent where located within 10 feet (3048 mm) of the building foundation. Impervious surfaces within 10 feet (3048 mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.

Exception: Where climatic or soil conditions warrant, the slope of the ground away from the building foundation is permitted to be reduced to not less than one unit vertical in 48 units horizontal (2-percent slope).

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

1803.4 Grading and fill in flood hazard areas. In flood hazard areas established in Section 1612.3, grading and/or fill shall not be approved:

1. Unless such fill is placed, compacted and sloped to minimize shifting, slumping and erosion during the rise and fall of flood water and, as applicable, wave action.
2. In floodways, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a registered design professional in accordance with standard

engineering practice that the proposed grading or fill, or both, will not result in any increase in flood levels during the occurrence of the design flood.

3. In flood hazard areas subject to high-velocity wave action, unless such fill is conducted and/or placed to avoid diversion of water and waves toward any building or structure.
4. Where design flood elevations are specified but floodways have not been designated, unless it has been demonstrated that the cumulative effect of the proposed flood hazard area encroachment, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 1 foot (305 mm) at any point.

1803.5 Compacted fill material. Where footings will bear on compacted fill material, the compacted fill shall comply with the provisions of an approved report, which shall contain the following:

1. Specifications for the preparation of the site prior to placement of compacted fill material.
2. Specifications for material to be used as compacted fill.
3. Test method to be used to determine the maximum dry density and optimum moisture content of the material to be used as compacted fill.
4. Maximum allowable thickness of each lift of compacted fill material.
5. Field test method for determining the in-place dry density of the compacted fill.
6. Minimum acceptable in-place dry density expressed as a percentage of the maximum dry density determined in accordance with Item 3.
7. Number and frequency of field tests required to determine compliance with Item 6.

Exception: Compacted fill material less than 12 inches (305 mm) in depth need not comply with an approved report, provided it has been compacted to a minimum of 90 percent Modified Proctor in accordance with ASTM D 1557. The compaction shall be verified by a qualified inspector approved by the building official.

1803.6 Controlled low-strength material (CLSM). Where footings will bear on controlled low-strength material (CLSM), the CLSM shall comply with the provisions of an approved report, which shall contain the following:

1. Specifications for the preparation of the site prior to placement of the CLSM.
2. Specifications for the CLSM.
3. Laboratory or field test method(s) to be used to determine the compressive strength or bearing capacity of the CLSM.
4. Test methods for determining the acceptance of the CLSM in the field.
5. Number and frequency of field tests required to determine compliance with Item 4.

SECTION 1804

ALLOWABLE LOAD-BEARING VALUES OF SOILS

1804.1 Design. The presumptive load-bearing values provided in Table 1804.2 shall be used with the allowable stress design load combinations specified in Section 1605.3.

1804.2 Presumptive load-bearing values. The maximum allowable foundation pressure, lateral pressure or lateral sliding-resistance values for supporting soils near the surface shall not exceed the values specified in Table 1804.2 unless data to substantiate the use of a higher value are submitted and approved.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions.

Mud, organic silt, organic clays, peat or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

Exception: A presumptive load-bearing capacity is permitted to be used where the building official deems the load-bearing capacity of mud, organic silt or unprepared fill is adequate for the support of lightweight and temporary structures.

1804.3 Lateral sliding resistance. The resistance of structural walls to lateral sliding shall be calculated by combining the values derived from the lateral bearing and the lateral sliding resistance shown in Table 1804.2 unless data to substantiate the use of higher values are submitted for approval.

For clay, sandy clay, silty clay and clayey silt, in no case shall the lateral sliding resistance exceed one-half the dead load.

1804.3.1 Increases in allowable lateral sliding resistance. The resistance values derived from the table are permitted to be increased by the tabular value for each additional foot (305 mm) of depth to a maximum of 15 times the tabular value.

Isolated poles for uses such as flagpoles or signs and poles used to support buildings that are not adversely affected by a 0.5 inch (12.7 mm) motion at the ground surface due to short-term lateral loads are permitted to be designed using lateral-bearing values equal to two times the tabular values.

SECTION 1805

FOOTINGS AND FOUNDATIONS

1805.1 General. Footings and foundations shall be designed and constructed in accordance with Sections 1805.1 through 1805.9. Footings and foundations shall be built on undisturbed soil, compacted fill material or CLSM. Compacted fill material shall be placed in accordance with Section 1803.5. CLSM shall be placed in accordance with Section 1803.6.

The top surface of footings shall be level. The bottom surface of footings is permitted to have a slope not exceeding one unit vertical in 10 units horizontal (10-percent slope). Footings shall be stepped where it is necessary to change the elevation of the top surface of the footing or where the surface of the ground slopes more than one unit vertical in 10 units horizontal (10-percent slope).

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: December 29, 2009

SUBJECT: Ordinance Amendment #09-A, Flood Hazard Management Regulations

During the November 19, 2009 meeting, the Planning Commission reviewed and discussed proposed modifications to the flood hazard management regulations. A public hearing to formally consider Ordinance Amendment #09-A was convened during the December 3rd and 17th, 2009 Planning Commission meetings. Mr. Earnest Sarkipato, Floodplain Engineer for the Michigan Department of Environmental Quality (MDEQ), was present at the December 3rd meeting and provided a short presentation regarding the National Flood Insurance Program (NFIP) and the City of Portage participation since the early 1980s. No other citizens spoke in regard to the proposed ordinance amendment.

After a thorough review of the proposed ordinance modifications over the course of three public meetings, a motion was made by Commissioner Bailes, seconded by Commissioner Welch, to recommend to City Council the following ordinance modifications: 1) Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; 2) Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and 3) Repeal Section 42-162(D)(1)(2), Flood Boundaries. After a brief discussion and a roll call vote: Bosch (yes), Cheesebro (yes), Welch (yes), Stoffer (yes), Patterson (yes), Fox (yes), Pearson (no) and Bailes (yes), the motion was approved 7-1. Commissioner Pearson stated that he supports items 1 and 3 in the motion, however, opposes item 2 and repealing of Sections 42-320 to 42-330.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Thomas A. Fox
Chairman

Ms. Bartels is currently in the process of finalizing a group child care home license with the State of Michigan, pending Planning Commission review/approval.

The applicant, Ms. Bartels was present to answer questions pertaining to the request. Ms. Bartels informed the Commission that she lost the person who planned to assist her with child care. As a result, the State of Michigan will not issue her a license to operate a group child care home without at least one additional person to assist with the child care. Chairman Fox asked if Ms. Bartels wants to withdraw the application. Ms. Bartels indicated that since she has paid the review fee and she may find another person to assist, she does not want to withdraw the request. Mr. Forth stated the special land use approval is valid for a period of six months.

Mr. Dennis Menz, 9860 Oak Forest Circle, Kalamazoo, spoke on behalf of the resident that resides at 2525 Radcliffe Avenue. Mr. Menz opposed issuance of the special land use permit citing concerns involving noise, traffic and operation of a commercial use in a residential area. Al Van Kampen, 6908 Cypress, asked that no play equipment be allowed in the front yard area. Attorney Brown stated the Planning Commission could impose such a condition. There being no further public comment, a motion was made by Commissioner Welch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved.

Attorney Brown stated that there are only six Planning Commissioners present and five affirmative votes are needed to approve the special land use permit. Attorney Brown also clarified that the proposed group child care home is not a commercial use in a residential area. It is a use permitted subject to conditions and if it meets all conditions, the use must be approved.

There being no further discussion, a motion was offered by Welch, seconded by Bailes, to approve the special land use permit for Ms. Erin Bartels, 2535 Radcliffe Avenue, to establish a group child care home for up to 12 children subject to installation of a six foot high screening fence around the rear yard area. There was discussion on the motion including State of Michigan approval of the day care license, suitability of the existing fence along the south and west property lines, need for a screening fence between the house and side property lines and orientation of the screening fence vertical and horizontal supports. Based on the discussion, the motion was amended by Welch and supported by Bailes to approve the special land use permit for Ms. Erin Bartels, 2535 Radcliffe Avenue, to establish a group child care home for up to 12 children subject to installation of a six foot high screening fence along the east property line with the vertical and horizontal supports facing towards the rear yard of 2535 Radcliffe Avenue, approval of the State of Michigan group child care home license and staff be contacted when the applicant begins to operate the group child care home. Upon a roll call vote: Cheesebro (yes); Bailes (yes), Patterson (yes), Welch (yes), Fox (yes), Dargitz (yes). The motion was approved 6-0.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Ordinance Amendment 09-a, Floodplain Management Regulations. Mr. Forth stated the Flood Insurance Study Base Flood Elevation update for the City of Portage has been completed and the city must now adopt revised flood plain management regulations as required by the Federal Emergency Management Agency (FEMA). Mr. Forth indicated staff has been in contact with the Floodplain Engineer with the Michigan Department of Environmental Quality (MDEQ) regarding alternatives to ensure compliance with the NFIP regulations. The MDEQ is recommending Michigan communities adopt Appendix G of the 2006 Michigan Building Code for flood plain management purposes.

Department staff and the City Attorney concluded Appendix G will effectively regulate proposed development activities within the floodplain and are recommending the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code) be repealed and Article 8, Section 42-991 be updated to include Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency and adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps.

Mr. Terry Novak, Deputy Director of Building Services was also present to explain the proposed ordinance amendment. Mr. Novak indicated the State of Michigan is strongly encouraging Michigan communities to adopt Appendix G in an effort to unify/standardize floodplain regulations throughout the state. Commissioner Dargitz indicated she believes the current Flood Hazard Areas Ordinance contained in the Zoning Code is clearer and more restrictive than Appendix G and would, therefore, be consistent with NFIP minimum requirements. Staff discussed with Commissioner Dargitz the similarities and inconsistencies between Appendix G and the Flood Hazard Areas Ordinance, other communities that have adopted Appendix G, inconsistency issues associated with maintaining two regulations (Zoning Code and Appendix G) to manage floodplain activities and adopting Appendix G with amendments. Commissioner Welch stated Appendix G should be adopted without amendments for clarity and consistency purposes.

Mr. Forth stated that staff would consider the comments made during the meeting and provide additional information to the Planning Commission in advance of the December 3, 2009 public hearing.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

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

owner/operator of Mullins Auto Service, spoke and confirmed that he is requesting that the Planning Commission withdraw the special land use permit. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to withdraw the Special Land Use Permit for Mullins Auto Service (expansion), 9444 South Sprinkle Road. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan for Mullins Auto Service (expansion), 9444 South Sprinkle Road. Mr. West summarized the staff report dated November 25, 2009 involving a site plan to expand the existing automobile repair facility located at 9444 South Sprinkle Road. Mr. West stated the proposed expansion project involves an approximate 2,400 square foot building addition, parking lot expansion, driveway modifications and associated site improvements. In conjunction with the site plan, Mr. West stated the applicant was also requesting a sidewalk waiver along the public street frontages citing the lack of sidewalk in the surrounding area, lack of pedestrian traffic and safety concerns. Mr. West indicated the Kalamazoo County Road Commission (KCRC) has informed staff that sidewalk along the South Sprinkle Road frontage was not desired. Mr. West also stated that no sidewalk was present along Branch Avenue, no sidewalk was planned for Branch Avenue in the ten-year Capital Improvement Program and the surrounding uses do not generate significant pedestrian traffic.

The Commission and staff briefly discussed the proposed access arrangement. Mr. Steve Mullin, owner/operator of Mullins Auto Service, was present to support the application. After a brief discussion, a motion was made by Commissioner Cheesebro, seconded by Commissioner Welch, to approve the Site Plan for Mullins Auto Service (expansion), 9444 South Sprinkle Road, including a sidewalk waiver along Branch Avenue given the lack and demand for sidewalk in this area. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Preliminary Report: Ordinance Amendment 09-A, Flood Hazard Management Regulations. Chairman Fox introduced Mr. Earnest Sarkipato, Floodplain Engineer for the Michigan Department of Environmental Quality (MDEQ), who gave a short presentation regarding the National Flood Insurance Program (NFIP) and the City of Portage participation since the early 1980s. Mr. Sarkipato discussed the history of the NFIP and stated the Federal Emergency Management Agency (FEMA) will offer the program to communities who agree to manage development within flood hazard areas and adopt regulations which meet minimum requirements. Mr. Sarkipato also discussed the NFIP Community Rating System (CRS) and indicated the City of Portage has a class 8 rating which provides a 10% reduction in flood insurance policy premiums to the approximate 32 participants. Mr. Sarkipato stated the City of Portage was last audited in 1996 and was found to be in conformance with NFIP requirements. Finally, Mr. Sarkipato provided a brief discussion of the differences between floodplains and wetlands and how they are regulated separately by the federal/state government.

Mr. Forth summarized the preliminary staff report dated November 25, 2009. As recommended by Mr. Sarkipato and Mr. Les Thomas (NFIP Coordinator) of the MDEQ, Mr. Forth stated that staff and the City Attorney are advising that Appendix G of the 2006 State of Michigan Building Code be adopted, along with the updated Flood Insurance Study and Flood Insurance Rate Maps. Mr. Forth also discussed the several ambiguities which exist in the current ordinance and indicated that staff and the City Attorney were also recommending that Section 42-162(D)(1)(2), Flood Boundaries and Sections 42-320 to 42-330, Flood Hazard Areas be repealed and Section 42-991 be updated to include Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency and adopting Appendix G, Flood Insurance Study and Flood Insurance Rate Maps. Mr. Forth indicated the recommended ordinance modifications will eliminate the existing ambiguities which exist in the current ordinance and meet NFIP requirements for continued participation in the flood insurance program. Mr. Terry Novak, Deputy Director of Building Services, was also present and restated that the State of Michigan is strongly encouraging

Michigan communities to adopt Appendix G in an effort to unify/standardize floodplain regulations throughout the state.

Commissioner Pearson asked several questions regarding the differences between the current ordinance and the proposed ordinance amendment. Although ambiguities exist in the current ordinance, Mr. Forth clarified that the current ordinance does not prohibit building construction within the floodplain. Attorney Brown stated the current ordinance is very ambiguous but does allow building construction within the floodplain. Attorney Brown indicated that any changes to the ordinance which would prohibit building construction within the floodplain could be considered a "taking". Attorney Brown reviewed various sections of the current ordinance which reference allowances for building construction within the floodplain. Mr. Forth stated that very few applications have been made for building construction within the floodplain due, in part, to higher construction costs and insurance premiums. Commissioner Patterson stated he was a builder and it was his experience that builders will generally avoid construction in the floodplain given the added expense resulting from higher construction standards. Commissioner Patterson indicated that generally only a portion of a structure is built within a floodplain and only when limited alternatives are available to the builder. Mr. Novak discussed the design standards contained in Appendix G of the 2006 State of Michigan Building Code.

Commissioner Dargitz asked Attorney Brown for clarification regarding ambiguities within the current ordinance and expressed concerns regarding the elimination of the intent/objectives contained in Section 42-320 ordinance. Commissioner Dargitz referenced Section 42-322.C of the current ordinance which describes how conflicts in requirements are resolved. Commissioner Dargitz stated she believes the current ordinance does not allow building construction within the floodplain other than those uses listed as principal permitted uses in Section 42-323 (A through H). Commissioner Dargitz indicated she believes the current ordinance meets NFIP requirements and does not support repealing the existing ordinance sections. Attorney Brown restated examples of ambiguities and inconsistencies which exist in the current ordinance and stated that he believes the current ordinance should be repealed with adoption of Appendix G. Attorney Brown indicated it was his legal opinion that the principal permitted uses referenced in Section 42-323 (A through H) are overlay uses which are allowed beyond those listed in the underlying zoning district. Mr. Forth stated that the purpose and objectives section of the ordinance are contained on the first page of Appendix G and are very similar to the current ordinance language. Mr. Forth stated that very little change/impact would occur with the ordinance amendment and building construction would still be allowed in the floodplain. Mr. Forth stated that the underlying zoning district governs what types of land uses can be built in the floodplain and Appendix G would establish the specific construction requirements for the buildings/structures. Chairman Fox asked if the flood hazard areas ordinance functions as an "overlay" ordinance with the underlying zoning establishing the types of uses allowed. Attorney Brown restated that it was his opinion that Section 42-323 (A through H) of the current ordinance listed uses which are permitted, above and beyond, the uses allowed by the underlying zoning district.

After additional discussion and upon no additional public comment, a motion was made by Commissioner Bailes, seconded by Commissioner Welch, to adjourn the public hearing for Ordinance Amendment #09-A, Flood Hazard Management Regulations, to the December 17, 2009 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

 **DRAFT**

PUBLIC HEARINGS:

1. Final Report: Ordinance Amendment 09-A, Flood Hazard Management Regulations. Mr. Forth summarized the final staff report dated December 11, 2009. Mr. Forth discussed the State of Michigan model ordinance and inconsistencies/ambiguities which exist in the current ordinance. Mr. Forth discussed the National Flood Insurance Program (NFIP), Community Rating System (CRS) and indicated the City of Portage rating would not change with the proposed ordinance modifications. After consultation with the City Attorney, staff is advising that the Planning Commission recommend to City Council the following ordinance modifications: 1) Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; 2) Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and 3) Repeal Section 42-162(D)(1)(2), Flood Boundaries.

The public hearing was reconvened by Chairman Fox. No citizens spoke in regarding to the proposed ordinance modifications. A motion was made by Commissioner Bosch, seconded by Commissioner Stoffer, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Bailes, seconded by Commissioner Welch, to recommend to City Council the following ordinance modifications: 1) Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; 2) Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and 3) Repeal Section 42-162(D)(1)(2), Flood Boundaries. Commissioner Pearson stated that he supports items 1 and 3 in the motion, however, opposes item 2 and repealing of Sections 42-320 to 42-330. Commissioner Pearson stated that Sections 42-320 to 42-330 are very specific in the type of buildings which are allowed in the floodplain and does not believe the ordinance language is confusing. After a brief discussion and a roll call vote: Bosch (yes), Cheesebro (yes), Welch (yes), Stoffer (yes), Patterson (yes), Fox (yes), Pearson (no) and Bailes (yes), the motion was approved 7-1.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

7:25 p.m. The Commission took a short recess and reconvened the meeting in Conference Room No. 1 at 7:30 p.m. to discuss proposed amendments to the sign ordinance regulations and home occupation regulations.

1. Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the staff report dated December 12, 2009 regarding proposed amendments to Sections 42-545(B), 42-550(A) and 42-551(A) of the sign regulations. Mr. Forth explained that changes to Section 42-545(B) were intended to address

TO: Planning Commission

DATE: December 11, 2009

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Final Report: Ordinance Amendment #09-A, Flood Hazard Management Regulations

I. INTRODUCTION

The City of Portage participates in the National Flood Insurance Program (NFIP) and has been a participant since the early 1980's when the Federal Emergency Management Agency (FEMA) issued Flood Insurance Rate Maps that identified the Special Flood Hazard Areas in the city. FEMA has advised the city that the 2009 update and review process of the Flood Insurance Study Base Flood Elevation and Flood Insurance Rate Maps for the City of Portage is complete and, as a result, the city must now ensure flood hazard management regulations are consistent with NFIP requirements, prior to February 17, 2010.

II. BUILDING CODE/ZONING CODE PROVISIONS

Department staff and the City Attorney have reviewed adoption of the Appendix G from the 2006 State of Michigan Building Code (as recommended by State officials) and the Flood Hazard Areas Ordinance (FHAO) contained in the Zoning Code (copies Appendix G and the FHAO were previously provided to the Commission). The following information is provided.

Building Code Appendix G Alternative. Department staff contacted the Michigan Department of Environmental Quality for input on best practices. Several discussions have taken place with Mr. Ernest Sarkipato, Floodplain Engineer and Mr. Les Thomas, NFIP Coordinator, who are knowledgeable of the requirements to ensure compliance with the NFIP regulations and are encouraging Michigan communities to adopt the State of Michigan model ordinance. The model ordinance was prepared with assistance from the Attorney General's Office and includes reference to the effective Flood Insurance Study, Flood Insurance Rate Maps and the application of Appendix G.

Unlike other states, Michigan communities are fortunate in that a single state construction code has been adopted for uniformity and the code contains flood hazard area management regulations, which are applicable to all development activities in the flood hazard areas. These regulations ensure consistent flood hazard area management throughout the State of Michigan and exceed the minimum NFIP requirements. Several other Michigan communities including the City of Kalamazoo, Texas Township, Midland, Sterling Heights and Troy have adopted Appendix G to manage development activities in the flood hazard areas. Furthermore, Texas Township and the City of Kalamazoo repealed existing Zoning Code regulations related to flood hazard management with adoption of Appendix G and Oshtemo Township is in process.

The recommended Appendix G does not list specific types of land uses or structures that are permitted in flood hazard areas. Since flood hazard areas may not be as environmentally sensitive as designated wetland areas, for example, the intent of Appendix G is not to prohibit construction in the flood hazard

areas but to ensure construction occurs consistent with stringent requirements, does not impede flood waters and to minimize or eliminate the loss of life and/or property. The types of land uses and location of structures are still regulated by the applicable, underlying zoning district.

Flood Hazard Areas Ordinance -- This section of the Zoning Code (attached) was adopted in 1983 when FEMA issued the first Flood Insurance Rate Maps for the City of Portage. Continuation or modification of the FHAO is not recommended due to inconsistencies and ambiguities. Sections 42-323 and 42-325 list specific principal permitted uses and accessory structures and uses, which is generally consistent with other zoning districts and could be interpreted as meaning the only uses and structures permitted in the district. However, other sections (such as Section 42-323 that reference other provisions; Sections 42-327 and 42-328 that reference obtaining a building permit; and Sections 42-323 and 42-325 that specify submittal of floor elevations including a basement, as examples, clearly indicate that the type of uses and structures are not limited to just the principal permitted and accessory structures and uses) are unclear and inconsistent making administration of the ordinance difficult and subject to interpretation and confusing for property owners.

Related to the existing FHAO is Section 42-162(D)(1)(2), Flood Boundaries (previously provided), which is also recommended to be repealed. Section 42-162(D)(1)(2) designates the Zoning Board of Appeals as the appellate body to resolve disputes regarding the boundary of a flood hazard area. According to FEMA, property owners who disagree with the boundary location have several options. Depending on the specific circumstances, a property owner can apply for a Letter or Determination Review (LODR), a Letter of Map Amendment (LOMA) or a Letter of Map Revision Based on Fill (LOMR-F). Important technical information is obviously necessary to appeal application of the floodplain regulations and will necessitate proper review by FEMA.

Importantly, a comparison of FHAO to Appendix G indicates that the recommended Appendix G contains many of the same provisions such as an Intent and Objectives section, definitions, reference to the establishment of boundaries, application/permitting process, dredging and filling activities and a variance process.

III. PUBLIC REVIEW/COMMENT

During the December 3, 2009 meeting, the Planning Commission convened a public hearing regarding proposed Ordinance Amendment #09-A. Mr. Earnest Sarkipato, Floodplain Engineer for the Michigan Department of Environmental Quality (MDEQ), provided a short presentation regarding the National Flood Insurance Program (NFIP) and the City of Portage participation since the early 1980s. Mr. Terry Novak, Deputy Director of Building Services, was also present and restated that the State of Michigan is strongly encouraging Michigan communities to adopt Appendix G in an effort to unify/standardize floodplain regulations throughout the state. No one else spoke in support or opposition to the proposed ordinance amendment.

IV. COMMUNITY RATING SYSTEM

During the December 3, 2009 meeting, Mr. Sarkipato also discussed the NFIP Community Rating System (CRS) and noted the City of Portage is only one of a few communities (20 total) in Michigan

that participate in the CRS program. The Community Rating System (CRS) is a voluntary NFIP incentive to encourage and reward communities who adopt/implement floodplain management practices that exceed the minimum NFIP requirements. These additional floodplain management practices result in reduced flood insurance premium rates to reflect the decreased flood risk due to community actions meeting three goals of the CRS, which are reduce flood losses, facilitate accurate insurance rating and promote the awareness of flood insurance. To achieve the three goals, CRS activities focus on public information, mapping and regulations, flood damage reduction, and flood preparedness.

As of May 2009, there are 20 communities who participate in the CRS Program. The City of Portage currently has a class 8 rating (highest rating is class 1) which provides a 10% reduction in flood insurance policy premiums to the approximate 32 participants. The highest state rating is Class 5 with most communities in the 7-9 class rating range.

Mr. Scott Cofoid, Insurance Service Office and Community Rating System Specialist, was contacted regarding the effect of adopting Appendix G and repealing the current FHAO. Mr. Cofoid indicated that the current CRS classification will not be affected by adopting Appendix G (see attached e-mail communication dated December 7, 2009). Additionally, Mr. Cofoid advised Mr. Sarkipato in an e-mail message dated December 7, 2009 (attached) that the city is not awarded any points for prohibiting development in the floodplain.

V. RECOMMENDATION

Based on the forgoing analysis, the Planning Commission is advised to recommend to City Council the following ordinance modifications:

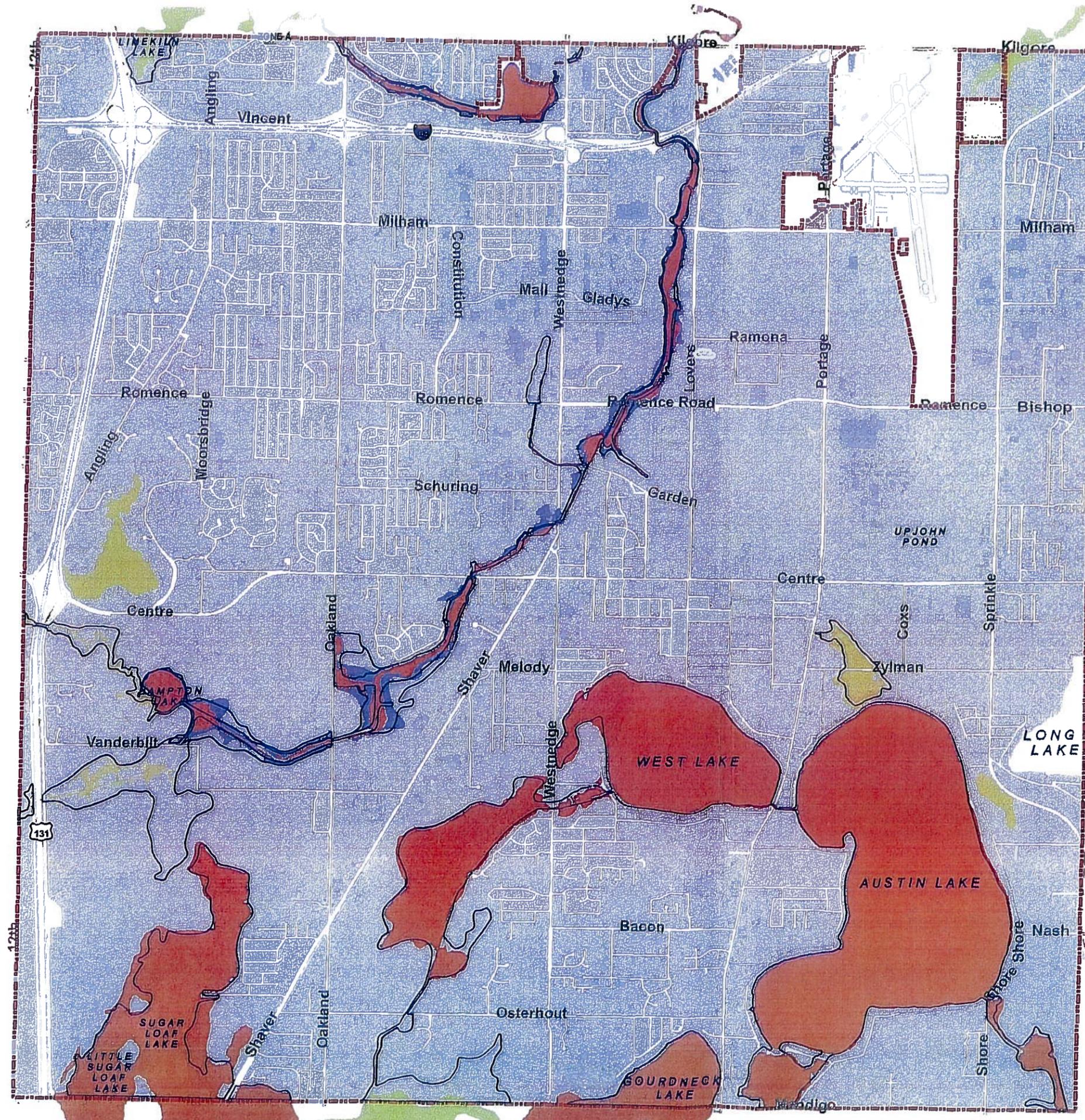
1. Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency;
2. Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and
3. Repeal Section 42-162(D)(1)(2), Flood Boundaries.

Attachments: Flood Insurance Rate Map
E-mail communication from Scott Cofoid dated December 7, 2009
E-mail message from Mr. Sarkipato dated December 7, 2009
Ordinance Amendments

S:\Department Files\Board Files\PLANNING COMMISSION\NPC Reports\Ordinance Amendments\Flood Hazard Areas\2009 12 11 Final Report Ord 09-A, Flood Hazard v2.doc

FEMA National Flood Insurance Program Flood Insurance Rate Map

Special Flood Hazard Areas 1983 and 2010 Boundaries



Legend

- 1983 Zone A
- 1983 Zone B
- 2010 AE - 100 Year Floodplain
- 2010 A- 100 Year Floodplain
- 2010 500 Year Floodplain
- City Boundary



1 in = 3,235 ft

Terry Novak - RE: City of Portage, Michigan -- Community Rating System

From: "Cofoid, Scott" <SCofoid@iso.com>
To: "Terry Novak" <novakt@portagemi.gov>
Date: 12/7/2009 11:08 AM
Subject: RE: City of Portage, Michigan -- Community Rating System

Terry,

I have reviewed the Michigan State Building Code, Appendix G and find that your CRS classification will not be affected by adopting it. You are currently receiving credit for the numerous floodplain regulations that are included in the State Building Code. Appendix G does not add or delete any of those items. Additional credit may be available if you adopt the State of Michigan Model Ordinance if it contains higher standards than the state code. Unfortunately, I have not seen a recent copy of the state model ordinance in order to confirm any CRS points at this time, but will gladly review it if you need me to. If you have any further questions, please feel free to contact me.

Scott W. Cofoid, CFM

ISO / CRS Specialist

1126 Schuyler St.

Peru, IL 61354

Phone/Fax: (815) 220-1002

From: Terry Novak [mailto:novakt@portagemi.gov]
Sent: Monday, December 07, 2009 9:43 AM
To: Cofoid, Scott
Subject: City of Portage, Michigan -- Community Rating System

Mr. Scott W. Cofoid
Insurance Services Office
1126 Schuyler Street
Peru, IL 61354

Dear Scott,

Thank you for speaking with me on December 4, 2009 regarding the City of Portage Community Rating System. As we discussed, the City of Portage participates in the National Flood Insurance Program and FEMA recently completed an update of the Flood Insurance Study Base Flood Elevation for the City. The city must now adopt the new Flood Insurance Rate Maps and ensure flood hazard management regulations are consistent with the National Flood Insurance Program requirements. Staff has been in contact with Michigan Department of Environmental Quality (MDEQ) officials and is in the process of repealing its current Flood Hazard Areas Ordinance which is located in the Zoning Code and adopting Appendix G of the 2006 State of Michigan Building Code for flood hazard area management. To facilitate this process, MDEQ has recommended and provided a model ordinance incorporating Appendix G for uniformity purposes consistent with the Michigan Single State

Construction Code (based on the International Code) which is required to be administered and enforced throughout the State. MDEQ has indicated that the majority of Michigan communities have adopted the model ordinance.

Your assistance in reviewing Appendix G, 2006 State of Michigan Building Code (attached) and indicating if additional Community Rating System credits may be obtained with its utilization and uniform regulation is requested. For informational purposes, Sections 1612, 105, 1612 and 1803 of the 2006 State of Michigan Building Code are also attached.

If you have any questions regarding this matter or need additional information, please contact me at your earliest convenience.

Thank you for your assistance.

Terry Novak
Deputy Director of Building Services
Department of Community Development
City of Portage, Michigan 49002
(269) 329-4467
Fax (269) 329-4506

This email is intended for the recipient only. If you are not the intended recipient please disregard, and do not use the information for any purpose.

Christopher Forth - CRS ranking, ordinance adoption (City of Portage, Kalamazoo co.)

From: "Sarkipato, Ernest (DEQ)" <SARKIPATOE@michigan.gov>
To: "Christina Dargitz" <cmikodh@yahoo.com>
Date: 12/7/2009 11:20 AM
Subject: CRS ranking, ordinance adoption (City of Portage, Kalamazoo co.)

Commissioner Dargitz,

I received the below response from the CRS specialist with Insurance Services Office.

Please forward the below information on to the other commissioners for their consideration over the next 2 weeks.

Ernie

From: Cofoid, Scott [mailto:SCofoid@iso.com]
Sent: Friday, December 04, 2009 9:54 AM
To: Thomas, Les (DEQ)
Cc: Sarkipato, Ernest (DEQ)
Subject: RE: City of Portage, Kalamazoo co.

Les,
 I just sent an email to Ernie on this matter, but to explain it a little more fully, every CRS point that Portage gets for their floodplain management ordinance is based on the state building code. So, unless that changes, I don't see them losing too much, if anything, if they repeal their current ordinance.

They should be fine, unless the state code is changing g too.

Scott W. Cofoid, CFM
ISO / CRS Specialist
 1126 Schuyler St.
 Peru, IL 61354
 Phone/Fax: (815) 220-1002

From: Thomas, Les (DEQ) [mailto:THOMASL@michigan.gov]
Sent: Friday, December 04, 2009 8:47 AM
To: Cofoid, Scott
Cc: Sarkipato, Ernest (DEQ)
Subject: City of Portage, Kalamazoo co.

12/4/09
 Good morning Scott,

City of Portage is in CRS at level 8. Would you know if that level was in part based upon having an ordinance that is more restrictive than NFIP min.? And, if so and if they were to repeal the ordinance I presume it may reduce their CRS rating. ??? your thoughts.. This is something that has come to Ernie Sarkipato's attention in attempting to address ordinance questions some community officials are raising.

Thanks—les.

This email is intended for the recipient only. If you are not the intended recipient please disregard, and do not use the information for any purpose.

Ernie,
 Portage does not get any points under the CRS Program for basically prohibiting development in the FP. They get credit for

the 1' of freeboard they have (75 pts.) and the fact that they require critical facilities to be elevated to at least the 500-yr. level (50 pts.). Both of these are state requirements anyway, so I would guess they would still keep these requirements.

I don't really see any effect on their CRS rating from the issue you bring up. Even if I'm missing something, they have plenty of points to stay in their current Class.

Scott W. Cofoid, CFM

ISO / CRS Specialist

1126 Schuyler St.

Peru, IL 61354

Phone/Fax: (815) 220-1002

From: Sarkipato, Ernest (DEQ) [mailto:SARKIPATOE@michigan.gov]

Sent: Thursday, December 03, 2009 3:18 PM

To: Cofoid, Scott

Subject: City of Portage, Kalamazoo County, MI

Scott,

I'm in talks with the City of Portage as they prepare to update their ordinance to adopt the new DFIRMs.

I wasn't aware until JUST now that they were a participant in the CRS.

The debate is fairly heated, because the existing ordinance pretty much prohibits residential, commercial, or industrial development in the FP. There is a big push to do away with that language since it's more stringent than NFIP and State regulations.

I didn't have a problem with this, but will this affect the City's standing in the CRS?

Please advise. Feel free to call me!

Ernie Sarkipato
Floodplain Engineer - Kalamazoo District Office
Michigan Department of Environmental Quality
269.567.3564 ph
269.567.9440 fx
sarkipatoe@michigan.gov

This email is intended for the recipient only. If you are not the intended recipient please disregard, and do not use the information for any purpose.

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY REPEALING SUBDIVISION 9 OF ARTICLE 4, SECTIONS 42-320 TO SECTION 42-330 OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Subdivision 9, Sections 42-320 through Section 42-330 is
repealed.

Yeas:

Nays:

Dated: _____, 20____.

Peter J. Strazdas, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk
of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on
the _____ day of _____, 20____.

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 1-4-2010

CRB

City Attorney

**ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING ARTICLE 8, TECHNICAL CODES
OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Article 8, Technical Codes, of Chapter 42, Land Development Regulations, is hereby amended as follows:

Section 42-991. Building Code.

(a) *Assumption of Responsibility for Administration and Enforcement.* Pursuant to the provisions of State Construction Code Act being Act 230 of the Public Acts of 1972 as amended, the Department of Community Development of the city is hereby designated as the Department of Building Safety and, as such, is the enforcing agency to discharge the responsibility for administration and enforcement of the Michigan Building Code and the Act throughout its corporate limits. The Director of the Department of Community Development and/or his designee, shall be designated as the Chief Building Official as that term is used in the Michigan Building Code.

(b) *No change.*

(c) *No change.*

Section 42-992. *No change.*

Section 42-993. *No change.*

Section 42-994. *No change.*

Section 42-995. Floodplain Management Regulations.

(a) *Enforcing agency.* Pursuant to the provisions of the State Construction Code, Act No. 230 of the Public Acts of 1972, as amended, the city hereby designates the Chief Building Official and other officers and employees as shall be designated by the chief building official, as the enforcing agency to discharge the responsibilities of the city thereunder. The City of Portage assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

(b) *Code Appendix Enforced.* Pursuant to the provisions of the State Construction Code, Act No. 230 of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Portage.

(c) *Designation of Regulated Flood Prone Hazard Areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Kalamazoo County, Michigan (all jurisdictions), dated February 17, 2010, and the Flood Insurance Rate Map(s) (FIRMS) panel numbers 26077C, 0284D, 0285D, 0295D, 0301D, 0302D, 0303D, 0304D, 0310D, 0311D, 0315D and 0320D dated February 17, 2010 are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

(d) *Fees.* Fees required under the State Construction Code adopted in this Article shall be determined by resolution of council.

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

Peter J. Strazdas, Mayor

Approved as to Form:

Date: 2/1/10

Ken

City Attorney

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING
SECTION 42-162(D) OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Section 42-162(D) is **repealed**.

Yeas:

Nays:

Dated: _____, 20____.

Peter J. Strazdas, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the ____ day of _____, 20____.

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 1/4/90
RW

City Attorney

CITY OF PORTAGE

RESOLUTION TO MANAGE FLOODPLAIN DEVELOPMENT FOR THE NATIONAL FLOOD INSURANCE PROGRAM

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2010 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, the City of Portage (hereinafter "City") currently participates in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) by complying with the applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, and reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community, and

WHEREAS, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (1)(a) of this definition.
2. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.
3. Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).

4. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act”, Act No. 230 of the Public Acts of 1972, as amended (construction code act), along with its authorization of the state construction code comprised of the Michigan Residential Code and the Michigan Building Code [and its Appendices (specifically Appendix G as adopted by the City] contains floodplain development and management regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas, as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

WHEREAS, by an ordinance adoption action dated February 9, 2010, the City accepted the responsibility to administer, apply, and enforce the provisions of the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, to all construction within its City boundaries;

NOW THEREFORE, to maintain eligibility and continued participation in the NFIP.

1. The City directs its designated enforcing agent for the construction code act, Director of Community Development or his/her designee, to administer, apply, and enforce the floodplain management regulations as contained in the state construction code (including Appendix G) and to be consistent with those regulations by:
 - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area and areas with potential flooding.
 - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, the construction code act enforcing agent shall implement the following applicable codes according to their terms:
 1. Floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
 2. Floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.

3. Appendix G of the current Michigan Building Code.
 - d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
 - e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies, and persons for floodplain management.
 - f. Advising FEMA of any changes in City boundaries, including appropriate maps.
 - g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevations to which structures have been floodproofed.
2. The City assures the Federal Insurance Administrator (Administrator) that it intends to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.
 3. The City further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

All resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

EFFECTIVE DATE: _____, 2010.

James R. Hudson City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on _____, 2010, the original of which is in the official proceedings of the City Council.

ALL INFORMATION AS TO FORM
DATE 2/1/10
RHS
CITY CLERK

James R. Hudson, City Clerk

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 2, 2010

FROM: Maurice S. Evans, City Manager 

SUBJECT: West Lake Management Program No. 011-Q - Resolution No. 3

ACTION RECOMMENDED: That City Council adopt Resolution No. 3 for the West Lake Management Program Special Assessment District No. 011-Q, directing the preparation of the special assessment roll.

Attached is Special Assessment Resolution No. 3 for the West Lake Management Program Special Assessment District No. 011-Q. Previous Council action relating to this project includes:

- On January 12, 2010, City Council adopted Resolution No. 1, accepting the City Manager Report dated January 4, 2010, and requesting preparation of Resolution No. 2.
- On January 26, 2010, City Council adopted Resolution No. 2 for the West Lake Management Program Special Assessment District No. 011-Q, setting a public hearing of necessity on February 9, 2010.

On January 29, 2010, the City Administration received a letter from the West Lake Improvement Association containing a modified Lake Management Plan which detailed the anticipated cost of the five-year herbicide treatment program. The cost of the plan, which is now in accordance with the West Lake Management Plan, necessitates a \$50.00 per parcel per year special assessment over a five-year period to finance the improvements.

It is recommended that Council adopt Resolution No. 3 for the West Lake Management Program Special Assessment District No. 011-Q, directing the preparation of the special assessment roll.

Attachments: Resolution No. 3

Letter from West Lake Improvement Association

**CITY OF PORTAGE
SPECIAL ASSESSMENT RESOLUTION NO. 3
WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT, DISTRICT #011Q**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan held at City Hall in said City on the ____ day of _____, 2010 at 7:30 p.m., local time.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and seconded by:

Councilmember: _____.

WHEREAS, a public hearing on the necessity of the proposed improvement hereinafter described was held in accordance with the provisions of the City's Charter and Special Assessment Ordinance; and,

WHEREAS, the City Council of the City of Portage has determined to proceed with the public improvements in the City of Portage more particularly hereinafter described in this resolution; and,

WHEREAS, the City Manager has secured construction cost estimates for such improvements and the City Council has reviewed said figures;

NOW THEREFORE BE IT RESOLVED THAT:

1. The City Council hereby determines the necessity for and determines further to proceed with the improvements hereinbefore in these proceedings described as the WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT, DISTRICT #011-Q, more fully described as follows, to wit:

Establish funding to provide for the management of West Lake including herbicide treatment of aquatic plants.

2. The cost of said public improvement, based on the aforesaid cost figures, is estimated to be as follows:

TOTAL COST
\$159,335.00

SHARE OF DISTRICT
\$59,250.00

SHARE OF CITY-AT LARGE
\$14,812.00

It is hereby determined that the Special Assessment District's share is in proportion to the benefits to be derived from the improvements. The Special Assessment District's share shall be spread over the Special Assessment District as hereinafter described and the balance of \$14,812.00 shall be paid by the City-at-Large. Further, the existing project account containing \$85,273.00 shall also be used towards the cost of the improvement.

3. Said Special Assessment District shall consist of all of the following described lots and parcels of land;

Unplatted Land

Land located in Section 22 described as beginning 99 ft. west and approximately 540 ft. south of the center 1/4 Post of Section 22 on the North shore line of West Lake; thence Westerly along said north shore line of West Lake and West Lake channel to the Southwest corner of Lot 132 of the recorded plat of Fabercrest #2; thence south 42 degrees East approximately 90 ft. to the South line of West Lake channel; thence Easterly along said South line approximately 1,150 ft. to the west shore of West Lake; thence Southerly along said shore approximately 2,100 ft. to the Northeast corner of Lot 4 of the recorded plat of Matteson's Park and place of ending; Also land located in Section 27 described as: Beginning at the Northwest corner of Lot 30 of the recorded plat of West Lake Beach, which is on the South shore of West Lake, thence Westerly along said shore line approximately 165 ft. to the place of beginning.

Platted Land

Lots 7 through 57 inclusive of Ames West Lake Park; Lots 1 through 10 inclusive of Burr's West lake Resort; Lots 1 through 15 inclusive and Lot 89 of Dixie-Mac Park; Lots 129 through 140 inclusive of Fabercrest #2; Lots 1 through 26 inclusive of Hilliard's Plat; Lots 1 through 14 inclusive of James W. Scott West Lake; Lots 3 through 37 inclusive of Matteson's Park; Lots 1 through 13 and Lots 28 through 46 inclusive of Newell's West Lake Subdivision; Lots 1 through 26 inclusive of Pleasant View Beach; Lots 1 through 14 inclusive of Reid's Plat; Lots 2 through 30 inclusive of West Lake Beach.

4. The City Assessor shall prepare a Special Assessment Roll spreading that portion of the cost of the aforesaid public improvement to be borne by the Special Assessment District against said district according to the benefits received, in conformity with the provision of the Special Assessment Ordinance of the City. As soon as said roll is prepared, the City Assessor shall file the same with the City Clerk for presentation to the City Council.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

ADOPTED: YEAS: Councilmember: _____

NAYS: Councilmember: _____

ABSENT: Councilmember: _____

JAMES R. HUDSON, City Clerk

STATE OF MICHIGAN)
)ss
COUNTY OF KALAMAZOO)

I, the undersigned duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the _____ day of _____, 2010, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this _____ day of _____, 2010.

JAMES R. HUDSON, City Clerk

Prepared by:
Randall L. Brown
Portage City Attorney
1662 East Centre Avenue
Portage, Michigan 49002

Approved as to Form:
Date: 2/5/10
By: [Signature]
City Attorney



WEST LAKE

IMPROVEMENT ASSOCIATION

James Hudson
Portage City Clerk
7900 South Westnedge Ave.
Portage, Michigan

Dear Mr. Hudson:

This letter is a request to initiate a special assessment process. The present West Lake special assessment expires this year and the residents and Lake Association board members wish to renew the assessment.

The West Lake Improvement Association and its members are requesting an assessment of \$50 per West Lake deeded property owner per year for a 5 year period. This request replaces the previous special assessment of \$25 per property owner per year. This will also increase the City of Portage commitment to \$14,812 over the next 5 years.

Over the past 20+ years our West Lake Improvement Association (WLIA) has addressed invasive weed problems by employing trained professionals to spray herbicides. Using this reactive method of weed treatment was merely maintaining our water quality. In recent years, our board has become more proactive and retained a lake management company, Lakeshore Environmental Inc. to do a thorough lake study to chart a proven path of success. This study revealed 83-87% of the water in West Lake is run off from the entire drain basin and much of the water coming in is untreated from storm drains.

While the City and lake residents paid to treat the lake for weeds, many storm drains were pumping contaminants and fertilizer run off into our beautiful lake, feeding the weeds. City Engineers have enhanced or upgraded two of the four most contaminated drains. There is still much more to do and this is why our board and WLIA members voted in May 2009 at our annual meeting to increase our assessment. This increase is necessary to maintain our current lake quality and to actively pursue new methods of treatment of weeds and improving lake water quality.

Our lake management plan (LMP) was conducted by Lakeshore Environmental. Using the most conservative case scenario assuming rapid and extensive weed growth, our lake association would require \$159,335 over a 5 year period. As explained in the Lake Management Plan, a herbicide treatment scope may change annually due to changes in the distribution and or abundance of aquatic plants. Annual costs are also assuming no increases in labor rates and cost of chemicals, but we have added contingencies to anticipate increased labor and chemical costs.

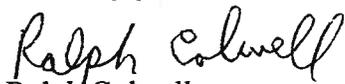
Each and every lake is constantly threatened by many invasive plants and insects. Over the past 2 years West Lake has been invaded by Zebra Mussels and they will need to be addressed during the next 5 years in this assessment. Our lake management team is trying to find an effective way to control and hopefully eradicate the Zebra Mussels. The method and cost for such treatment will be developed as part of our 5 year plan.

The WLIA was chartered to protect water quality and home values by protecting the health of West Lake. For these reasons, our WLIA and board members are asking for support and passage of the assessment renewal at \$50 per property owner per year and \$2962 per year from the City of Portage.

WLIA has demonstrated in the past that the directors will do everything we can to utilize the monies generated from the assessment in the most efficient manner possible to achieve the best results for the lake residents and the public users of the lake.

YEARS	2010	2011	2012	2013	2014	5 yr.
Herbicide treatment	24,750	18,563	18,563	18,563	18,563	99,002
Professional Services	7,000	7,000	7,000	7,000	7,000	35,000
Contingency	3,175	2,556	2,556	2,556	2,556	13,399
Yearly Treatment	34,925	28,119	28,119	28,119	28,119	147,401
Zebra Mussels Contingency						11,934
Total Expenses						159,335
237 Prop. @\$50	11,850	11,850	11,850	11,850	11,850	59,250
City Contribution	2,962.40	2,962.40	2,962.40	2,962.40	2,962.40	14,812
Tot. per year	14,812.40	14,812.40	14,812.40	14,812.40	14,812.40	74,062
SAD 2009 fund						85,273
Total income						159,335

Sincerely yours,



Ralph Colwell
 Vice President
 West Lake Improvement Association
 e-mail ralph@colwell.net

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 9, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Resolution Awarding Bid

ACTION RECOMMENDED: That the City Council adopt the resolution awarding the bid for the City of Portage Michigan Transportation Fund Refunding Bonds, Series 2010 in the amount of \$6,725,000 to Stifel, Nicolaus & Co., Inc. at 2.752054 percent.

Bid proposals for bonds were received and opened in Portage and Detroit at 11:30 a.m. on February 9, 2010. The city is selling the refunding bonds to refinance three MTF bond issues.

Interest rates associated with bids were favorable and ranged between 2.752054 and 3.41062 percent. The recommendation for the award of bids is to the lowest bidder Stifel, Nicolaus & Co., Inc. at 2.752054 percent.

Net present value savings on refinancing the Michigan Transportation Fund Refunding Bond issue is \$476,805.81.

Detailed bid tabulations are attached. It is advised that Council award the bids as recommended.

c: Daniel S. Foecking, Finance Director

MTF Refunding Bonds, Series 2010

\$ 6,725,000

Bidder:

Interest rate:

Stifel, Nicolaus & Co., Inc.

2.752054%

Hutchinson, Shockey, Erley & Co.

2.771525%

Fifth Third Securities, Inc.

2.878965%

Robert W. Baird & Co., Inc.

2.911916%

PNC Capital Markets

2.990128%

Chemical Bank

3.410620%

Bids opened at 11:30 on February 9, 2010

M E M O R A N D U M

TO: Maurice Evans, City Manager
Daniel Foecking, City Finance Director

FROM: Meredith A. Shanle, President
Municipal Financial Consultants Incorporated

RE: City of Portage Michigan Transportation Fund
Refunding Bonds, Series 2010

DATE: February 9, 2010

=====

We are enclosing herewith the report of proposals on the bond sale. As you can see the low proposer for the captioned refunding bonds was **Stifel, Nicolaus & Co., Inc.**

We were delighted with the good proposals and recommend awarding the bonds to the low proposer.

The final savings information on the captioned refunding bonds has been confirmed with the Purchaser and reviewed with the Escrow Verification Agent.

As you can see, the total net savings is \$375,772.70 and the present value savings is \$476,805.81.

Also attached hereto please find a Final Refunding Summary Sheet for the bond issue setting forth the amount of the bond issue and the various basic information which was included when the original estimates were done.

Enclosures

cc: Portage City Council

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FINAL REFUNDING SUMMARY SHEET

CITY OF PORTAGE MICHIGAN TRANSPORTATION FUND
REFUNDING BONDS, SERIES 2010

ACTUAL REFUNDING BOND ISSUE:	\$6,680,000.00
1998 BONDS BEING REFUNDED:	City of Portage Michigan Transportation Fund Refunding Bonds, Series 1998 Dated April 1, 1998
PRINCIPAL AMOUNT BEING REFUNDED:	\$1,835,000
1998A BONDS BEING REFUNDED:	City of Portage Michigan Transportation Fund Bonds, Series 1998A Dated May 1, 1998
PRINCIPAL AMOUNT BEING REFUNDED:	\$2,335,000
2001 BONDS BEING REFUNDED:	City of Portage Michigan Transportation Fund Bonds, Series 2001 Dated June 1, 2010
PRINCIPAL AMOUNT BEING REFUNDED:	\$2,300,000
ACTUAL AMOUNT TO BE DEPOSITED WITH ESCROW AGENT:	\$6,623,489.47
ACTUAL COST OF ISSUANCE:	\$ 75,214.53
ACTUAL UNDERWRITER'S PREMIUM	\$ 18,704.00
ACTUAL ACCRUED INTEREST:	\$ 1,416.45
ACTUAL NET SAVINGS:	\$ 375,772.70
ACTUAL PRESENT VALUE SAVINGS:	\$ 476,805.81
PERCENT OF REFUNDED PAR:	7.369%

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CITY OF PORTAGE

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan (the "City") held in Portage, Michigan on February 9, 2010, at 7:30 p.m. Eastern Standard Time, there were

PRESENT: _____

ABSENT: _____

AWARD RESOLUTION

The City Finance Director announced that this meeting was scheduled to confirm the appointment of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan as bond registrar, paying agent, transfer agent, authenticating agent and escrow agent and to award the purchase of the \$6,725,000 aggregate principal amount, City of Portage Michigan Transportation Fund Refunding Bonds, Series 2010, dated March 1, 2010 (the "Refunding Bonds"), which were offered for sale at a price of not less than 99.5% of the face amount thereof, as circulated in the Request for Proposal. The City Finance Director next reported that the proposals summarized in EXHIBIT A appended hereto had been received at or prior to 11:30 a.m., Eastern Daylight Savings Time, on February 9, 2010 at the office of City Finance Director, 7900 South Westnedge Ave., Portage, Michigan, 49002 or at the Municipal Advisory Council of Michigan, Buhl Building, 535 Griswold, Suite 1850, Detroit, Michigan.

The following resolution was offered by City Council member _____ and was seconded by City Council member _____.

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN as follows:

1. The actions of the officials of the City in fixing the date of sale of the Refunding Bonds and in circulating the Request for Proposal as heretofore provided, are hereby ratified and confirmed.

2. The content of the aforementioned Request for Proposal (a copy of which is attached hereto) and the content of the Nearly Final Official Statement, dated January 26, 2010 and distributed in connection with the solicitation of proposals for the purchase of the Refunding Bonds, are each hereby ratified and

confirmed and the Final Official Statement to be delivered with the Refunding Bonds shall be completed and delivered.

3. The City hereby accepts the proposal of **Stifel, Nicolaus & Co., Inc.** to purchase the \$6,725,000 aggregate principal amount of the Refunding Bonds at par, plus accrued interest to the date of delivery, plus a premium of \$20,175.00, and bearing interest per annum as shown on *EXHIBIT A* with a true interest rate of 2.752054%, which proposal produces the lowest true interest cost to the City, and all other proposals are hereby rejected and the good faith checks of the unsuccessful proposers are hereby ordered to be returned.

4. The City hereby confirms the appointment of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan as bond registrar, paying agent, transfer agent, authenticating agent and escrow agent for the Refunding Bonds in accordance with the terms set forth in the Refunding Bond Resolution previously adopted by the City Council (the "Resolution").

5. The City, pursuant to the Resolution, shall increase or decrease the aggregate amount of the Refunding Bonds, as set forth in *EXHIBIT B* attached hereto.

6. The City shall proceed to issue the Refunding Bonds in the total principal amount of \$6,680,000 with annual maturities and at the interest rates set forth in *EXHIBIT B*. The Refunding Bonds shall be dated March 1, 2010 and will bear interest from their date of issuance payable on December 1, 2010 and semiannually thereafter on June 1 and December 1 in each year until maturity.

7. All prior resolutions of the City Council are rescinded insofar as, and to the extent that, they may be in conflict with this Award Resolution.

A vote on this Award Resolution was taken and was as follows:

YES: _____

NO: _____

ABSTAIN: _____

The Resolution was declared adopted.

CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of the City of Portage, Kalamazoo County, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the City Council of the City at a regular meeting held on February 9, 2010 at which meeting a quorum was present and remained throughout; (2) the original thereof is on file in the records of the proceedings of the City Council of the City of Portage in my office; (3) the meeting was conducted, and public notice thereof was given pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan 1976, as amended); and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

City Clerk

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\$6,725,000
 CITY OF PORTAGE MICHIGAN TRANSPORTATION FUND
 REFUNDING BONDS, SERIES 2010

Sale Date:	February 9, 2010	Good Faith Check:	\$134,500
Time:	11:30 a.m. EST	Discount:	\$ 33,625
Dated:	March 1, 2010	Maximum Interest:	7.0%

Maturities - Due December 1

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2010	\$465,000	2014	\$775,000	2018	\$670,000
2011	550,000	2015	925,000	2019	320,000
2012	570,000	2016	565,000	2020	350,000
2013	570,000	2017	615,000	2021	350,000

Proposer: Stifel, Nicolaus & Co., Inc.

2010	2.00%	2016	2.75%		
2011	2.00%	2017	3.00%	Premium:	\$20,175.00
2012	2.00%	2018	3.25%		
2013	2.00%	2019	3.50%		
2014	2.00%	2020	3.50%	True Int Rate:	2.752054%
2015	2.25%	2021	3.50%		

Proposer: Hutchinson, Shockey, Erley & Co.

2010	2.00%	2016	3.00%		
2011	2.00%	2017	3.25%	Premium:	\$104,832.05
2012	2.00%	2018	3.50%		
2013	2.00%	2019	4.00%		
2014	2.00%	2020	4.00%	True Int Rate:	2.771525%
2015	2.50%	2021	4.00%		

Bond Counsel
 AXE & ECKLUND, P.C.
 Grosse Pointe Farms, Michigan 48236

\$6,725,000
 CITY OF PORTAGE MICHIGAN TRANSPORTATION FUND
 REFUNDING BONDS, SERIES 2010

Proposer: Fifth Third Securities, Inc.

2010	2.00%	2016	3.00%		
2011	2.00%	2017	3.25%	Premium:	\$67,899.50
2012	2.00%	2018	3.50%		
2013	2.00%	2019	3.75%		
2014	2.25%	2020	4.00%	True Int Rate:	2.878965%
2015	2.50%	2021	4.00%		

Proposer: Robert W. Baird & Co., Inc.

2010	2.00%	2016	3.00%		
2011	2.00%	2017	3.00%	Premium:	\$69,414.70
2012	2.00%	2018	4.00%		
2013	2.00%	2019	4.00%		
2014	2.00%	2020	4.00%	True Int Rate:	2.911916%
2015	2.50%	2021	4.00%		

Proposer: PNC Capital Markets

2010	2.00%	2016	3.00%		
2011	2.00%	2017	3.00%	Premium:	\$30,861.40
2012	2.00%	2018	3.25%		
2013	2.00%	2019	3.50%		
2014	2.50%	2020	4.00%	True Int Rate:	2.990128%
2015	3.00%	2021	4.00%		

Proposer: Chemical Bank

2010	2.10%	2016	3.40%		
2011	2.40%	2017	3.55%		
2012	2.70%	2018	3.65%		
2013	2.90%	2019	3.75%		
2014	3.10%	2020	3.80%	True Int Rate:	3.41062%
2015	3.25%	2021	3.85%		

Bond Counsel
 AXE & ECKLUND, P.C.
 Grosse Pointe Farms, Michigan 48236

FINAL MATURITIES AND INTEREST RATES

\$6,680,000
 CITY OF PORTAGE
 Kalamazoo County, Michigan
 CITY OF PORTAGE MICHIGAN TRANSPORTATION FUND
 REFUNDING BONDS, SERIES 2010

The City of Portage as authorized in the Refunding Bond Resolution for the above referenced refunding bonds previously adopted by the City of Portage, hereby establishes the final maturities for the above captioned refunding bond issue with interest rates thereon as follows:

<u>Due</u> <u>Dec. 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2010	\$ 455,000	2.00%
2011	520,000	2.00
2012	410,000	2.00
2013	685,000	2.00
2014	815,000	2.00
2015	925,000	2.25
2016	565,000	2.75
2017	615,000	3.00
2018	670,000	3.25
2019	320,000	3.50
2020	350,000	3.50
2021	350,000	3.50

Dated: February 9, 2010

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REQUEST FOR PROPOSAL
\$6,725,000*
CITY OF PORTAGE MICHIGAN TRANSPORTATION FUND
REFUNDING BONDS, SERIES 2010

*Subject to Adjustment

SEALED OR ELECTRONIC PROPOSALS: Sealed written proposals for the purchase of the refunding bonds described herein (the "Refunding Bonds") will be received by the undersigned, on behalf of the City of Portage (the "City"), at the office of the Finance Director, City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002, on February 9, 2010, until 11:30 a.m., Eastern Standard Time, at which time and place the proposals will be publicly opened and read.

In the alternative, sealed written proposals will also be received on the same date and until the same time by an agent of the undersigned at the office of the Municipal Advisory Council of Michigan, Buhl Building, 535 Griswold, Suite 1850, Detroit, Michigan, 48226, where they will be publicly opened simultaneously. Proposals received at Portage, Michigan will be read first followed by the proposals received at the alternate location. Proposers may choose either location to present proposals and good faith checks, but not both locations.

Any proposer may submit a proposal in person to either proposing location. However, no proposer is authorized to submit a FAX proposal to Portage, Michigan.

Also in the alternative, electronic proposals will also be received on the same date and until the same time by an agent of the undersigned Bidcomp/Parity. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Eric Washington, 1359 Broadway, 2nd Floor, New York, New York, 10018, (212) 849-5021.

If any provision of this Request for Proposal shall conflict with information provided by Bidcomp/Parity as the approved provider of electronic proposing services, this Request for Proposal shall control.

The Refunding Bonds will be awarded or all proposals will be rejected by the City Council at a meeting to be held within twenty-four hours of the sale.

BOND DETAILS: The Refunding Bonds will be dated March 1, 2010 and will be known as the "City of Portage Michigan Transportation Fund Refunding Bonds, Series 2010". The Refunding Bonds will be fully registered Refunding Bonds in any one or more denominations of \$5,000 or a multiple of \$5,000, numbered from 1 upwards and will bear interest from their date payable December 1, 2010 and semi-annually thereafter until maturity. The Refunding Bonds will mature on the 1st day of December in each year as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2010	\$465,000	2014	\$775,000	2018	\$670,000
2011	550,000	2015	925,000	2019	320,000
2012	570,000	2016	565,000	2020	350,000
2013	570,000	2017	615,000	2021	350,000

PRIOR REDEMPTION: The Refunding Bonds shall not be subject to redemption prior to maturity.

INTEREST RATE AND PROPOSING DETAILS: The Refunding Bonds shall bear interest at a rate or rates not exceeding 7.0% per annum, to be fixed by the proposals therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one Refunding Bond shall be at one rate only. All Refunding Bonds maturing in any one year must carry the same interest rate. THE INTEREST RATE BORNE BY REFUNDING BONDS MATURING IN ANY YEAR SHALL NOT BE LESS THAN THE INTEREST RATE BORNE BY REFUNDING BONDS MATURING IN ANY PRECEDING YEAR. No proposal for the purchase of less than all of the Refunding Bonds or at a price that is less than 99.5% of their par value will be considered.

TERM BOND OPTION: Refunding Bonds maturing in the years 2015-2021, inclusive, are eligible for designation by the original purchaser at the time of sale as Serial Refunding Bonds or Term Refunding Bonds, or both. There may be more than one Term Refunding Bond maturity. However, principal maturities designated as Term Refunding Bonds shall be subject to mandatory redemption, in part, by lot, at par and accrued interest on December 1st of the year in which the Refunding Bonds are presently scheduled to mature. Each maturity of Term Refunding Bonds and Serial Refunding Bonds must carry the same interest rate. Any such designation must be made at the time the proposals are submitted.

BOOK-ENTRY-ONLY: The Refunding Bonds will be issued in book-entry-only form as one fully-registered bond per maturity and will be registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the Refunding Bonds. Purchase of the Refunding Bonds will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in Refunding Bonds purchased. The book-entry-only system is described further in the nearly final official statement for the Refunding Bonds.

BOND REGISTRAR, PAYING AGENT AND DATE OF RECORD: The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, has been selected as paying agent and bond registrar (the "Bond Registrar") for the Refunding Bonds. The Bond Registrar will keep records of the registered holders of the Refunding Bonds, serve as transfer agent for the Refunding Bonds, authenticate the original and any re-issued refunding bonds and pay interest by

check or draft mailed to the registered holders of the Refunding Bonds as shown on the registration books of the City kept by the Bond Registrar on the applicable date of record. The date of record for each interest payment shall be the 15th day of the month before such payment is due. The principal of and redemption premium, if any, on the Refunding Bonds will be paid when due upon presentation and surrender thereof to the Bond Registrar. As long as DTC, or its nominee Cede & Co., is the registered owner of the Refunding Bonds, payments will be made directly to such registered owner. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners of the Refunding Bonds is the responsibility of DTC participants and indirect participants as described in the nearly final official statement for the Refunding Bonds. The City may from time to time as required designate a successor bond registrar and paying agent.

PURPOSE AND SECURITY: The Refunding Bonds are being issued pursuant to Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34"), Act No. 175, Public Acts of Michigan, 1952, as amended and the Refunding Bond Resolution, as amended, adopted by the City Council for the purpose of refunding the outstanding City of Portage Michigan Transportation Fund Refunding Bonds, Series 1998, dated as of April 1, 1998 in the amount of \$1,835,000 which remains outstanding and is being refunded, and the City of Portage Michigan Transportation Fund Bonds, Series 1998A, dated as of May 1, 1998 in the amount of \$2,335,000 which remains outstanding and is being refunded, and the City of Portage Michigan Transportation Fund Bonds, Series 2001, dated as of January 1, 2002 in the amount of \$2,300,000 which remains outstanding and is being refunded (together the "Prior Bonds"). In addition, the Refunding Bonds are to be issued pursuant to the provisions of Act No. 51, Michigan Public Acts of 1951, as amended ("Act 51"), and are issued in anticipation of, and payable primarily from, the revenues to be derived by the City from state-collected taxes returned to the City pursuant to law for highway and road purposes. In the event said state returned taxes are for any reason insufficient to pay the principal of and interest on the Refunding Bonds when due, the City has pledged its full faith and credit for the prompt and timely payment of the obligation. The full faith and credit pledge of the City is a limited tax general obligation whereby the City is required to advance sufficient moneys to make up such deficiency from its general funds as a first budget priority, including the collections of any ad valorem taxes which the City is authorized to levy. The City, however, does not have the power to levy any tax for the payment of the Refunding Bonds in excess of its constitutional, statutory or charter limits. THE REFUNDING BONDS ARE NOT AN OBLIGATION OF THE STATE OF MICHIGAN OR OF THE MICHIGAN TRANSPORTATION FUND.

BOND INSURANCE AT PURCHASER'S OPTION: If the Refunding Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the proposer/purchaser, the

purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Refunding Bonds. Any increased costs of issuance of the Refunding Bonds resulting from such purchase of insurance shall be paid by the purchaser. Any additional rating agency fees shall be the responsibility of the purchaser. FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE REFUNDING BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE REFUNDING BONDS FROM THE CITY.

ESCROW AGENT: Proceeds from the Refunding Bonds will be transferred to The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, as escrow agent (the "Escrow Agent") under an escrow agreement (the "Agreement"), who will use such proceeds to acquire investment obligations sufficient to pay principal of, premium, if any, and interest on the Refunded Bonds when due or upon the first permissible redemption date for the Refunded Bonds.

ADJUSTMENT IN PRINCIPAL AMOUNT: The aggregate principal amount of this issue has been determined as the amount necessary to retire the Refunded Bonds and pay a portion or all of the costs of issuance of the Refunding Bonds, assuming certain conditions and events exist on the date of sale. The City reserves the right, following receipt of proposals and prior to final award, to increase or decrease the aggregate principal amount of the Refunding Bonds by an amount not to exceed \$775,000. The increase or decrease will be in increments of \$5,000 and may be made in any maturity or maturities. The purchase price will be adjusted proportionately to the reduction in issue size, but the interest rates specified by the successful proposer for all maturities will not change. The successful proposer may not withdraw the proposal as a result of any changes made within these limits.

If no proposal results in debt service savings acceptable to the City when the proceeds are used to provide for the refunding of the Refunded Bonds, the City may reject all proposals and negotiate with one or more of the proposers for the sale of the bonds on terms which will enable the City to achieve debt service savings acceptable to the City.

ADJUSTMENT IN DISCOUNT OR PREMIUM: In the event the principal amount of this issue is increased or decreased, the discount or premium proposal, if any, will be adjusted so that it is the same percent as the discount or premium originally proposed.

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a wire transfer in an amount equal to 2% (\$134,500) of the face amount of the Refunding Bonds, and payable to the order of the City will be required of the successful proposer as a guarantee of good faith on the part of the proposer, to be forfeited as liquidated damages if such

proposal be accepted and the proposer fails to take up and pay for the Bonds. If a check is used, it must accompany each proposal. If a wire transfer is used, the successful proposer is required to wire the good faith deposit not later than Noon, prevailing Eastern Time, on the next business day following the sale using the wire instructions provided by Municipal Financial Consultants Incorporated. The good faith deposit will be applied to the purchase price of the Bonds. No interest shall be allowed on the good faith checks, and checks of each unsuccessful proposer will be promptly returned to such proposer's representative or by registered mail. The good faith check of the successful proposer will be cashed immediately, in which event, payment of the balance of the purchase price of the Bonds shall be made at the closing.

AWARD OF THE REFUNDING BONDS - TRUE INTEREST COST: The Refunding Bonds will be awarded to the proposer whose proposal produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on December 1, 2010 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment dates to March 1, 2010 in an amount equal to the price proposed, excluding accrued interest. March 4, 2010 is the anticipated date of delivery of the Refunding Bonds.

LEGAL OPINION: Proposals shall be conditioned upon the approving opinion of Axe & Ecklund, P.C., attorneys of Grosse Pointe Farms, Michigan (the "Bond Counsel") a copy of which opinion will be printed on the reverse side of each bond and the original of which will be furnished without expense to the purchaser of the Refunding Bonds at the delivery thereof. The fees of Bond Counsel for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue such opinion and as described in the official statement, Bond Counsel has not been requested to examine or review and has not examined or reviewed any financial documents, statements or other materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Refunding Bonds, and therefore, has not expressed and will not express an opinion with respect to the accuracy or completeness of the official statement or any such financial documents, statements or materials.

TAX MATTERS: In the opinion of Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Refunding Bonds is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, the Refunding Bonds and interest thereon are exempt from all taxation in the State of Michigan except estate taxes, gross

receipts taxes and taxes on gains realized from the sale, payment or other disposition thereof.

"QUALIFIED TAX EXEMPT OBLIGATIONS": The Refunding Bonds have been designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986.

CERTIFICATE REGARDING "ISSUE PRICE": The Purchaser will be required, as a condition of delivery of the Refunding Bonds, to certify the "issue price" of the Refunding Bonds within the meaning of Section 1273 of the Code, which will include a representation that at least 10 percent of each maturity of the Refunding Bonds has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at a price not exceeding the stated initial offering price. In addition, if the successful proposer will obtain a municipal bond insurance policy or other credit enhancement for the Refunding Bonds in connection with their original issuance, the successful proposer will be required, as a condition of delivery of the Refunding Bonds, to certify that the premium therefor will be less than the present value of the interest expected to be saved as a result of such insurance or other credit enhancement. The form of an acceptable certificate will be provided by bond counsel.

DELIVERY OF BONDS: The City will furnish Refunding Bonds ready for execution at its expense. Refunding Bonds will be delivered without expense to the Purchaser. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the Refunding Bonds, will be delivered at the time of delivery of the Refunding Bonds. If the Refunding Bonds are not tendered for delivery by twelve o'clock noon, Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful proposer may on that day, or any time thereafter until delivery of the Refunding Bonds, withdraw its proposal by serving written notice of cancellation on the undersigned, in which event the City shall promptly return the good faith deposit. Payment for the Refunding Bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the Refunding Bonds shall be paid by the Purchaser at the time of delivery. Notwithstanding the foregoing, the successful proposer will be required to pay for and accept delivery of the Bonds on or about March 4, 2010.

UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE: In order to assist proposers in complying with SEC Rule 15c2-12, as amended, the City will covenant to undertake (pursuant to a resolution adopted or to be adopted by its governing body), to provide annual reports and timely notice of certain events for the benefit of beneficial owners of the Refunding Bonds. The details and terms of the undertaking are set forth in a Continuing Disclosure Certificate to be executed and delivered by the City a form of

which is included in the nearly final official statement and in the final official statement.

OFFICIAL STATEMENT:

Hard Copy

A copy of the nearly final official statement (the "Nearly Final Official Statement") may be obtained by contacting Municipal Financial Consultants Incorporated at the address listed below. The Nearly Final Official Statement is in a form deemed final as of its date by the City for purposes of SEC Rule 15c2-12(b)(1), but is subject to revision, amendment and completion of a final official statement (the "Final Official Statement"). The successful proposer shall supply to the City, within twenty-four (24) hours after the award of the Refunding Bonds, all pricing information and any underwriter identification determined by Bond Counsel to be necessary to complete the Final Official Statement.

Internet

In addition, the City has authorized the preparation and distribution of a Nearly Final Official Statement containing information relating to the Refunding Bonds via the Internet. The Nearly Final Official Statement can be viewed and downloaded at www.i-dealprospectus.com/PDF.asp?doc=45745 or at www.tm3.com.

The City will furnish to the successful proposer, at no cost, 100 copies of the Final Official Statement within seven (7) business days after the award of the Refunding Bonds. Additional copies will be supplied upon the proposer's agreement to pay the cost incurred by the City for those additional copies.

The City shall deliver, at closing, an executed certificate to the effect that as of the date of delivery the information contained in the Final Official Statement, including revisions, amendments and completions as necessary, relating to the City and the Refunding Bonds is true and correct in all material respects, and that such Final Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

CUSIP NUMBERS: It is anticipated that CUSIP identification numbers will be printed on the Refunding Bonds, but neither the failure to print such numbers nor any improperly printed number shall constitute cause for the Purchaser to refuse to accept delivery of or to pay for the Refunding Bonds. All expenses for printing CUSIP numbers on the Refunding Bonds shall be paid for by the City, except that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the Purchaser.

FURTHER INFORMATION: Additional information may be obtained from Meredith A. Shanle, Municipal Financial Consultants Incorporated, 21 Kercheval Avenue, Suite 360, Grosse Pointe Farms, Michigan 48236, telephone (313) 884-9824.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL PROPOSALS.

ENVELOPES: Envelopes containing the proposals should be plainly marked "City of Portage Michigan Transportation Fund Refunding Bonds, Series 2010."

DANIEL S. FOECKING, CITY FINANCE DIRECTOR
CITY OF PORTAGE

las.ar-ref-por-mtf2010

Upcoming Calendar Overview Result Excel

Stifel, Nicolaus & Co., Inc. - St. Louis , MO's Bid
Portage
\$6,725,000 Michigan Transportation Fund Refunding
Bonds, Series 2010



For the aggregate principal amount of \$6,725,000.00, we will pay you \$6,745,175.00, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
12/01/2010	465M	2.0000
12/01/2011	550M	2.0000
12/01/2012	570M	2.0000
12/01/2013	570M	2.0000
12/01/2014	775M	2.0000
12/01/2015	925M	2.2500
12/01/2016	565M	2.7500
12/01/2017	615M	3.0000
12/01/2018	670M	3.2500
12/01/2019	320M	3.5000
12/01/2020	350M	3.5000
12/01/2021	350M	3.5000

Total Interest Cost: \$1,116,843.75
 Premium: \$20,175.00
 Net Interest Cost: \$1,096,668.75
 TIC: 2.752054
 Time Last Bid Received On:02/09/2010 11:25:48 EST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: Stifel, Nicolaus & Co., Inc., St. Louis , MO
 Contact: Jim Pratl
 Title: 1st VP
 Telephone:314-342-2750
 Fax: 314-342-2836

Issuer Name: City of Portage Company Name: _____

Accepted By: _____ Accepted By: _____

Upcoming Calendar Overview Result Excel

**Hutchinson, Shockey, Erley & Co. - Chicago , IL's Bid
Portage**



**\$6,725,000 Michigan Transportation Fund Refunding
Bonds, Series 2010**

For the aggregate principal amount of \$6,725,000.00, we will pay you \$6,829,832.05, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
12/01/2010	465M	2.0000
12/01/2011	550M	2.0000
12/01/2012	570M	2.0000
12/01/2013	570M	2.0000
12/01/2014	775M	2.0000
12/01/2015	925M	2.5000
12/01/2016	565M	3.0000
12/01/2017	615M	3.2500
12/01/2018	670M	3.5000
12/01/2019	320M	4.0000
12/01/2020	350M	4.0000
12/01/2021	350M	4.0000

Total Interest Cost: \$1,221,221.88
 Premium: \$104,832.05
 Net Interest Cost: \$1,116,389.83
 TIC: 2.771525
 Time Last Bid Received On:02/09/2010 11:29:44 EST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: Hutchinson, Shockey, Erley & Co., Chicago , IL
 Contact: Jim VanMetre
 Title:
 Telephone:312-443-1550
 Fax: 443-72-25

Issuer Name: City of Portage Company Name: _____

Accepted By: _____ Accepted By: _____

Upcoming Calendar Overview Result Excel

**Fifth Third Securities, Inc. - Cincinnati , OH's Bid
Portage**



**\$6,725,000 Michigan Transportation Fund Refunding
Bonds, Series 2010**

For the aggregate principal amount of \$6,725,000.00, we will pay you \$6,792,899.50, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
12/01/2010	465M	2.0000
12/01/2011	550M	2.0000
12/01/2012	570M	2.0000
12/01/2013	570M	2.0000
12/01/2014	775M	2.2500
12/01/2015	925M	2.5000
12/01/2016	565M	3.0000
12/01/2017	615M	3.2500
12/01/2018	670M	3.5000
12/01/2019	320M	3.7500
12/01/2020	350M	4.0000
12/01/2021	350M	4.0000

Total Interest Cost: \$1,222,625.00
 Premium: \$67,899.50
 Net Interest Cost: \$1,154,725.50
 TIC: 2.878965
 Time Last Bid Received On:02/09/2010 11:29:27 EST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: Fifth Third Securities, Inc., Cincinnati , OH
 Contact: Bill Terlesky
 Title:
 Telephone:513-534-7186
 Fax:

Issuer Name: City of Portage Company Name: _____

Accepted By: _____ Accepted By: _____

Upcoming Calendar Overview Result Excel

**Robert W. Baird & Co., Inc. - Red Bank , NJ's Bid
Portage**



**\$6,725,000 Michigan Transportation Fund Refunding
Bonds, Series 2010**

For the aggregate principal amount of \$6,725,000.00, we will pay you \$6,794,414.70, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
12/01/2010	465M	2.0000
12/01/2011	550M	2.0000
12/01/2012	570M	2.0000
12/01/2013	570M	2.0000
12/01/2014	775M	2.0000
12/01/2015	925M	2.5000
12/01/2016	565M	3.0000
12/01/2017	615M	3.0000
12/01/2018	670M	4.0000
12/01/2019	320M	4.0000
12/01/2020	350M	4.0000
12/01/2021	350M	4.0000

Total Interest Cost: \$1,238,618.75
 Premium: \$69,414.70
 Net Interest Cost: \$1,169,204.05
 TIC: 2.911916
 Time Last Bid Received On:02/09/2010 11:20:00 EST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: Robert W. Baird & Co., Inc., Red Bank , NJ
 Contact: charles massaro
 Title: director
 Telephone:732-576-4410
 Fax: 732-576-4420

Issuer Name: City of Portage Company Name: _____

Accepted By: _____ Accepted By: _____

Upcoming Calendar Overview Result Excel

**PNC Capital Markets - Philadelphia , PA's Bid
Portage**



**\$6,725,000 Michigan Transportation Fund Refunding
Bonds, Series 2010**

For the aggregate principal amount of \$6,725,000.00, we will pay you \$6,755,861.40, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
12/01/2010	465M	2.0000
12/01/2011	550M	2.0000
12/01/2012	570M	2.0000
12/01/2013	570M	2.0000
12/01/2014	775M	2.5000
12/01/2015	925M	3.0000
12/01/2016	565M	3.0000
12/01/2017	615M	3.0000
12/01/2018	670M	3.2500
12/01/2019	320M	3.5000
12/01/2020	350M	4.0000
12/01/2021	350M	4.0000

Total Interest Cost: \$1,224,050.00
 Premium: \$30,861.40
 Net Interest Cost: \$1,193,188.60
 TIC: 2.990128
 Time Last Bid Received On:02/09/2010 11:25:24 EST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: PNC Capital Markets, Philadelphia , PA
 Contact: Mark Denick
 Title:
 Telephone:215-585-1441
 Fax:

Issuer Name: City of Portage Company Name: _____

Accepted By: _____ Accepted By: _____

February 9, 2010

Mr. Daniel S. Foecking, City Finance Director
Office of the Finance Director
Portage City Hall
7900 South Westnedge Avenue
Portage, MI 49002

Dear Mr. Foecking:

With respect to your Request for Proposal for \$6,725,000 City of Portage, Kalamazoo County Refunding Bonds, Series 2010, please be advised as follows:

For the entire issue, as described in your Notice of Sale, we will bid par, plus accrued interest from the dated date to the date of delivery to us for bonds maturing and bearing interest as follows:

12/1/2010	\$465,000	2.10%	12/1/2016	\$565,000	3.40%
12/1/2011	\$550,000	2.40%	12/1/2017	\$615,000	3.55%
12/1/2012	\$570,000	2.70%	12/1/2018	\$670,000	3.65%
12/1/2013	\$570,000	2.90%	12/1/2019	\$320,000	3.75%
12/1/2014	\$775,000	3.10%	12/1/2020	\$350,000	3.80%
12/1/2015	\$925,000	3.25%	12/1/2021	\$350,000	3.85%

The bid is for all or none of the bonds.

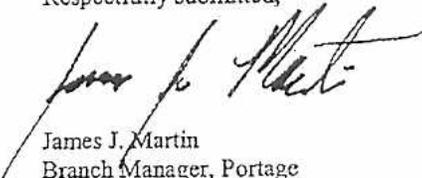
This bid is subject to the following conditions:

- A. That the bonds be exempt from federal and state income tax and further be declared to be a "Qualified Tax-Exempt Obligation" for the purpose of deduction of interest expense by financial institutions;
- B. That the bonds be a general obligation of the City of Portage;
- C. That the bonds be structured in accordance with Michigan statutes pertaining to the authority of cities to borrow;
- D. That the school district provides bond documents and a legal opinion acceptable to bank counsel.

This rate commitment will expire 45 days from the date of this letter unless extended by the bank in writing.

We are pleased to be of service to you.

Respectfully submitted,


James J. Martin
Branch Manager, Portage
Chemical Bank

The following is a computation of the true interest cost on the above bid from March 1, 2010. This computation is not to be considered part of this bid and is subject to verification:

Gross Interest Cost	\$ 1,352,868.75
Premium (Discount)	\$ -
Net Interest Cost	\$ 1,352,868.75
True Interest Cost	3.41062%

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 1, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Ordinance Amendment #09-C, Home Occupation Regulations

ACTION RECOMMENDED: That City Council:

- a. accept Ordinance Amendment #09-C, Home Occupation regulations, for first reading and establish a public hearing on March 9, 2010; and
- b. subsequent to the public hearing, consider approval of Ordinance Amendment #09-C.

Ordinance language has been prepared to amend the home occupation regulations contained in the Zoning Code. Attached is a report from the Community Development Director that explains the proposed ordinance modifications to Section 42-112, Definitions and Section 42-129, Home Occupations. The ordinance amendment was developed to allow expanded types of home-based businesses, but continue to protect nearby residential uses from potential negative impacts. This home occupation proposal was also discussed during the Portage 2025 Visioning Project and is consistent with the Planning Commission Goals and Objectives.

The proposed ordinance amendment defines “passive” home occupations and “active” home occupations. The “passive” home occupation category is, essentially, the existing Zoning Code provisions that permit a low intensity occupation as a subordinate use to the principal residential use of the property. This type of home occupation would be administratively reviewed and approved if in conformance with ordinance requirements. The “active” home occupation continues the requirement that the use is subordinate to the residential use of the property but would allow a more intensive home-based activity or service that does not meet the requirements for a “passive” home occupation. An “active” home occupation would be allowed with approval by the Planning Commission after a public hearing and compliance with several conditions established to ensure protection of adjacent residential uses.

The Planning Commission reviewed the proposed ordinance modifications in November and December 2009 and conducted a public hearing during the January 7, and 21, 2010 Commission meetings. After a thorough review of the proposed ordinance changes, the Planning Commission voted unanimously to recommend to City Council that Ordinance Amendment #09-C be adopted. It is recommended that City Council accept Ordinance Amendment #09-C for first reading, establish a public hearing on March 9, 2010, and subsequent to the public hearing, adopt the proposed ordinance.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: February 1, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Ordinance Amendment #09-C, Home Occupation Regulations

As discussed during the Portage 2025 Visioning Project and consistent with the Planning Commission Goals and Objectives, an ordinance amendment has been prepared that would modify the Zoning Code home occupation regulations. The ordinance amendment modifies Section 42-112. Definitions, and Section 42-129. Home occupations, and will allow expanded types of home-based businesses as subordinate uses, while continuing to protect nearby residential uses from potential negative impacts.

The ordinance amendment, developed by the Community Development Department with the assistance of the City Attorney, establishes two categories of home occupations. The passive home occupation category continues the current ordinance provisions that allow a low intensity occupation as a subordinate use to the principal residential use of the property. This category would be administratively reviewed and approved if in conformance with ordinance requirements. The active home occupation category permits a more intensive home-based activity that is also subordinate to the residential use of the property. An active home occupation does not meet the requirements for a passive home occupation and would be allowed after a public hearing, with approval by the Planning Commission when in compliance with several conditions including:

- Conducted on a zoning lot with a one-family residential dwelling unit.
- One employee other than the full-time occupant(s) can be engaged.
- One property line of the zoning lot must abut a major thoroughfare.
- Floor area is limited to 25 percent of the total floor area of any one floor with a maximum of 400 square feet allowed.
- Inventory/materials used with the home occupation cannot be displayed that is visible from adjacent properties.
- One vehicle and/or trailer used with the home occupation can be stored on the zoning lot, unless otherwise approved by the Planning Commission.
- No undue noise, odor, dust, fumes, smoke, glare or comparable nuisances can be generated.
- Off-street parking must be located on an improved driveway and meet the requirements specified in Article 5, Section 24-111, Definitions.
- Hours of operation are limited to 7:00 a.m. to 9:00 p.m.
- No freestanding signage is permitted and one small wall sign may be used.

After discussing the proposed ordinance language over several meetings, on January 21, 2010 the Planning Commission voted unanimously to recommend that City Council approve Ordinance Amendment #09-C. Attached find the Planning Commission transmittal, meeting minutes, Department of Community Development communication and related materials for your information and review.

Attachments: Planning Commission transmittal dated February 1, 2010
Planning Commission Minutes (November 5 and December 17, 2009 and January 7 and 21, 2010)
Department of Community Development report dated January 15, 2010
Ordinance Amendment

TO: Honorable Mayor and City Council
FROM: Planning Commission
DATE: February 1, 2010
SUBJECT: Ordinance Amendment #09-C, Home Occupation Regulations

The Planning Commission began preliminary review and discussion of the proposed home occupation ordinance amendment at the November 5th and December 17th, 2009 meetings. A public hearing to formally consider Ordinance Amendment #09-C was convened during the January 7th and 21st, 2010 Planning Commission meetings. No citizens spoke in regard to the proposed ordinance amendment.

After a thorough review of the proposed ordinance modifications over the course of four public meetings, a motion was 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.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Thomas A. Fox
Chairman

NEW BUSINESS:

1. Draft Home Occupation Ordinance Amendment. Mr. Forth summarized the staff report dated October 30, 2009 regarding a draft ordinance prepared by the City Administration and City Attorney which would amend the current home occupation regulations. Mr. Forth stated the ordinance amendment would expand the current regulations by creating two categories of home occupations where subordinate to the principal single family residential land use. Mr. Forth indicated that passive home occupations would include low intensity uses which are currently allowed under the existing home occupation ordinance subject to administrative review and approval. Mr. Forth stated that active home occupations would include more intensive uses, beyond the criteria for passive home occupations, which would be subject to several operational and location conditions and review/approval by the Planning Commission.

The Commission, staff and City Attorney reviewed and discussed the draft ordinance language and the criteria for approval of active home occupations including condition 3 (maximum floor area), conditions 4, 5 and 6 in relation to fruit/vegetable stands, condition 8 (vehicle and trailer storage), condition 12 (location on a major or collector thoroughfare) and condition 14 (hours of operation). Mr. Forth provided a summary of the staff research involved in preparation of the draft ordinance and the intent of many of the conditions for active home occupations. Attorney Brown stated the conditions for active home occupations were developed so the Planning Commission could evaluate the specific use on a case-by-case basis. Mr. West indicated that condition 9 allows the Planning Commission considerable flexibility in evaluating individual active home occupation applications.

After additional discussion, Mr. Forth stated that staff and the City Attorney would meet to discuss Commission comments and possible ordinance language changes and would return the draft ordinance to the Planning Commission for further consideration at an upcoming meeting.

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

inconsistencies which occurred during the 2003 Zoning Code update and to standardize sign regulations for non-residential uses allowed in the residential zoning districts. Mr. Forth stated that changes to Section 42-550(A) and 42-551(A) were intended to clarify the statement "...with a minimum sign size of 32 square feet..." and clearly indicate that a variance from the Zoning Board of Appeals was not necessary if a smaller sign is desired, and, the maximum sign size for a lot less than 80-feet wide was 32 square feet.

The Commission and staff discussed the proposed increase in sign size for non-residential uses in the residential zoning districts and church sites which have recently requested variances from this standard. After additional discussion, Mr. Forth stated a public hearing would be scheduled for the January 7, 2010 meeting.

2. Proposed Home Occupation Ordinance Amendment. Mr. Forth summarized the staff report dated December 11, 2009 regarding proposed modifications to the home occupation regulations. Mr. Forth discussed comments received by the Planning Commission during the November 5, 2009 meeting and staff responses to these various issues. Mr. Forth referred the Commission to the revised ordinance amendment included in the agenda packet and asked for additional Commission comments.

The Commission and staff discussed the revised ordinance language and the requirement for location of active home occupations on major thoroughfares, possible inclusion of distance requirements between active home occupations (similar to group child care homes) and the establishment of fruit/vegetable stands and the Right to Farm Act. After additional discussion, Mr. Forth stated a public hearing would be scheduled for the January 7, 2010 meeting.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

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

Dr. Andrew Helmholdt and Dr. Cynthia Lunney of the Portage Animal Hospital were present to support the application. Dr. Helmholdt stated that discussions with Treystar Holdings regarding a shared/cross access arrangement were currently ongoing and engineering changes would likely be needed to the site plan. The public hearing was then opened by Chairman Fox. No citizens were present to speak regarding the development project. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to adjourn the Special Land Use Permit/Site Plan for Portage Animal Hospital, 8037 Portage Road, to the January 21, 2010 meeting, at the request of the applicant. The motion was unanimously approved.

2. Preliminary Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to Sections 42-545(A), 42-550(A) and 42-551(A) of the Zoning Code. Mr. Forth discussed the proposed changes to the sign regulations and the rationale for the changes. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Bailes, seconded by Commissioner Pearson, to adjourn Ordinance Amendment 09-B, Sign Ordinance Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

3. Preliminary Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to the home occupation regulations. Mr. Forth discussed the two types of home occupations proposed (passive and active), the various conditions for approval and the previous Planning Commission discussion and review of the proposed ordinance language. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to adjourn Ordinance Amendment 09-C, Home Occupation Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

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 7:20 p.m.

Respectfully submitted,

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

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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 very 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

TO: Planning Commission **DATE:** January 15, 2010
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: Final Report: Ordinance Amendment #09-C, Home Occupation Regulations

I. INTRODUCTION

Consistent with the Planning Commission Goals and Objectives assigned by City Council, an ordinance amendment has been prepared that would modify home occupation regulations. Facilitating home occupations was previously discussed as part of the Portage 2025 Visioning Project.

Background research to identify appropriate and potentially adaptable regulations included review of approximately 20 different community ordinances including the City of New Baltimore, Ada Township, City of Holland, City of Port Huron, Oshtemo Township, City of Kalamazoo, Ypsilanti Township, Meridian Township, among others.

The ordinance amendment involves modifications to Section 42-112 (Definitions) and Section 42-129 (Home occupations) of the Zoning Code and was developed to accomplish the following: 1) allow more intensive types of home-based businesses as subordinate uses, and 2) continue to protect adjacent and nearby residential uses from potential negative impacts. A detailed discussion of proposed ordinance changes involving home occupations is provided below.

II. ZONING CODE PROVISIONS/ANALYSIS

The proposed ordinance amendment establishes two categories of home occupations: passive home occupation and active home occupation. A passive home occupation would continue the current ordinance provisions allowing low intensity occupations as a subordinate use to the principal residential use of the property. Passive home occupations would continue to be administratively reviewed, and approved if in conformance with ordinance requirements. An active home occupation is a new category, which is also subordinate to the residential use of the property, but is a more intensive home-based activity or service that does not meet the requirements for a passive home occupation. An active home occupation could be allowed after a public hearing, with approval by the Planning Commission and compliance with the established conditions as summarized below:

- Can only be conducted from a zoning lot with a one-family residential dwelling unit.
- No more than one person other than the full-time occupant(s) can be engaged in the active home occupation.
- The zoning lot must have at least one property line abutting a major thoroughfare.
- Total floor area occupied by the home occupation is limited to 25 percent of the total floor area of any one floor with a maximum of 400 square feet allowed.
- No inventory or materials used with the home occupation can be displayed in a manner that is visible from adjacent properties.
- Only one vehicle and/or trailer used with the home occupation can be stored on the zoning lot, unless otherwise approved by the Planning Commission.

- No undue noise, odor, dust, fumes, smoke, glare or comparable nuisances can be generated.
- Off-street parking must be located on an improved driveway and meet the requirements specified in Article 5, Section 24-111, Definitions.
- Hours of operation for the home occupation are established as 7:00 a.m. to 9:00 p.m.
- No freestanding signage is permitted and one non-illuminated wall sign (maximum of six square feet) may be affixed to the one-family dwelling unit.

Attached for Commission review is a copy of the home occupation ordinance amendment.

III. PUBLIC REVIEW/COMMENT

The Planning Commission began preliminary review and discussion of the proposed home occupation ordinance amendment at the November 5, 2009 and December 17, 2009 meetings. During the January 7, 2010 meeting, the Planning Commission convened a public hearing regarding Ordinance Amendment #09-C. No citizens were present to speak in regard to the proposed home occupation ordinance amendment.

IV. RECOMMENDATION

Based on the above analysis and subject to any additional comments received during the public hearing, the Planning Commission is advised to recommend to City Council that Ordinance Amendment 09-C, Home Occupation Regulations, be approved.

Attachments: Proposed Ordinance Amendment

s:\department files\2008_09 files and previous board files\planning commission\pc reports\ordinance amendments\home occupation amendment\2010 01 15 final report ord 09-c. home occupation regulations.doc

**ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42,
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

Section 42-112. Definitions.

Home occupation: A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and/or accessory use involving the sale or exchange of goods, materials or services. Home occupations may include, but are not limited to, administrative offices, instruction in crafts or fine arts, art, photographic studios, sale of fruits, vegetables or flowers grown on site, personal service establishments, sale of goods. For purposes of this section, family day care home shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

- (1) Passive home occupations: Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A.
- (2) Active home occupations: Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

Section 42-129. Home occupations.

A. Passive home occupations: The director shall approve a passive home occupation after a finding that the following requirements are satisfied:

1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.
2. The occupation is conducted wholly within the dwelling unit.
3. No person outside the family is employed in the home occupation.
4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
5. The home occupation does not require interior or exterior alterations or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
6. No sign identifying the home occupation is permitted.

7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to produce or store any hazardous materials.
 8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.
 9. No other vehicular parking other than the off-street parking facilities normally required for the residential use is permitted.
- B. Active home occupations: The Planning Commission may approve an active home occupation after a public hearing and finding that the application meets the standards set forth in this section. Active home occupations shall comply with the following requirements:
1. An active home occupation shall only be conducted on a zoning lot where there is a one-family residential dwelling unit.
 2. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation.
 3. The zoning lot shall have at least one property line abutting a major or collector thoroughfare as defined in the City of Portage Major Thoroughfare Plan.
 4. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation.
 5. Storage of goods, materials, equipment or products associated with the active home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
 6. The active home occupation, or any part thereof, shall not be conducted in any attached, detached or accessory building or structure nor on any patio, deck or lawn area. This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.
 7. No inventory or materials shall be displayed, directly sold or delivered to customers on the premises of the one family dwelling in a manner which is visible from adjacent properties except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(6).
 8. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.

9. Not more than one vehicle and/or trailer used in conjunction with the active home occupation shall be used or stored on the zoning lot unless otherwise approved by the Planning Commission. In its consideration of a vehicle and/or trailer, the Planning Commission may consider factors including, but not limited to, the following:
 - a. The size and weight of vehicles to be used in the active home occupation;
 - b. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property.
10. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the application:
 - a. Promotes the intent and purpose of this section;
 - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
 - i. The proximity of the surrounding uses to the active home occupation;
 - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot.
 - iii. The seasonal nature of the active home occupation.
 - c. Does not unduly affect the capacities of public services or facilities;
 - d. Is consistent with the public health, safety and welfare;
 - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
 - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.
11. The Planning Commission may attach conditions deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act. The Planning Commission may, after public hearing, eliminate, clarify and/or modify any condition attached to the active home occupation approval as deemed necessary if facts and circumstances have changed.

12. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to produce or store any hazardous materials.
13. Off-street parking provided for the active home occupation shall be provided on an improved driveway surface. Improved driveway shall meet the requirements of Article 5, Section 24-111, Definitions.
14. An active home occupation shall have a right to operate from the hours of 7:00 a.m. to 9:00 p.m. All activities conducted at other times shall be consistent with the character of the residential area and shall not disturb the peace and quiet of the surrounding residential neighborhood.
15. No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit.

FIRST READING:
 SECOND READING:
 EFFECTIVE DATE:

 Peter J. Strazdas, Mayor

CERTIFICATION

STATE OF MICHIGAN)
)SS
 COUNTY OF KALAMAZOO)

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2010.

 James R. Hudson, City Clerk

PREPARED BY:
 Randall L. Brown (P34116)
 Portage City Attorney
 1662 East Centre Avenue
 Portage, MI 49002
 (269) 323-8812

Approved as to form

Date: 1/12/10

 City Attorney

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 3, 2010

FROM: Maurice S. Evans, City Manager 

SUBJECT: Sanitary Sewer Service Repair Call-in Contract

ACTION RECOMMENDED: That City Council approve a one-year renewal with Peters Construction Company for the Sanitary Sewer Service Repair Call-in Contract at the original not-to-exceed amount of \$26,212.87 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

Section 82-306 of the Code of Ordinances requires that the city investigate and determine responsibility for blockages or defects within existing sanitary sewer services to individual properties. By City Ordinance, the property owner owns the sanitary sewer service from the building being served to the sewer main. Problems occurring within the street right-of-way are usually out of a property owners or plumbers realm of expertise, and at this point, homeowners end up contacting the city for assistance. Working within the street right-of-way takes experience in avoiding existing public utilities (e.g., gas, electric, water main, fiber optic cable, etc.) and also in street pavement removal and replacement.

On March 24, 2009, City Council approved a Sanitary Sewer Service Repair Call-in Contract with Peters Construction Company for one year in the not-to-exceed amount of \$26,212.87. This contract has enabled staff to greatly improve customer service response time in the delivery of assistance to city sanitary sewer customers with failed or blocked service within the public right-of-way. Over the past 11 months, Peters Construction Company's services were required twice for these situations. The contractor successfully performed the necessary sanitary sewer repairs along with the required restoration usually within one day after notification to start the repair work. The present contract with Peters Construction Company will expire on March 24, 2010. With the above in mind, Peters Construction Company submitted the attached letter requesting a one-year extension at the same unit prices submitted one year ago.

It is recommended that City Council approve a one-year extension with Peters Construction Company for the Sanitary Sewer Service Repair Call-in Contract at the original not-to-exceed amount of \$26,212.87 and authorize the City Manager to execute all documents related to the contract. Similar to last year, the contract will only be used during emergency situations. Actual annual expenditures are unknown and will not exceed \$26,212.87 without prior approval from City Council through an appropriate change order. Funds are available for continuation of this contract in the Department of Transportation & Utilities operational budget.

Attachment



3325 East Kilgore Road
Kalamazoo, MI 49001-5533

Telephone: 269/345-1145
Facsimile: 269/345-2233

AN EQUAL OPPORTUNITY EMPLOYER

14 January 2010

Mr. Christopher Barnes
City of Portage
7719 S. Westnedge Avenue
Portage, MI 49002

**RE: Sanitary Sewer Service Repair – Call In
Purchase Order No. 046056**

Dear Mr. Barnes:

With the close of 2009, and the impending expiration of the referenced contract between the City of Portage and Peters Construction Co., we would like to explore the potential for renewing the contract for another calendar year.

Should the City have a similar interest, I believe an amendment to the contract that extends the duration of the contract but maintains all other current terms, including unit prices, would satisfy our concerns.

If you should have any questions, require any clarification, or simply want to discuss this matter, please feel free to contact me. Thank you for your consideration. It is greatly appreciated.

Sincerely,

Peters Construction Co.

Mark Howard
President

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 4, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Emergency Purchase -- Primary Network Server

RECOMMENDED ACTION: That City Council authorize payment for the emergency purchase of one HP Proliant virtual server and related hardware components at a cost of \$12,381 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

The network server that supports the Assessor BS&A property and tax software application, Community Development GIS application and City Intranet application has become inoperable and immediate replacement is required. The hardware for this server model is no longer supported and replacement components are no longer manufactured. Quotes have been received and the lowest and best quote was provided by SARCOM for \$12,381 and reflects current REMC pricing. The inoperable server will be replaced with a HP Proliant virtual server, which will work with the current virtual server environment.

It is recommended that Council authorize payment for the emergency purchase of one HP Proliant virtual server and the related hardware components at a cost of \$12,381 and authorize the City Manager to execute all documents related to this purchase. Funds have been identified for this purchase in an IT-related Capital Improvement Project account.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 3, 2010

FROM: James R. Hudson, City Clerk



SUBJECT: Transfer ownership of the 2009 Class C licensed business, located at
(Carrabba's) 5690 South Westnedge, Portage.

ACTION RECOMMENDED: That City Council grant the request from Carrabba's/Birchwood, Limited Partnership (A Florida Limited Partnership), to transfer ownership of the 2009 Class C licensed business, located at 5690 South Westnedge, Portage, to Carrabba's Italian Grill, LLC (A Florida Limited Liability Company).

The Michigan Liquor Control Commission has requested City Council consideration of the attached Resolution by granting the request from Carrabba's/Birchwood, Limited Partnership (A Florida Limited Partnership), to transfer ownership of the 2009 Class C licensed business, located at 5690 South Westnedge, Portage, to Carrabba's Italian Grill, LLC (A Florida Limited Liability Company).

The Police, Community Development, Finance and Fire departments recently completed approvals for this request subject to inspection once any deficiencies discovered are corrected consistent with applicable construction codes and related ordinances. Therefore, it is recommended that City Council adopt the Resolution granting the request.

ComliqCarrabba'sItalianGrill,LLC

Attachment: Resolution (two pages)

c Maurice S. Evans, City Manager



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

FOR MLCC USE ONLY

Request ID # 525842

Business ID # 221160

LOCAL APPROVAL NOTICE

[Authorized by MCL 436.1501]

DECEMBER 1, 2009

RRL
1-7-09
JR

TO: PORTAGE CITY COUNCIL
 ATTN: CLERK
 7900 S. WESTNEDGE AVENUE
 PORTAGE, MI 49002-5160

APPLICANT: CARRABBA'S ITALIAN GRILL, LLC (A FLORIDA LIMITED LIABILITY COMPANY)

Home Address and Telephone No. or Contact Address and Telephone No.:

OSI RESTAURANT PARTNERS, LLC, 2202 N. WEST SHORE BLVD., 5TH FLOOR, TAMPA, FL 33607

CONTACT: SCOTT D. EDWARDS, (CARLIN, EDWARDS, BROWN & HOWE, PLLC), 2855 COOLIDGE HIGHWAY, SUITE 203, TROY, MI 48084, PHONE: (248) 816-3205, FAX: (248) 816-5115

The MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998. For your information, local legislative body approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT AND TOPLESS ACTIVITY PERMITS AND FOR OFFICIAL PERMITS FOR EXTENDED HOURS FOR DANCE AND/OR ENTERTAINMENT pursuant to the provisions of MCL 436.1916 of the Liquor Control Code of 1998.

For your convenience a resolution form is enclosed that includes a description of the licensing application requiring consideration of the local legislative body. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the MLCC as soon as possible.**

If you have any questions, please contact the On-Premises Section of the Licensing Division at (517) 636-0127.

PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS

rlb

RESOLUTION

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request TO TRANSFER OWNERSHIP OF 2009 CLASS C LICENSED BUSINESS, LOCATED AT 5690 W. WESTNEDGE, PORTAGE, MI 49002, KALAMAZOO COUNTY, FROM CARRABBA'S /BIRCHWOOD, LIMITED PARTNERSHIP (A FLORIDA LIMITED PARTNERSHIP) TO CARRABBA'S ITALIAN GRILL, LLC (A FLORIDA LIMITED LIABILITY COMPANY)

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____
(Date)

(Signed) _____
(Township, City or Village Clerk)

SEAL

(Mailing address of Township, City or Village)

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 5, 2010

FROM: City Council Assessing Issues Task Force*

SUBJECT: Written Appeals to the Board of Review

ACTION RECOMMENDED: That City Council adopt the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter.

State law permits resident taxpayers to file protests by letter if authorized by the city by ordinance or by adoption of a resolution by City Council. On Tuesday, January 26, City Council referred the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter to the City Council Assessing Issues Task Force. The Task Force met on Friday, February 5, 2010 for the sole purpose of addressing this subject.

Councilmembers were asked to provide the Task Force with questions and comments concerning this matter. A summary of these questions and comments, which includes recommendations from the City Administration (attached), was reviewed along with an administrative policy concerning written appeals (attached).

The Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter is attached for consideration by the Council. Subsequent to adoption by the City Council, notification that written appeals to the Board of Review will be accepted will be added to the "Notice of Assessment, Taxable Valuation and Property Classification" (the assessment change notice) and included on the city website, in a Kalamazoo Gazette advertisement and in the Board of Review public posting.

Adoption of the Resolution Permitting Protest of Assessed Valuation to the Board of Review by Letter is recommended.

* Mayor Peter J. Strazdas (Chair)
Councilmember Margaret O'Brien
Councilmember Patricia Randall

**Letters of Appeal to the Board of Review
Summary of Questions / Comments from Councilmembers
February 2010**

1. Define resident and non-resident in regard to Principal Resident Exemption.

- a. Consider allowing “snow-birds” the opportunity to appeal in writing while encouraging in-town property owners to appear before the Board of Review.
- b. Consider how appealing in writing will put the property owner at a disadvantage as he/she would not be present before the Board of Review to answer questions, provide clarification or deliver additional documentation as may be requested.
- c. Determine if a property owner appealing by letter can be asked to provide additional information / documentation and how this would be managed within the timelines set by the state.
- d. Discuss the educational component that will be required to ensure that property owners have all the information required to submit a comprehensive letter of appeal.

Administration Recommendation: The following are guidelines for the Michigan Homeowner’s Principal Residence Exemption Program:

- Michigan law defines principal residence as the one place where a person has his or her true, fixed, and permanent home to which, whenever absent he or she intends to return and that shall continue as a principal residence until another principal residence is established. Only Michigan residents are eligible for this exemption.
- A non-resident is not a resident of the State of Michigan. You do not own and occupy the home in Michigan as your principal residence. You and your spouse file a joint income tax return and receive an exemption, deduction, or credit similar to the Michigan Homeowner’s Principal Residence Exemption on property you own in another state. You have filed a tax return as a resident of another state.

The **draft** Policy for Written Appeals to the Board of Review encouraged property owners to appeal before the Board of Review in person if possible while providing “snow birds” the opportunity to file by letter. The **draft** policy also included language that indicated that those appealing by letter may be at a disadvantage by doing so.

Materials have been developed and include notification that written appeals to the Board of Review will be accepted. The materials also include instructions for properly filing a written appeal. A statement indicating that if the Board of Review determines that the property owner or agent has not included sufficient evidence in their letter of appeal to support the property valuation adjustment, the appeal will be denied was also included in the **draft** materials.

- Assessment change notice that is sent to every Portage property owner.
- Understanding Proposal A 2010, which is sent with the assessment change notice.
- *Kalamazoo Gazette* advertisement.
- Notice of the 2010 Board of Review.
- Assessment Appeal Procedure, which will be posted to the Assessing and News & Events sections of the city website.

The Task Force noted that language indicating that residents appealing by letter may be at a disadvantage by doing so would discourage property owners from filing letters of appeal and may suggest that letter appeals would be handled differently than in-person appeals. The Task Force asked that this type of language be removed from the policy and other materials.

2. Determine whether justification for a written appeal is required.

- a. Consider requiring the appellant to state why he/she cannot appear in person.

Administration Recommendation: Requiring justification from the appellant would be irrelevant, as the statement may in fact be untrue. It is doubtful that the Board of Review would disqualify a letter of appeal if a justification for appealing by letter were believed to be untrue.

The Task Force concurred with the Administration Recommendation.

3. Define “agent” representing a property owner.

- a. Determine whether a property owner should be required to officially authorize a third party in order for the third party to act on behalf of the property owner in appealing by letter.
- b. Discuss the possibility of an agent filing an appeal without the knowledge or consent of the property owner.
- c. Determine whether a third party can offer appeal services for a fee to property owners is permitted under the law.

Administration Recommendation: Agent authorization should be required and is incorporated into the DRAFT policy provided. With regard to the matter of whether charging a fee for this type of service is legal, the statutes are entirely silent. A lawyer or property tax consultant achieving property tax reductions for a contingency or flat fee has never been disallowed.

The Task Force concurred with the Administration Recommendation with the caveat that either the Agent Authorization form or a written letter of consent will be accepted.

4. Determine how appeals that are received after the deadline will be addressed.

- a. Discuss the deadline for filing a letter of appeal.
- b. Consider the methods for delivery of a letter of appeal (in person, US Postal Service, etc.)
- c. Determine the actions to take when a letter of appeal is received after the filing deadline.

Administration Recommendation: The policy provides a deadline for receipt of letters of appeal (whether delivered in person or via the US Postal Service) of no later than 5:00 p.m. on the first Wednesday following the second Monday in March. This is the deadline determined appropriate by the City Attorney based on the current minimum Board of Review attendance session stated in the City Ordinance & Statute. The policy also provides for actions to be taken by city staff should a letter of appeal be received after the deadline set forth.

The Task Force concurred with the Administration Recommendation.

5. Determine if appeals filed by email, fax or other electronic delivery will be accepted.

Administration Recommendation: Accepting appeals by electronic delivery is problematic. The city spam filter could conceivably block an email, a fax machine may malfunction, etc. The DRAFT policy prohibits the acceptance of letters of appeal via electronic delivery.

The Task Force concurred with the Administration Recommendation but would like to consider the issue of allowing for electronic delivery in the future.

The City of Portage accepts written appeals to the Board of Review from property owners (or an authorized agent) to protest their real and/or personal property assessed valuation without the necessity of a personal appearance by the taxpayer or authorized agent before the Board of Review.

Authorized Agent

Property owners may authorize a third party to act as an agent on behalf of the property owner by providing a signed authorization. The attached *Agent Authorization* form or a letter of authorization must be completed, signed by the property owner and submitted to the Office of the City Assessor, along with a signed letter of appeal by the submission deadline noted below.

Letters of Appeal

Property owners (or their authorized agent) must prepare a signed letter of appeal addressed to:

City of Portage Board of Review
% Office of the City Assessor
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

Letters of appeal should provide appropriate support for a particular position, such as sales of similar homes in the neighborhood, support for poverty exemption, receipts or invoices for recent construction activity, photographs of property damage or deterioration, etc. The City of Portage encourages letters of appeal to be accompanied by a completed Board of Review petition (Form L-4035), which is approved by the State Tax Commission and is available at www.michigan.gov/treasury.

Submission Deadline

Letters of appeal, whether delivered in person or via the US Postal Service, must be received in the City of Portage Office of the City Assessor no later than 5:00 p.m. on the first Wednesday following the second Monday in March. Letters of appeal received after the deadline set forth above will be returned to the property owner with notification of the late receipt and will not be considered by the Board of Review.

Electronic Appeals

Letters of appeal sent by electronic mail, facsimile or other electronic delivery will not be accepted.

Questions concerning submission of a letter of appeal to the City of Portage Board of Review can be directed to the Office of the City Assessor at 269-329-4433 or riders@portagemi.gov.

Agent Authorization

A completed **Agent Authorization** form or a letter of authorization must accompany all letters of appeal to the City of Portage Board of Review for which the property owner authorizes a third party to act as an agent on behalf of the property owner. Any communications will continue to be sent to the address of the property owner, not the Authorized Agent.

I (we), _____, authorize
Printed Name(s) of Property Owner(s) of Record

Printed Name, Address and Telephone Number of Authorized Agent

to act on my (our) behalf in the matter of protesting my (our) real and personal property assessed valuation for _____ for property I (we) own addressed as:
Year

Address City State Zip Code

Tax Parcel No. Property Owner Mailing Address

Property Owner Telephone Number City State Zip Code

Signature of Property Owner Date

Signature of Property Owner Date

Letters of Appeal to the Board of Review and Agent Authorizations must be received in the Office of the City Assessor no later than 5:00 p.m. on the first Wednesday following the second Monday in March.

Deliver or send via US Postal Service to:

City of Portage Board of Review
% Office of the City Assessor
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

Letters of Appeal to the Board of Review and Agent Authorizations sent by electronic mail, facsimile or other electronic delivery will not be accepted.

Questions concerning submission of a letter of appeal to the City of Portage Board of Review can be directed to the Office of the City Assessor at 269-329-4433 or riders@portagemi.gov.

CITY OF PORTAGE

RESOLUTION PERMITTING PROTEST OF ASSESSED VALUATION
TO BOARD OF REVIEW BY LETTER

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the _____ day of _____, 2010, at 7:30 p.m. local time.

PRESENT:

ABSENT:

Resolution offered by:

Seconded by:

WHEREAS, MCLA 211.30(4) provides that a non-resident taxpayer is permitted to file his or her appearance, protest and papers before the Board of Review by letter without the need for personal appearance; and

WHEREAS, MCLA 211.30(7) permits resident taxpayers to file their protest by letter if authorized by the City by Ordinance or Resolution; and

WHEREAS, it would be an added convenience to taxpayers to be allowed the filing of protests with the Board of Review by letter; and

WHEREAS, it would also be efficient for the Board of Review to review protests by letter for citizens who desire to protest by letter; and

WHEREAS, the Portage City Charter requires that the Board of Review convene on the 2nd Monday in March and meet for no less than three (3) consecutive days;

NOW, THEREFORE, BE IT RESOLVED that resident and non-resident taxpayers may protest their real and personal property assessed valuation before the Board of Review by signed letter without the necessity of a personal appearance by the taxpayer or his or her agent. The protest by letter must be sent via U.S. Postal Service addressed to the City of Portage Board of Review in care of the Office of the City Assessor, Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002, or delivered in person and should contain the taxpayer's name, address, parcel code and telephone number. To be considered by the Board of Review, the protest letter and all accompanying materials must be received by the City Assessor's office no later than the day and time to be determined by the City Manager but not earlier than 5:00 p.m. on the first Wednesday following the second Monday in March.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 3, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: South Westnedge Avenue/Trade Centre Way Realignment

ACTION RECOMMENDED: That City Council award an engineering professional services contract to Prein & Newhof, Incorporated, for the South Westnedge Avenue/Trade Centre Way Realignment in the not-to-exceed amount of \$56,072 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

In 1999, the city initiated a Downtown Development Authority (DDA). The DDA area generally encompasses the section of South Westnedge Avenue from I-94 north to Kilgore Road. As part of the initial DDA improvement program, street improvements were completed on Market Place, West Fork Crossing and Trade Centre Way. Considerable development has taken place following the street improvements including the construction of Trade Centre I and Trade Centre II office buildings. A substantial area adjacent to Trade Centre Way, however, remains undeveloped. With consideration of two new projects to be constructed east of the Trade Centre I building, the need to address how traffic generated by the continued development of this area will affect Trade Centre Way and the Trade Centre Way/South Westnedge Avenue intersection is of critical importance.

On July 22, 2008, City Council awarded a traffic engineering contract to analyze traffic at the Trade Centre Way/South Westnedge Avenue intersection with the intent that a temporary traffic signal be installed pending Michigan Department of Transportation (MDOT) reconstruction of the I-94/South Westnedge Avenue interchange. Subsequently, MDOT received American Rehabilitation & Recovery Act (ARRA) funds to continue the I-94 project. The current I-94 project includes the reconstruction of the South Westnedge Avenue/I-94 interchange in 2010 and 2011. The traffic study determined that a traffic signal was not warranted, but that improvement could be made to the Trade Centre Way/South Westnedge intersection. To address the existing conditions and anticipating continued development on Trade Centre Way, the City Administration requested proposals from engineering consultants to redesign and realign the existing Trade Centre Way/South Westnedge Avenue and Trade Centre Way/West Fork Crossing intersections. The new I-94 interchange design gives the city the opportunity to relocate Trade Centre Way to create a more effective entry to the Trade Centre Way Downtown Development Area.

Eleven engineering proposals were received on January 19, 2010. The proposal submitted by Prein & Newhof, Incorporated, was evaluated to best meet the needs of the project. While not the lowest cost proposal, Prein & Newhof, Incorporated, has substantial experience with other similar projects, and possesses the necessary land surveying and utility engineering disciplines to successfully complete the project.

It is recommended that City Council award an engineering professional services contract to Prein & Newhof, Incorporated, for the South Westnedge Avenue/Trade Centre Way Realignment in the not-to-exceed amount of \$56,702 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Funds to finance this work are available in the project account. A bid tabulation of the proposals received is attached for the information of City Council.

Attachment

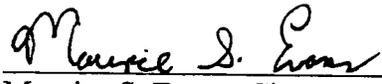
TABULATION OF PROPOSALS
TRADE CENTRE WAY IMPROVEMENTS

<u>FIRM</u>	<u>PROPOSED COST</u>	<u>UTILITY INVESTIGATION</u>	<u>TOTAL COST</u>
Ingersoll, Watson & McMachen, Inc. 113 E. Milham Road Portage, MI 49002	\$39,800.00	\$5,000.00	\$44,800.00
Prein&Newhof 7123 Stadium Dr. Kalamazoo, MI 49009	\$51,072.00	\$5,000.00	\$56,072.00
Moore & Bruggink, Inc. 2020 Monroe Ave. NW Grand Rapids, MI 49505	\$56,890.00	\$5,000.00	\$61,890.00
Kingscott Associates, Inc. 229 E. Michigan Ave., Ste. 335 Kalamazoo, MI 49007	\$59,900.00	\$5,000.00	\$64,900.00
Hurley & Stewart, LLC 2800 South 11th Street Kalamazoo, MI 49009	\$67,300.00	\$5,000.00	\$72,300.00
Jones & Henry Engineers, Ltd. 4791 Campus Drive Kalamazoo, MI 49008	\$69,840.00	\$5,000.00	\$74,840.00
Wightman Jones, Inc. 264 Western Ave. Allegan, MI 49010	\$79,900.00	\$5,000.00	\$84,900.00
Paradigm Design Inc. 550 3 Mile Rd. NW Grand Rapids, MI 49544	\$82,250.00	\$5,000.00	\$87,250.00
Driesenga & Associates, Inc. 552 South 8th Street Kalamazoo, MI 49009	\$88,932.00	\$5,000.00	\$93,932.00
Abonmarche 95 W. Main Street Benton Harbor, MI 49022	\$91,800.00	\$5,000.00	\$96,800.00
AECOM 401 S. Washington Sq. Ste 103 Lansing, MI 48933	\$129,187.00	\$5,000.00	\$134,187.00

MATERIALS TRANSMITTED

Friday, January 22, 2010

1. Communication from the City Manager regarding the impacts of unfunded mandates (State and Federal) on the city.
2. Communication from the City Manager regarding the Fiscal Year 2008-2009 Audit Report – Information Only.
3. Comprehensive Annual Financial Report for Fiscal Year ending June 30, 2009 – Information Only.



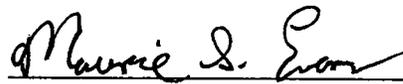
Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

MATERIALS TRANSMITTED

Tuesday, January 26, 2010

1. **To be added to the January 26, 2010, City Council Agenda as Item J.1** – Communication from the City Council Assessing Issues Task Force recommending that City Council affirm that the City Council Assessing Issues Task Force continue its work in the areas of System Audit and Property Reassessments and the Board of Review and that the City Administration continue its work in the areas of Customer Service, Education and Best Assessing Practices.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager