

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

5:30 p.m. Special meeting regarding Disposition of Legal Matters.
7:30 p.m. Call to Order.

Invocation: Associate Pastor Bill Vande Giessen of the Cherry Creek Community Church.

Pledge of Allegiance.

Roll Call.

Proclamation:

- A. Approval of the February 23, 2010 Special and Regular Meeting Minutes.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Check Register of March 9, 2010, as presented.
- D. Public Hearing:
 - 1. Communication from the City Manager recommending that City Council adopt Resolution No. 5, confirming the Special Assessment Roll for the West Lake Management Program Special Assessment District No. 011-Q.
 - 2. Communication from the City Manager recommending that City Council, subsequent to the public hearing, consider approval of Ordinance Amendment #09-C, home occupation regulations.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
 - * 1. Communication from the City Manager recommending that City Council:
 - a. accept Ordinance Amendment #09-B, sign regulations, for first reading and establish a public hearing on April 13, 2010; and
 - b. subsequent to the public hearing, consider approval of Ordinance Amendment #09-B.
 - * 2. Communication from the City Manager recommending that City Council consider approval of a local-only tax increment financing incentive for the Treystar Holdings, LLC, CentrePort Commons brownfield project, 8019 Portage Road, without a Michigan Business Tax credit and without State of Michigan tax increment participation as specified in the City of Portage Brownfield Redevelopment Incentive Policy.
 - * 3. Communication from the City Manager recommending that City Council appoint three Council and two citizen-at-large representatives to the 2010 Utility Rate Committee and reconvene the committee.
 - * 4. Communication from the City Manager recommending that City Council receive:
 - a. the State Tax Commission Review of Local Unit Assessment Administration Practices, Procedures and Records (14-Point Review);
 - b. an Interpretation Report prepared by Joyce Foondle, Southwest Michigan Governmental Consultants; and refer both items to the City Council Assessing Issues Task Force for review and report to the City Council.
- G. Communications:
- H. Unfinished Business:
- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Historic District Commission of January 6 and February 3, 2010.
 - 2. Portage Board of Education Regular of January 25, 2010, and Committee of the Whole Work Session of February 8, 2010.
 - 3. Portage Park Board of February 3, 2010.

4. Portage Human Services Board of February 4 and 11, 2010.
5. Portage Planning Commission of February 18, 2010.

J. Ad-Hoc Committee Reports:

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council:
 - a. award a contract to the low bidder, Robert Bailey Contractors, Incorporated, for the construction of the Oakland Drive Park Stormwater Basin Improvements in the not-to-exceed amount of \$123,058.58;
 - b. amend a construction engineering services contract with Paradigm Design, Incorporated, in the not-to-exceed amount of \$14,500;and authorize the City Manager to execute all documents on behalf of the city.
- * 2. Communication from the City Manager recommending that City Council award a service contract for the Westfield Well #1 Pump and Motor Rehabilitation to Peerless-Midwest, Incorporated, at a total price of \$24,820 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, March 10 through March 31, 2010, 8:00 a.m., Board of Review, City Hall Room #2.
 - b. Wednesday, March 10, 7:00 p.m., Environmental Board, City Hall Room #1.
 - c. Tuesday, March 16, 11:00 a.m., Kalamazoo Regional Chamber of Commerce Legislative Roll Call, AT&T Lansing Headquarters Building, 221 N. Washington Square, Lansing, Michigan.
 - d. Wednesday, March 17, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
 - e. Thursday, March 18, 7:00 p.m., Portage District Library Board, Portage District Library.
 - f. Thursday, March 18, 7:00 p.m., Planning Commission, City Council Chambers.
 - g. Monday, March 22, 3:00 p.m., Utility Rate Committee Meeting, City Hall Room #1.

N. Materials Transmitted of February 19 and 26, 2010.

Adjournment.

CITY COUNCIL MEETING SUMMARY

February 23, 2010

CHECK REGISTER

- ◆ Approved the Check Register of February 23, 2010, as presented.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not-to-exceed cost of \$544,284 for the period of March 1, 2010, to March 1, 2011, and authorized the City Manager to execute all documents related to the action on behalf of the city.
- ◆ Awarded a contract to American Hydrogeology Corporation to perform the 2010 annual groundwater sampling and reporting for the South Westnedge Park and former Parks Maintenance Facility in the not-to-exceed amount of \$13,000 with an option to renew the contract for two additional years and authorized the City Manager to execute all documents related to the contract on behalf of the city.
- ◆ Adopted Resolution No. 4 for the West Lake Management Program Special Assessment District No. 011-Q, setting a public hearing of necessity on the Assessment Roll for March 9, 2010, at 7:30 p.m. or as soon thereafter as may be heard.
- ◆ Adopted the Resolution Designating Polling Places and Rate of Compensation for the May 4, 2010 Consolidated School Election.
- ◆ Received a communication from the City Manager regarding the January 2010 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports.

COMMUNICATION

- ◆ Received a Presentation from Greg Rosine, Kalamazoo County Transportation Authority Vice Chair, regarding the FY 2009 Annual Report.

UNFINISHED BUSINESS

- ◆ Adopted the Resolution in Support of the Legislative Commission on Statutory Mandates.

BID TABULATION

- ◆ Accepted the proposal submitted by Fishbeck, Thompson, Carr & Huber, Incorporated, in the amount of \$45,000 to update two water resource manuals and authorized the City Manager to execute all documents related to the contract on behalf of the city.

STATEMENTS OF STUDENT MAYOR AND STUDENT CITY COUNCIL FOR THE DAY

- ◆ At the request of Mayor Strazdas, the Student Councilmembers and the Student Mayor expressed their appreciation for the opportunity to participate in the Student Council and Mayor for the Day Program. Each of them indicated that the experience was enjoyable, rewarding and enlightening.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ Mayor and City Council expressed their appreciation to the students who participated in the Student Council and Mayor for the Day Program.
- ◆ Councilmember Reid invited everyone to attend the Walk For Warmth, Saturday, February 27, 2010, at the First Baptist Church, Kalamazoo: 8:30 a.m., registration and refreshments, 9:00 a.m., the kick-off of the event, and 9:15 a.m., the Walk For Warmth event and, for more information, call (269) 373-5314 or email MLRODR@kalcounty.com.
- ◆ Councilmember Randall announced that the Change of Assessment Notices are being mailed soon; that the Board of Review will be better informed than in the past; that appeals will be heard; and a greeter and refreshments will be made available for citizen participants.
- ◆ Councilmember O'Brien highlighted an e-mail that she received and indicated that moving snow from your property into the street is not allowed.
- ◆ Mayor Strazdas read a commendation letter that he received from the J.C. Penny Company for Detective James Meyers, who was instrumental in catching a criminal who was recruiting groups to shoplift large quantities of merchandise from several retail stores across the state of Michigan, saving over \$60,000 for the J.C. Penny Company.

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

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MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL MAYOR AND CITY COUNCIL FOR THE DAY OF FEBRUARY 23, 2010

Mayor Peter Strazdas called the meeting to order at 8:07 a.m. The following members of City Council were present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmember Claudette S. Reid arrived at 8:33 a.m. and Councilmember Patricia M. Randall arrived at 10:45 a.m. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall L. Brown and City Clerk James R. Hudson.

Present from Portage Northern High School were: Giulia Avelar, Joey Droppers, Zach Lancaster, Nate Rajpoot, Joe Schulte and Abbey Terry. Also present was Student Advisor Rick Searing.

Present from Portage Central High School were: Tony Beranek, Lauren Brown, Josh Kelly, Mari Schoolmaster and Jordan Wolf. Rick Searing indicated that Student Advisor Mark Sutherland expressed his regrets as he was ill and could not attend.

Mayor Strazdas provided a summary of the planned activities of the day and asked the students to introduce themselves and explain why they had an interest in government. Discussion followed.

City Attorney Randy Brown, each of the City Councilmembers, Mayor Strazdas and City Manager Maurice Evans provided a discussion of the Roles and Perspectives of their respective offices. Discussion and a question and answer session followed.

Councilmember Urban left at 9:00 a.m. and returned at 10:28 a.m.

Rick Searing provided a review of the history of the Progressive Era of the early 1900's and what we can learn from that time in history to help us understand some of the governmental practices of today.

Mayor Pro Tem Sackley left at 9:00 a.m. and returned at 10:00 a.m.

RECESS: 9:15 a.m.

Mayor Strazdas and the City Councilmembers each took a group of students on a tour of the offices of City Hall.

RECONVENE: 10:09 a.m.

Mayor Strazdas introduced *Kalamazoo Gazette* Reporter and *Portage Gazette* Reporter Tom Haroldson, who provided his background and discussed the role of the media as it relates to local government. Discussion and a question and answer session followed.

Mayor Strazdas asked the students to tell everyone what they felt are the important issues for the community and the football field for Portage Northern High School came up as the number one concern, again. Discussion followed.

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ADJOURN: 10:34 a.m.

Mayor, City Council, Student Participants, Student Advisor, City Clerk Hudson adjourned and toured Portage Police Headquarters with Police Chief Richard White and Portage Fire Station #1 with Deputy Fire Chief John Podgorski, both of whom took questions from the students. The students toured each of the facilities and discussion followed.

RECONVENE: 11:35 a.m.

Mayor Strazdas reconvened the meeting and invited participants to eat lunch and asked each student to provide a speech stating why he or she wanted to be Mayor or Councilmember for the Day.

Following the student speeches, City Clerk James Hudson and Deputy City Clerk Adam Herringa led the process for voting in the Mayor and City Councilmember for the Day Election. The election for Student Mayor for the Day followed. A three-way tie occurred among Nate Rajpoot, Joey Droppers and Jordan Wolf for the Student Mayor for the Day Election. In accordance with state election law, a drawing took place and Jordan Wolf drew the piece of paper with "Elected" written on it. As a result, she was declared the winner of the Student Mayor for the Day position. Discussion followed.

The following students were elected Student Councilmembers for the Day from Portage Northern High School: Joey Droppers, Nate Rajpoot and Joe Schulte, and from Portage Central High School: Lauren Brown, Mari Schoolmaster and Tony Beranek. Discussion followed.

Mayor Strazdas thanked all of the students for participating and wished them success and asked each of them to give it their "all" each day so the community can get better and thanked City Council for participating in this session.

ADJOURN: Mayor Strazdas adjourned the meeting at 12:44 p.m.

James R. Hudson, City Clerk

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CITY COUNCIL MEETING MINUTES FROM FEBRUARY 23, 2010

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

Mayor Strazdas introduced Portage Northern High School Student Senate Adviser Rick Searing, who provided a review of the Mayor and City Council for the Day Program activities and thanked Mayor Strazdas and City Council for the opportunity to learn about local government through hands-on participation.

Mayor Strazdas called forth the student who was voted Student Mayor for the Day, Jordan Wolf, and Mr. Hudson administered the Oath of Office to her. Mayor Strazdas called forth the students who were elected Student Councilmembers for the Day from Portage Northern High School: Joey Droppers, Nate Rajpoot and Joe Schulte, and from Portage Central High School: Lauren Brown, Mari Schoolmaster and Tony Beranke, and City Clerk James R. Hudson administered the Oath of Office to them. The Student Mayor and Student Councilmembers took their seats at the dais.

Student Mayor Jordan Wolf introduced Pastor Ken Hale of the Victory Baptist Church of Portage, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance led by Cub Scout Pack 287 and Boy Scout Troop No. 244. Discussion followed.

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

The City Clerk called the Student Mayor and Student Councilmember roll with the following members present: Jordan Wolf, Joey Droppers, Nate Rajpoot and Joe Schulte, Lauren Brown, Mari Schoolmaster and Tony Beranke.

APPROVAL OF MINUTES: Motion by Sackley, seconded by O'Brien, to approve the February 9, 2010 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Mayor Strazdas abstaining.

* **CONSENT AGENDA:** Student Mayor Wolf asked all of the Student Councilmembers to share in the reading of the Consent Agenda. Councilmember Campbell asked that Item L.1, Water Resource Manuals Update, be removed from the Consent Agenda. Motion by O'Brien, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF FEBRUARY 23, 2010:** Motion by O'Brien, seconded by Urban, to approve the Check Register of February 23, 2010. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

* **COMPREHENSIVE LIABILITY, PROPERTY AND AUTO FLEET INSURANCE COVERAGE:** Motion by O'Brien, seconded by Urban, to approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not-to-exceed cost of \$544,284 for the period of March 1, 2010, to March 1, 2011, and authorize the City Manager to execute all documents related to the action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

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* **SOUTH WESTNEDGE PARK AND FORMER PARKS MAINTENANCE FACILITY GROUNDWATER MONITORING PROGRAM:** Motion by O'Brien, seconded by Urban, to award a contract to American Hydrogeology Corporation to perform the 2010 annual groundwater sampling and reporting for the South Westnedge Park and former Parks Maintenance Facility in the not-to-exceed amount of \$13,000 with an option to renew the contract for two additional years and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT DISTRICT NO. 011-Q - RESOLUTION NO. 4:** Motion by O'Brien, seconded by Urban, to adopt Resolution No. 4 for the West Lake Management Program Special Assessment District No. 011-Q, setting a public hearing of necessity on the Assessment Roll for March 9, 2010, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 7 to 0.

* **ELECTION POLLING PLACES AND RATE OF COMPENSATION RESOLUTION:** Motion by O'Brien, seconded by Urban, to adopt the Resolution Designating Polling Places and Rate of Compensation for the May 4, 2010 Consolidated School Election. Upon a roll call vote, motion carried 7 to 0.

* **JANUARY 2010 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by O'Brien, seconded by Urban, to receive the communication from the City Manager regarding the January 2010 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by O'Brien, seconded by Urban, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

GREG ROSINE, KALAMAZOO COUNTY TRANSPORTATION AUTHORITY VICE CHAIR, REGARDING THE FY 2009 ANNUAL REPORT: City Council received a Presentation from Kalamazoo County Transportation Authority Vice Chair Greg Rosine, 2326 Pine Ridge Road, Kalamazoo, regarding the FY 2009 Kalamazoo County Transportation Authority Annual Report. Mr. Rosine indicated that work towards one bus system instead of two bus systems can continue in earnest once the Comprehensive Operational Analysis is completed. In response to Councilmember Reid, he asked that the public provide input by writing the Kalamazoo Transit Authority or attend one of the meetings. Discussion followed.

UNFINISHED BUSINESS:

RESOLUTION IN SUPPORT OF THE LEGISLATIVE COMMISSION ON STATUTORY MANDATES: At the request of Mayor Strazdas, Deputy City Manager Brian Bowling explained that a report to City Council was provided and a Resolution in Support of the Legislation Commission on Statutory Mandates was before them for consideration.

Councilmember O'Brien provided a reminder that this request for a Resolution stemmed from a visit by State Representative Larry DeShazor, who asked that cities and townships work together and work also with other public officials to address unfunded mandates. She pointed out that the Resolution

was the first step in a demonstration of support. Mayor Pro Tem Sackley, Mayor Strazdas and Councilmember Urban spoke in favor of adopting the Resolution. Discussion followed.

Motion by O'Brien, seconded by Reid, to adopt the Resolution in Support of the Legislative Commission on Statutory Mandates. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

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

Portage Senior Center Advisory Board of December 16, 2009.

Portage Human Services Board of January 7 and 21, 2010.

Portage Environmental Board of January 13, 2010.

Portage Planning Commission of January 21 and February 4, 2010.

BID TABULATION:

WATER RESOURCE MANUALS UPDATE: Councilmember Campbell recused herself from the discussion and expressed she would be abstaining from the vote on this item as her husband is employed by Fishbeck, Thompson, Carr & Huber, Incorporated.

Councilmember Reid referenced the reason given for selecting Fishbeck, Thompson, Carr & Huber, Incorporated, in the February 18, 2010 City Manager Communication was that the proposal clearly shows a depth of knowledge of the Portage area, sufficient project hours and qualified staff to successfully complete the project, but pointed out that it was the second highest proposal and no other criteria, such as the number of hours involved, had been presented for consideration. Based on the presumption that all of the companies that presented proposals and were listed on the bid tabulation met the minimum qualifications as outlined in the request for proposals, she questioned why none of the other companies with a lower bid were considered. Further, presuming Fishbeck, Thompson, Carr & Huber, Incorporated, had qualifications over and above what was mandated, she expressed her confusion as to why at least one of the other less expensive proposals were not recommended if the requirements were fully identified in the request for proposals.

Deputy City Manager Brian Bowling answered that selection of a consultant is based on a qualitative evaluation. Mr. Bowling further indicated that Fishbeck, Thompson, Carr & Huber, Incorporated, has been the stormwater consultant for the City of Portage for many years, and he emphasized that this consultant has a depth of knowledge giving them a distinct advantage over any other consultant wishing to bid on this project. He then stressed the importance of continuity in this area. He indicated that staff reviews these proposals by considering the cost factor, project hours submitted, the scope of the work as submitted, the qualifications of the firm and previous experience with the firm. He summarized by saying that staff recommended Fishbeck, Thompson, Carr & Huber, Incorporated, primarily because of their depth of knowledge of the systems and their involvement with the systems in Portage. He revealed that the hours contained in the bids range from 245 to 528 hours and the number of hours presented by Fishbeck, Thompson, Carr & Huber, Incorporated, was 463 hours.

In answer to Councilmember Reid's question whether a history and past experience with the city should be identified in the request for proposal, Mr. Bowling indicated that this was not the sole factor considered, and pointed out that the experience level of the firm of high quality would weigh into their evaluation, but there is an added cost to the community anytime staff engages a new firm because staff has to dedicate a significant number of hours to bring them up to speed.

In the interest of keeping costs as low as possible and to protect against a misperception by the citizens, Councilmember Reid wondered out loud whether there might be a way to make the request for professional services or consultants proposal requirements more clear. Mr. Bowling indicated that staff is open to all suggestions and continued his analysis for City Council. Mayor Pro Tem Sackley pointed out that it was unusual to have four bidders that meet the specifications of the request for proposal below

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the recommended bid and asked when does price come into play and used \$60,000 as an example. Mr. Bowling indicated that the bulk of the bids in this case were from \$41,000 to \$45,000, so the highest bid and the lowest bid were discarded because these would be considered responsible, confident bidders who know what they are bidding. Based upon that methodology, Mr. Bowling indicated that a \$60,000 bid from Fishbeck, Thompson, Carr & Huber, Incorporated, would also be discarded. Mayor Strazdas concurred and expressed an appreciation for the difference between a professional services contract and a contract for specifically defined goods, and questioned whether it is worth the \$4,000 spread in this case.

Councilmember Randall indicated that there would be no reason for a company to bid on a professional services contract if the City of Portage is going to award only to companies with whom they are comfortable. To her question regarding whether any effort is made to contact the low bidder to make sure they are covering the same project scope as the other bidders, Mr. Bowling answered that there is no guarantee that Fishbeck, Thompson, Carr & Huber, Incorporated, is even going to bid on the project; that the city puts these matters out for competitive bid to make sure we are getting the best buy; that if a company has worked for the City of Portage for years and has performed well, that this has a value; and, the question to ask is whether it is worth \$4,000 of staff time to educate a new consultant. Discussion followed. Mr. Bowling offered to provide more detail of the proposal if that was the wish of City Council, but no one requested it, and Mr. Bowling offered it for all professional contracts to come before City Council in the future. An analysis and discussion followed.

At the request of Councilmember Urban, Mr. Bowling provided the hours contained in the proposals and the cost per hour. An analysis and discussion followed.

City Engineer Chris Barnes indicated that this proposal for the services of a consultant was for a manual and mapping; that specialty mapping was required; and some of the companies have looked at the existing maps and explained the factors considered in the evaluation and ranking of the proposals. Mr. Barnes expressed his concern that Prein & Newhof bid less than one-half of the hours of everybody else, and that shaving cost to get the job becomes an issue. He explained the process of obtaining the best bid for professional services and the most cost effective means of getting the best services. Discussion followed.

Motion by O'Brien, seconded by Sackley, to accept the proposal submitted by Fishbeck, Thompson, Carr & Huber, Incorporated, in the amount of \$45,000 to update two water resource manuals and authorize the City Manager to execute all documents related to the contract on behalf of the city. Discussion followed.

Councilmember O'Brien referred to an e-mail she sent earlier to the Administration in which she asked what procedures are in place to protect against having a bidder present a low bid only to refuse to continue because they did not anticipate how much work was involved, or who may ask for a change order to complete the project, thus costing the City money. Discussion followed. Upon a roll call vote, motion carried 6 to 0 with Councilmember Campbell abstaining.

OTHER CITY MATTERS:

STATEMENTS OF STUDENT MAYOR AND STUDENT CITY COUNCIL FOR THE DAY: At the request of Mayor Strazdas, the Student Councilmembers and the Student Mayor expressed their appreciation for the opportunity to participate in the Student Council and Mayor for the Day Program. Each of them indicated that the experience was enjoyable, rewarding and enlightening.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Mayor and City Council expressed their appreciation to the students who participated in the Student Council and Mayor for the Day Program.

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Councilmember Reid invited everyone to attend the Walk For Warmth, Saturday, February 27, 2010, at the First Baptist Church, Kalamazoo: 8:30 a.m., registration and refreshments, 9:00 a.m., the kick-off of the event, and 9:15 a.m., the Walk For Warmth event and, for more information, call (269) 373-5314 or email MLRODR@kalcounty.com.

Councilmember Randall announced that the Change of Assessment Notices are being mailed soon; that the Board of Review will be better informed than in the past; that appeals will be heard; and a greeter and refreshments will be made available for citizen participants.

Councilmember O'Brien highlighted an e-mail that she received and indicated that moving snow from your property on to the street is not allowed.

Mayor Strazdas read a commendation letter that he received from the J.C. Penney Company for Detective James Meyers who was instrumental in catching a criminal who was recruiting groups to shoplift large quantities of merchandise from several retail stores across the state of Michigan, saving over \$60,000 for the J.C. Penny Company.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:00 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: March 2, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Check Register

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

Attached please find the Check Register for the period February 17, 2010 through March 2, 2010, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/19/2010	269796	A I S CONSTRUCTION EQUIP. CO.	640		1,873.01
02/19/2010	269797	AT&T	849		3,055.20
02/19/2010	269798	A-1 AUTO BODY SHOP, INC.	97		245.10
02/19/2010	269799	A-1 SIGNS	2873		75.25
02/19/2010	269800	ABONMARCHE CONSULTANTS, INC	597		2,880.45
02/19/2010	269801	ADAMS BUILDING CONTRACTORS, IN	4350		169,441.20
02/19/2010	269802	AERCO WIRELESS, INC.	4073		2,062.50
02/19/2010	269803	AIRGAS GREAT LAKES	106		5,229.58
02/19/2010	269804	ALEXANDER CHEMICAL CORP.	4488		5,293.97
02/19/2010	269805	ALL-PHASE ELECTRIC SUPPLY CO.	108		483.62
02/19/2010	269806	ALLEGRA PRINT & IMAGING	533		583.22
02/19/2010	269807	ALLIED WASTE SERVICES #249	3078		40,106.15
02/19/2010	269808	AMERICAN PLANNING ASSOCIATION	804		405.00
02/19/2010	269809	AMERICAN PUBLIC WORKS ASSOC	716		696.00
02/19/2010	269810	ANALYTICAL TESTING & CONSULTIN	2136		450.00
02/19/2010	269811	ANIMAL REMOVAL SERVICE, LLC	3428		690.00
02/19/2010	269812	ARISTA TRUCK SYSTEMS	4459		822.00
02/19/2010	269813	ARROW UNIFORM RENTAL	4058		116.60
02/19/2010	269814	ARROWHEAD SCIENTIFIC, INC.	3744		4,190.00
02/19/2010	269815	ARTISTIC IMPRESSIONS,	4132		280.00
02/19/2010	269816	AUTOMATIC DATA PROCESSING	3305		896.60
02/19/2010	269817	B & B YARDSCAPE	3114		955.00
02/19/2010	269818	B D O SEIDMAN	136		2,000.00
02/19/2010	269819	BASS, MARK	999999		40.00
02/19/2010	269820	BATTERIES PLUS	3495		471.18
02/19/2010	269821	BEACON ATHLETICS	4168		695.24
02/19/2010	269822	BESCO WATER TREATMENT, INC.	3339		37.00
02/19/2010	269823	BOOTH NEWSPAPERS INC	89		1,693.61
02/19/2010	269824	BORGESS HEALTH ALLIANCE	151		99.00
02/19/2010	269825	BREAKAWAY BICYCLES	1356		1,485.96
02/19/2010	269826	BRINK'S, INC	153		225.94
02/19/2010	269827	BRONSON VICKSBURG HOSPITAL	157		300.00
02/19/2010	269828	BUTLER, TOWESON, AND PAYSENO	999999		92.00
02/19/2010	269829	BYHOLT INC.	68		3,302.40
02/19/2010	269830	C M P DISTRIBUTORS, INC.	3556		3,241.80
02/19/2010	269831	CAMPBELL AUTO SUPPLY	437		534.90
02/19/2010	269832	CASEY'S AUTO ELECTRIC SERVICE	1593		29.38
02/19/2010	269833	CHARTER COMMUNICATIONS	3080		40.00
02/19/2010	269834	CHICAGO TITLE OF MICHIGAN	999999		432.68
02/19/2010	269835	CHICKEN COOP	999999		1,673.65
02/19/2010	269836	CIMCO REFRIGERATION	2118		15.61
02/19/2010	269837	CINTAS CORP.	2206		640.78
02/19/2010	269838	CITY OF KALAMAZOO (PUBLIC UTIL	540		.00
02/19/2010	269839	CITY OF PORTAGE	177		75.00
02/19/2010	269840	COMMERCIAL DOOR SERVICES	1688		41,636.35
02/19/2010	269841	CONSUMERS ENERGY	743		77,011.41
02/19/2010	269843	CONSUMERS ENERGY-BILL PMT CNT	189		344.50
02/19/2010	269844	CROSSROADS CAR WASH	195		1,876.25
02/19/2010	269845	CROSSROADS EXPERT AUTO SERVICE	4109		1,200.00
02/19/2010	269846	LASZLO CSISZAR JR BUILDER	4287		54.51
02/19/2010	269847	DENOYER BROTHERS, INC.	210		

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/19/2010	269848	DEPATIE FLUID POWER CO., INC.	211		557.41
02/19/2010	269849	DETROIT TIGERS	3549		3,031.00
02/19/2010	269850	DILLARD, CHARLES	999999		105.00
02/19/2010	269851	JACK DOHENY SUPPLIES INC.	69		71.88
02/19/2010	269852	DUNSTAN, RUTH OR JAMES	999999		30.00
02/19/2010	269853	DUTHLER FORD TRUCKS, INC.	223		1,020.75
02/19/2010	269854	ED & TED'S EXCELLENT ADVENTURE	3315		3,128.00
02/19/2010	269855	ELZINGA, MARK OR TAMERA	999999		213.79
02/19/2010	269856	ENGINEERED PROTECTION SYSTEMS,	2973		126.00
02/19/2010	269857	ENGINEERING SUPPLY & IMAGING	2615		28.11
02/19/2010	269858	FIRST AMERICAN TITLE CO.	386		400.00
02/19/2010	269859	FLETCHER ENTERPRISES	1399		1,850.00
02/19/2010	269860	FLOTOW, KRIS	999999		44.00
02/19/2010	269861	GAMBILL, GAVIN	532		65.00
02/19/2010	269862	GANNETT MICHIGAN NEWSPAPERS	4508		910.03
02/19/2010	269863	GORDON FOOD SERVICE	502		330.89
02/19/2010	269864	GORDON WATER SYSTEMS	517		78.75
02/19/2010	269865	GRAHAM FORESTRY SERVICE, INC.	464		1,080.00
02/19/2010	269866	W W GRAINGER INC	699		175.95
02/19/2010	269867	GRAND ELK RAILROAD	4502		197.42
02/19/2010	269868	GRIFFIN PEST CONTROL, INC.	598		75.00
02/19/2010	269869	HEAVEY, SHIRLEY	999999		72.00
02/19/2010	269870	HOME DEPOT	691		1,909.60
02/19/2010	269871	HOMRICH-HENDERSON TRUST, JEAN	999999		1,587.62
02/19/2010	269872	HYDRO-CHEM SYSTEMS, INC.	4039		346.95
02/19/2010	269873	I S G	3433		193.70
02/19/2010	269874	ICEMANN ARENA INC	4342		177.75
02/19/2010	269875	IERVOLINA, SUSAN	2074		75.00
02/19/2010	269876	INDIANA WIPING CLOTH, INC.	61		641.50
02/19/2010	269877	INDUSCO SUPPLY CO., INC.	63		299.68
02/19/2010	269878	INFO TECH RESEARCH GROUP	4180		590.00
02/19/2010	269879	IAAO BANK LOCKBOX	3146		175.00
02/19/2010	269880	INT'L INSTITUTE MUNI. CLERKS	982		240.00
02/19/2010	269881	J B PRINTING COMPANY	1595		7,087.63
02/19/2010	269882	Jackson City Police Department	999999		100.00
02/19/2010	269883	KALAMAZOO COUNTY TREASURER	1117		82.00
02/19/2010	269884	KALAMAZOO GAZETTE	999999		171.48
02/19/2010	269885	KALAMAZOO NATURE CENTER, INC.	92		150.00
02/19/2010	269886	KALAMAZOO OIL COMPANY	4511		11.35
02/19/2010	269887	KALAMAZOO REGIONAL CHAMBER	3499		25.00
02/19/2010	269888	KEYSTONE AUTO REPAIR, INC.	984		798.00
02/19/2010	269889	KZOO TIRE COMPANY	564		1,198.00
02/19/2010	269890	LAWSON PRODUCTS, INC	240		698.15
02/19/2010	269891	LEXISNEXIS/MATTHEW BENDER	2701		150.00
02/19/2010	269892	LIEBENDORFER, JESSICA	532		65.00
02/19/2010	269893	LONG LAKE BOARD	1720		7,173.20
02/19/2010	269894	LONGTON, BETH A.	999999		412.51
02/19/2010	269895	LOWE'S HOME CENTER	2630		1,909.60
02/19/2010	269896	LS&S, LLC	4506		89.80
02/19/2010	269897	LUKE'S TRUCK SERVICE, INC.	815		72.02
02/19/2010	269898	LYNNWELL CORP.	244		86.00

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/19/2010	269899	MANHATTAN TOUR & TRAVEL, INC.	3720		2,000.00
02/19/2010	269900	MASON, DAVID	532		65.00
02/19/2010	269901	MCCARTHY SMITH LAW GROUP, PLC	2950		3,224.55
02/19/2010	269902	MCDONALD'S TOWING & RESCUE, IN	728		335.00
02/19/2010	269903	MCDONALD'S USA, LLC	4211		199.00
02/19/2010	269904	MCGRAW HILL CONSTRUCTION	999999		82.00
02/19/2010	269905	MCNALLY ELEVATOR CO.	256		81.78
02/19/2010	269906	MEIJER, INC., STORE #196	2307		371.36
02/19/2010	269907	MENARDS, INC	258		30.89
02/19/2010	269908	MEULENBERG, LOIS	999999		9.00
02/19/2010	269909	MICH COM DEV DIRECTOR ASSOC	1029		70.00
02/19/2010	269910	MICHIGAN ASSESSOR'S ASSOC.	763		75.00
02/19/2010	269911	MICHIGAN PAVEMENT MARKINGS LLC	1358		7,488.70
02/19/2010	269912	MICHIGAN POLICE EQUIPMENT CO.	269		1,318.50
02/19/2010	269913	MUNIMETRIX SYSTEMS CORPORATION	880		499.00
02/19/2010	269914	NEW FRESH CLEANING SERVICE	4351		5,728.76
02/19/2010	269915	A NEW LEAF	635		85.00
02/19/2010	269916	NICHOLSON, SANDY	999999		956.00
02/19/2010	269917	NORMAN CAMERA CO.	293		209.90
02/19/2010	269918	NYE UNIFORMS	299		231.96
02/19/2010	269919	O'REILLY AUTO PARTS	999999		135.45
02/19/2010	269921	OFFICE DEPOT, INC.	1721		1,225.91
02/19/2010	269922	OFFICEMAX INCORPORATED	301		648.85
02/19/2010	269923	ONE WAY PRODUCTS	440		785.04
02/19/2010	269924	P C MALL GOV. INC.	3945		43.98
02/19/2010	269925	PA CONSTRUCTION & SNOW PLOWING	4419		180.00
02/19/2010	269926	JAROTH - P T S	3957		303.00
02/19/2010	269927	PARIS CLEANERS	1794		2,860.39
02/19/2010	269928	PEERLESS-MIDWEST, INC.	1231		19,140.00
02/19/2010	269929	PETERS CONSTRUCTION CO.	1638		3,988.84
02/19/2010	269930	PETTY CASH-PARKS	536		377.50
02/19/2010	269931	PLEUNE SERVICE COMPANY	3985		357.76
02/19/2010	269932	PORTAGE NORTHERN HIGH SCHOOL	2319		170.00
02/19/2010	269933	PRECISION PRINTER SERVICES INC	2584		548.20
02/19/2010	269934	PRIDE AMBULANCE CO.	2437		711.00
02/19/2010	269935	PRIORITY HEALTH	4254		22,494.26
02/19/2010	269936	PRISM TITLE & CLOSING SERVICES	999999		11.26
02/19/2010	269937	PROTECTION TECHNOLOGIES, INC.	2331		1,650.00
02/19/2010	269938	PURITY CYLINDER GASES, INC	323		663.50
02/19/2010	269939	QUALITY AIR HEATING & COOLING,	3621		832.33
02/19/2010	269940	QUICK CASUAL CORPORATION	999999		218.72
02/19/2010	269941	RANDALL, PATRICIA	532		115.00
02/19/2010	269942	RATHCO SAFETY SUPPLY, INC.	327		1,061.27
02/19/2010	269943	RIDGE AUTO NAPA	438		1,662.97
02/19/2010	269944	ROAD EQUIPMENT PARTS CENTER	339		582.37
02/19/2010	269945	ROE-COMM, INC.	341		250.00
02/19/2010	269946	ROOT SPRING SCRAPER CO.	344		816.00
02/19/2010	269947	ROSE PEST SOLUTIONS	634		31.00
02/19/2010	269948	ROWE, BRADLEY	532		65.00
02/19/2010	269949	SAFETY SERVICES, INC.	349		1,000.60
02/19/2010	269950	SARCOM, INC.	1194		40,416.67

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/19/2010	269951	SEVERANCE ELECTRIC COMPANY, INC	353		4,743.00
02/19/2010	269952	SHERWIN WILLIAMS	356		421.60
02/19/2010	269953	SHULTS EQUIPMENT	1042		5,566.00
02/19/2010	269954	SIMMONS FORD	2064		276.67
02/19/2010	269955	SKILLQUEST INTERNATIONAL LLC	456		200.00
02/19/2010	269956	SNELLING PERSONNEL SERVICES	2107		1,435.50
02/19/2010	269957	SOUP'R HEROS	4471		210.00
02/19/2010	269958	SOURCE TECHNOLOGIES	879		371.00
02/19/2010	269959	SOUTHWEST MICHIGAN GOV CONSULT	4484		5,180.00
02/19/2010	269960	SOUTHWEST MICHIGAN SKATING CLU	4514		180.00
02/19/2010	269961	ST. CATHERINE'S CHURCH	9999999		100.00
02/19/2010	269962	STANNARD, WILLIAM	532		77.50
02/19/2010	269963	STATE OF MICHIGAN (MDEQ)	820		4,000.00
02/19/2010	269964	STATE SYSTEMS RADIO, INC	369		3,524.66
02/19/2010	269965	STUBELT, JOSEPH	532		65.00
02/19/2010	269966	STUMP, MARIILYN	9999999		36.00
02/19/2010	269967	STURGEON, SHERRI	9999999		36.00
02/19/2010	269968	SUPERIOR IMAGING	9999999		166.42
02/19/2010	269969	SUPERIOR SIGNALS, INC.	2024		244.20
02/19/2010	269970	T-MOBILE USA INC	3665		29.99
02/19/2010	269971	THINGS TA DO, INC.	4201		275.00
02/19/2010	269972	THOMPSON, HELENE	4417		114.00
02/19/2010	269973	TIGER DIRECT, INC.	4272		299.94
02/19/2010	269974	TOO CLEAN JANITORIAL	2220		65.00
02/19/2010	269975	TRACTOR SUPPLY CORP.	2817		572.61
02/19/2010	269976	U S POSTMASTER	391		185.00
02/19/2010	269977	U S SIGNAL COMPANY, LLC	3831		548.88
02/19/2010	269978	UNITED PARCEL SERVICE	545		59.08
02/19/2010	269979	UNITED WATER NACO LLC	4304		161,579.63
02/19/2010	269980	VESTAL BUILDERS	4239		1,700.00
02/19/2010	269981	WELLER TRUCK	1594		1,726.52
02/19/2010	269982	WEST SHORE FIRE, INC.	419		692.00
02/19/2010	269983	WINDER POLICE EQUIPMENT, INC.	429		238.19
02/19/2010	269984	WINGFOOT COMMERCIAL TIRE	2613		1,989.94
02/19/2010	269985	WOLVERINE LAWN SERVICE, INC.	1089		2,988.00
02/19/2010	269988	XEROX CORP.	2684		2,591.26
02/19/2010	269989	10TH DISTRICT COURT	9999999		500.00
02/19/2010	269990	AT&T	849		.00
02/19/2010	269991	CITY OF PORTAGE	177		3,250.60
02/23/2010	269992	WINGFOOT COMMERCIAL TIRE	2613		.00
02/25/2010	269993	BREW TIME BEVERAGE, INC.	4367		492.00
02/25/2010	269994	PETTY CASH-CITY HALL	767		.00

DATE RANGE TOTAL *

748,489.97 *

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 3, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: West Lake Management Program No. 011-Q - Resolution No. 5

ACTION RECOMMENDED: That City Council adopt Resolution No. 5, confirming the Special Assessment Roll for the West Lake Management Program Special Assessment District No. 011-Q

Attached is Special Assessment Resolution No. 5 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 on this project, setting a public hearing of necessity on February 9, 2010.
- On February 9, 2010, City Council adopted Resolution No. 3, on the necessity of the project, directing the preparation of the Assessment Roll.
- On February 23, 2010, City Council adopted Resolution No. 4, setting a public hearing on the Assessment Roll for March 9, 2010.

It is recommended that Council adopt Resolution No. 5, confirming the Special Assessment Roll for the West Lake Management Program Special Assessment District No. 011-Q.

Attachment: Resolution No. 5

**CITY OF PORTAGE
SPECIAL ASSESSMENT RESOLUTION NO. 5
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 the 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, the City Council of the City of Portage, Kalamazoo County, Michigan, after due and legal notice has reviewed the Special Assessment Roll No. 011-Q prepared for the purpose of defraying the costs of the following described public improvement:

WHEREAS, the cost of said improvement is \$159,335.00, the share of the Special Assessment District is \$59,250.00, and the share of the City-at-Large is \$14,812.00.

WHEREAS, the City Council deems said Special Assessment Roll to be fair and equitable, and the assessments recorded therein to be in proportion to the benefits derived or to be derived;

NOW THEREFORE, BE IT RESOLVED:

1. That the City's share of said improvement, in the amount of \$14,812.00, is hereby confirmed and payment of the same shall be determined at a later date.
2. That said Special Assessment Roll No. 011-Q in the amount of \$159,335.00, as prepared, filed and presented to the City Council, may be and the same hereby is confirmed.
3. That said Special Assessment Roll shall be divided into five (5) equal installments, the first installment to be due August 1, 2010 to August 31, 2010, inclusive. The remaining four (4) installments, with accrued interest thereon, shall be due and payable August 1st to August 31st each year thereafter and shall be spread upon the City tax roll for the year in which the same becomes due and payable.

4. The assessments made in said Special Assessment Roll are hereby ordered and directed to be collected and the City Clerk shall deliver said Special Assessment Roll to the City Treasurer with his warrant attached commanding the Treasurer to collect the assessments therein in accordance with the direction of this resolution with respect thereto, and the Treasurer is directed to collect the amounts assessed as the same become due.

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

YEAS: Councilmember: _____

NAYS: Councilmember: _____

ABSENT: Councilmember: _____

RESOLUTION DECLARED ADOPTED:

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: 2/24/10
By: [Signature]
City Attorney

**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 in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, MCLA 125.3101, et. seq., 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 or detached 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.
 - a. Does not unduly affect the capacities of public services or facilities;
 - b. Is consistent with the public health, safety and welfare;
 - c. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
 - d. 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: 3/9/10

 City Attorney

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 Helmholtz and Dr. Cynthia Lunney of the Portage Animal Hospital were present to support the application. Dr. Helmholtz 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

DRAFT

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

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CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 1, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

ACTION RECOMMENDED: That City Council:

- a. accept Ordinance Amendment #09-B, sign regulations, for first reading and establish a public hearing on April 13, 2010; and
- b. subsequent to the public hearing consider approval of Ordinance Amendment #09-B.

Ordinance language has been prepared to amend the sign regulations contained in the Zoning Code. The amendment was initiated to address an inconsistency that occurred during the 2003 Zoning Code update, to standardize the sign regulations for non-residential uses allowed in the residential zoning districts and to clarify the measurement of sign area in zoning districts. Attached is a report from the Community Development Director that explains the proposed modifications.

Ordinance Amendment #09-B involves:

- Proposed changes to Section 42-545(A) and Section 42-546(D) to modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts.
- Modifications to Sections 42-550(A) and 42-551(A) to clarify a variance from the Zoning Board of Appeals is not required if a smaller sign size is desired by a business owner and the maximum sign size for a lot less than 80 feet in width.
- Proposed changes to Section 42-542(B) to clarify the long-standing application of the Zoning Code provisions for sign measurement to ensure consistency in administration and enforcement.

The Planning Commission reviewed the proposed ordinance modifications during the December 17, 2009 meeting and conducted a public hearing on January 7, January 21, and February 18, 2010. After a thorough review of the proposed ordinance changes, the Planning Commission voted unanimously to recommend to City Council that Ordinance Amendment #09-B be adopted. It is recommended that City Council accept Ordinance Amendment #09-B for first reading, establish a public hearing on April 13, 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: March 1, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

The Department of Community Development with the assistance of the City Attorney has prepared an amendment to the Zoning Code sign regulations to correct several deficiencies.

Proposed changes to Sections 42-545(A) and 42-546(D) modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts. Currently, only 32 square feet of combined freestanding and wall signage is allowed. Prior to 2003, up to 64 square feet of combined signage was permitted. As proposed, the area of a freestanding sign and the area of wall signage for non-residential uses permitted in the R-1A through R-1T and RM-1/RM-2 zoning districts would be standardized based on street frontage and building wall area: The maximum freestanding sign area is proposed to be 50 square feet and the maximum wall sign area is proposed to be 100 square feet. The proposed amendment would permit up to 18 square feet of added freestanding sign area and up to 68 square feet of additional wall sign area.

Planned modifications to Sections 42-550(A) and 42-551(A) clarify the regulatory provision "...with a minimum sign size of 32 square feet..." Since the intent of the original language was to permit smaller lots to have a maximum sign size of 32 square feet, the existing statement "...with a minimum sign size of 32 square feet..." is proposed to be replaced with "For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted." The proposed changes to Sections 42-550(A) and 42-551(A) will clarify that a variance from the Zoning Board of Appeals is not required if a smaller sign size is desired for the use, and that the maximum sign size for a lot less than 80 feet in width is 32 square feet.

Finally, a change to Section 42-542(B) is proposed that would insert the phrase "...of one side of the sign face..." This amendment is proposed to ensure the understanding that the measurement of the area of a sign is determined based on a side of the sign, or the "sign face" as defined in the Zoning Code. This proposed amendment will clarify the long-standing application of the Zoning Code that sign area is measured per side and ensure consistency in application of these regulations.

At the January 21, 2010 meeting, the Planning Commission voted unanimously to recommend that City Council approve Ordinance Amendment #09-B. Following the January 21st meeting, it was discovered that Section 42-546(D), RM-1 and RM-2, multiple family districts, should have been included in the proposed amendment: Ordinance Amendment #09-B was revised to incorporate this section and a public hearing scheduled for the February 18, 2010 Planning Commission meeting. At the meeting, the Planning Commission unanimously recommended that Ordinance Amendment #09-B be approved. 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 March 1, 2010
Planning Commission Minutes dated December 17, 2009 and January 7, 21 and February 18, 2010
Department of Community Development report dated February 12, 2010
Ordinance Amendment

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: March 1, 2010

SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

The Planning Commission began preliminary review and discussion of the proposed sign ordinance amendment at the December 17, 2009 meeting. A public hearing to formally consider Ordinance Amendment #09-B was convened during the January 7th, 21st and February 18th, 2010 Planning Commission meetings. One citizen (Mr. Garnet Eckstrand, 5015 Glencove Court) spoke during the January 21st meeting. No additional citizens spoke in regard to the proposed ordinance amendment.

After a thorough review of the proposed ordinance modifications at the January 21, 2010 meeting, which concluded at the February 18, 2010 meeting, a motion was 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.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION

A handwritten signature in cursive script that reads "Thomas A. Fox".

Thomas A. Fox
Chairman

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

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.

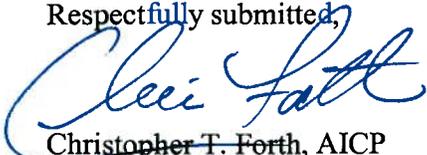
2. Proposed Home Occupation Ordinance Amendment. Mr. Forth summarized the staff report dated December 11, 2009 regarding proposed modifications to the home occupation regulations. Mr. Forth discussed comments received by the Planning Commission during the November 5, 2009 meeting and staff responses 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.

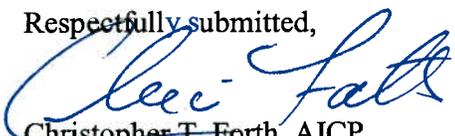
STATEMENT OF CITIZENS:

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

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

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

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

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

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

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

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

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

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

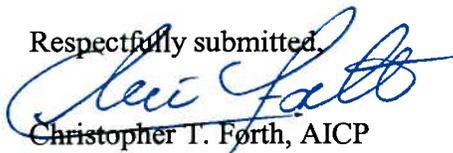
STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

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

Respectfully submitted,



Christopher T. Forth, AICP

Deputy Director of Planning and Development Services

PLANNING COMMISSION

February 18, 2010

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The City of Portage Planning Commission meeting of February 18, 2010 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately ten citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

The Planning Commission and staff recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the February 4, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bailes, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan: Portage Animal Hospital, 8037 Portage Road. Chairman Fox referred the Commission to a February 12, 2010 correspondence from Attorney Nelson Karre, representing the Portage Animal Hospital, requesting the Planning Commission adjourn the site plan until the March 4, 2010 meeting. A motion was made by Commissioner Pearson, seconded by Commissioner Welch, to adjourn the Site Plan for the Portage Animal Hospital, 8037 Portage Road, until the March 4, 2010 meeting. The motion was made at the request of the applicant and was unanimously approved.

PUBLIC HEARINGS:

1. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the staff report dated February 12, 2010 regarding proposed changes to the sign regulations. Following the January 21, 2010 Planning Commission meeting, Mr. Forth indicated Section 42-546(D), RM-1 and RM-2 districts, should have also been included in Ordinance Amendment 09-B since it addresses freestanding and wall signs for non-residential uses in the multi-family residential zoning districts. The changes proposed for Section 42-545(B) are also applicable to Section 42-546(D) and the staff report has been revised to include the proposed changes to Section 42-546(D).

DRAFT

The public hearing was convened by Chairman Fox. No citizens spoke regarding the proposed ordinance amendment. A motion was then offered by Commissioner Cheesebro, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved. The motion was unanimously approved.

2. Preliminary Report: Rezoning Application 09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive). Mr. Forth summarized the revised preliminary staff report dated February 18, 2010 that was provided to the Commission in the final agenda packet and includes an updated narrative and tentative plan provided by the applicant on February 17th. Mr. Forth stated the PD, planned development rezoning application involving an approximate 95 acre tract of land was submitted by American Village Builders and The Hinman Company to facilitate additional multiple family residential development and retail/office land use along West Centre Avenue. Mr. Forth provided background information and summarized existing conditions and Zoning Code regulations and procedures for development in the PD district. Mr. Forth reviewed the PD project as proposed by the applicant and summarized the preliminary analysis contained in the staff report.

Mr. Greg Dobson of American Village Builders was present to explain and support the project. Mr. Dobson briefly summarized the history of land acquisition and development of the Greenspire Apartments, discussed the 1980 Kalamazoo Gazette article provided by Dr. Russell Mohny and stated the commitments referenced in the article would be written into the project narrative. Mr. Dobson reviewed the proposed apartment building layout in Phase IV and the Zoning Board of Appeals (ZBA) consideration of the setback variance request in October 2009. Since the ZBA meeting, Mr. Dobson stated the two apartment buildings have been shifted slightly and will now include a 15-foot setback from the eastern property line, will be fully sprinkled and will meet all Building Code/Fire Code requirements. The layout and setback for these two buildings in Phase IV was desired to retain the overall look and feel of Greenspire. Mr. Dobson also discussed the apartment building layout, orientation, setbacks and efforts to minimize Phase V impacts on Shirley Court/Tozer Court residents. Also discussed was the planned access arrangement, retail/office uses proposed along West Centre Avenue, building construction materials and elevations. The overall density of the apartment portion of the development under the proposed PD zone would be 8.54 units/acre, compared to approximately 9.5 units/acre, which would be allowed under the existing RM-1 district.

The Commission, staff and applicant discussed various aspects of the planned development including the ZBA setback variance request, property ownership, inclusion of affordable housing units and signalization of the Cooley Drive intersection. The public hearing was convened by Chairman Fox. Four citizens spoke during the public hearing: 1) Ms. Betty Ongley (8620 Tozer Court), 2) Mr. Terry Hall (8621 Shirley Court), 3) Dr. Russell Mohny (3500 Vanderbilt Avenue) and 4) Ms. Carol Long (2208 Quincy Avenue). Ms. Ongley expressed concerns regarding possible trespassing from apartment tenants, construction vehicle access, lack of a deceleration lane on West Centre Avenue, timing for signalization of the West Centre Avenue/Cooley Drive access, condition of Shirley Court and suggested slight adjustments in Phase V apartment buildings to lessen impact on adjacent single family residences located on Shirley Court and Tozer Court. Mr. Hall expressed concerns regarding the proposed height of apartment buildings in Phase V, grade differences between these apartment buildings and his residence and the lack of mature trees in this portion of the development. Dr. Mohny thanked Mr. Dobson for volunteering to incorporate the major provisions of the 1980 agreement into the project narrative. Dr. Mohny discussed Building/Fire Code issues associated with the previous ZBA variance consideration, public notice to the State of Michigan and the condition of Shirley Court and the need for improvements. Ms. Long expressed concerns regarding traffic safety at the West Centre Avenue/Cooley Drive intersection and the need to install a traffic signal at this intersection immediately.

The Commission, staff and the applicant discussed how development density was calculated, the PD review process and ordinance provisions, the condition of Shirley Court (a private street with deeded access), signalization of the West Centre Avenue/Cooley Drive intersection and the potential impacts on the Tozer/Shirley Court residents associated with Phase V of the development. Mr. Dobson stated there are no plans to improve Shirley Court to accommodate construction traffic. Mr. Dobson did indicate the proposed drive opposite Cooley Drive would be installed at the time the Phase IV apartment buildings are constructed. No additional citizens

TO: Planning Commission **DATE:** February 12, 2010
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: Final Report: Ordinance Amendment #09-B, Sign Ordinance Regulations

I. INTRODUCTION

Ordinance language has been prepared to amend the following sections of sign regulations contained in the Zoning Code:

- 42-545(A), R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts;
- 42-546(D), RM-1 and RM-2 districts
- 42-550(A), OS-1, office services and OTR, office, technology and research districts; and
- 42-551(A), B-1 local business districts.

Attached is a copy of the above Zoning Code sections. This amendment was initiated to 1) address an inconsistency that occurred during the 2003 Zoning Code update, 2) standardize the sign regulations for non-residential uses allowed in the residential zoning districts with uses permitted in other non-residential zoning district and 3) clarify sign area in the office and business districts. A detailed discussion of proposed changes to these sections is provided below.

II. ZONING CODE PROVISIONS/ANALYSIS

Section 42-545(A) and 42-546(D). The proposed amendment to Section 42-545(A) and 42-546(D) of the Zoning Code would modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts. The following table summarizes the existing and proposed changes:

Proposed Changes to Section 42-545(A) and 42-546(D)			
Type of Sign	Current Sign Requirements ¹	Proposed Sign Requirements	Change
Freestanding	One sign up to 32 sq. ft.	One sign up to 50 sq. ft.	+18 square feet
Wall	One sign up to 32 sq. ft.	15% of the total wall area up to 100 sq. ft. ²	+68 sq. ft. depending on wall area

¹ If a wall and freestanding sign are erected, the combined total cannot exceed 32 sq. ft.

² More than one wall sign may be erected. Combined area cannot exceed 15% or 100 sq. ft., whichever is less

As the table above indicates, the combined total square footage of the freestanding sign and wall sign cannot exceed 32 square feet. Several churches including Valley Family Church – Kalamazoo, 2500 Vincent Avenue, Kalamazoo First Assembly of God, 5550 Oakland Drive and The Bridge, 7198 Angling Road have requested variances to increase the size of the sign(s). After comparing the language of this section before and after the 2003 Zoning Code update, it was discovered, the consultant inserted the word “together” in Sections 42-545(A) and 42-546(D), which clearly limits the total square feet of all signs to no more than 32. The word “together” is proposed to be removed.

In addition to removing the word “together” from the ordinance, staff is also recommending the size of freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts be standardized with the freestanding and wall signs allowed in other non-residential zoning districts. In other non-residential zoning districts, the standard freestanding sign size is 48-50 square feet and, depending on the zoning district and amount of street frontage, may be increased. The

standard wall sign size is 15% of the wall area with a maximum of 100 square feet. As shown in the table above, the proposed amendment would permit an additional 18 square feet of freestanding sign and up to 68 square feet of wall sign depending on the size of the wall. Although the other non-residential zoning districts can increase the size of a freestanding sign based on street frontage, the maximum size in the residential zones is proposed at 50 square feet regardless of the street frontage. Negative impacts associated with these increases are not anticipated: An additional 18 square feet freestanding sign is considered minor and the size of the wall sign is proportionate to the size of the wall.

Sections 42-550(A) and 42-551(A). Modifications to these two Zoning Code sections involve clarification of the statement "...with a minimum sign size of 32 square feet..." The meaning of this statement appears to be two-fold. First, this statement indicates the sign cannot be less than 32 square feet in area. If a business owner were to request a sign less than 32 square feet in area, a variance from the Zoning Board of Appeals (ZBA) would be necessary. Second, this statement indicates a lot with less than 80 feet in width is permitted to have a freestanding sign up to 32 square feet in area.

From a practical standpoint, business owners generally request the largest sign allowed under the Zoning Code so ZBA requests to approve a sign smaller than 32 square feet have not been received within the recent past. However, there are several existing lots in the city zoned OS-1, office service and B-1, local business that are less than 80 feet in width. Since the intent of the original language was to permit these smaller lots to have a maximum sign size of 32 square feet, the existing statement "...with a minimum sign size of 32 square feet..." is proposed to be replaced with the statement "For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted." Attached is a copy of the proposed ordinance language.

The proposed changes to Sections 42-550(A) and 42-551(A) will clarify: 1) a variance from the ZBA is not required if a smaller sign size is desired by a business owner, and 2) the maximum sign size for a lot less than 80 feet in width.

Finally, following the January 7, 2010 Planning Commission meeting, clarification of the maximum sign area per side was discussed. References to permitted sign area are contained in several sections. For Commission information, the square footage of a sign is determined based on the "sign face" as defined in the Zoning Code. While wall signs and freestanding signs are typically one-sided or two-sided, the maximum sign area that is permitted applies to the "sign face": The number of sign faces (sides) is not regulated. To clarify this long-standing application of the Zoning Code and to ensure consistency, the phrase "...of one side of the sign face..." can be added to Section 42-542(B), Sign measurements. This minor additional recommended change clarifies sign area, and is consistent with the proposed amendments.

III. PUBLIC REVIEW/COMMENT

The Planning Commission considered the proposed Ordinance Amendment #09-B at the December 17, 2009 meeting and convened a public hearing during the January 7 and January 21, 2010 meetings. One citizen spoke during the January 21st meeting and inquired how the proposed changes would affect existing uses that have received variances or have developed under the current ordinance.

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-B, Sign Ordinance Regulations, be approved.

Attachments: Current Zoning Code sections; Proposed Ordinance Amendment

of not being legible and the subsequent message gradually increases intensity to the point of legibility.

- c. **Frame.** A complete, static display screen on an electronic message display.
- d. **Frame effect.** A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.
- e. **Transition.** A visual effect used on an electronic message display to change from one message to another.

(Ord. No. 03-01 (Exh. A, § 42-621), 2-18-2003; Amend. of 10-2-2007)

Sec. 42-542. General requirements.

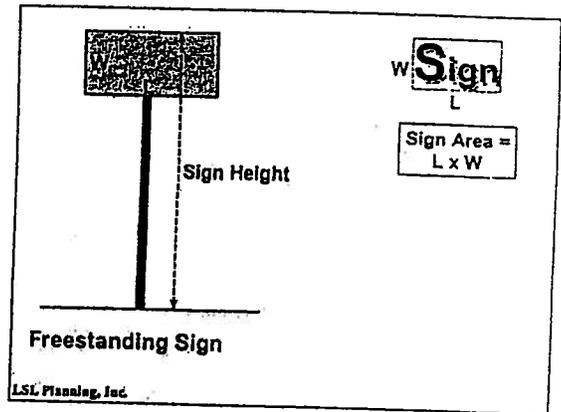
A. Unless not required by this article, all signs shall be required to obtain a permit from the director of community development.

B. Sign measurements:

- 1. The entire area within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
- 2. Separated sign elements, not part of any frame, or separated by other material or color forming an integral part of the display that may be used to differentiate such sign from the background against which it is placed, shall have each element of the sign calculated separately for the purposes of determining the total area. The signs elements shall not exceed the total sign display permitted by the district in which it is located.
- 3. The height of a sign is measured from the adjacent street grade or upper surface of the nearest street curb other than an

elevated roadway that permits the greatest height to the highest point of such sign.

- 4. For the purpose of property line setbacks, the setback distance for a freestanding sign shall be measured from that portion of the sign closest to the property line.
- 5. The sign areas for wall signs shall be determined by taking that portion of the front wall of the building applicable to each tenant space, and computing sign requirements for that portion of the total wall.



Sign Measurements Fig. 7

C. All references to the term "lot width," "lot frontage" or "frontage" for the purposes of calculating allowable freestanding sign area shall require that width or frontage be on a public dedicated right-of-way and be measured at the front lot line, notwithstanding the definition and use of these terms in division 2 and division 3 of this article.

D. Signs not permitted.

- 1. A sign not expressly permitted by this article is prohibited.
- 2. No person shall erect or maintain a sign which moves or which has moving or animated parts or images, whether the movement is caused by machinery, electronics, wind or otherwise, including swaying signs, except for an EMD as defined in

3. The granting of a variance will result in the removal of a nonconforming sign and replacement by a sign that, while not meeting the requirements of this article, are, nonetheless, in keeping with the spirit and purpose of this article.

D. Variances. A sign erected as a result of a lawful grant of a variance by the zoning board of appeals shall be subject to the same restrictions and requirements which apply to nonconforming signs in subsection B above and other provisions of this Code.

E. Notwithstanding the provisions of subsection B, above, the face of a nonconforming sign may be changed provided that the owner of the sign and owner of the zoning lot upon which the sign is located (if different from the owner of the sign) shall enter into a written agreement with the city which shall be recorded with the county register of deeds by the owner of the sign and the owner of the zoning lot, and which shall state all of the following:

1. In exchange for the opportunity to change the face of the sign as often as desired, the entire nonconforming sign, which includes the entire face and structure, shall be removed within five years of entering into the agreement.
2. At the conclusion of the five years, the owner of the sign and the owner of the zoning lot shall be responsible for the entire removal of the sign.
3. The owner of the sign and the owner of the zoning lot (including subsequent owners) waive their rights to request variances from the zoning board of appeals a variance from the agreement or any other ordinance provision governing the sign.
4. The agreement shall run with the land and become binding upon any subsequent owners of the sign and zoning lot.
5. The replacement sign, itself nonconforming in any way, may not be erected at the conclusion of the five years.
6. A lien against the zoning lot and any structure on the zoning lot, in the amount

of 1½ times the estimated cost of removing the nonconforming sign at the time the agreement is entered into (as established by the director on the date of the agreement) shall come into existence five years after entering into the agreement and remain in effect until the sign is removed.

(Ord. No. 03-01 (Exh. A, § 42-624), 2-18-2003)

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

A. In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

1. For each dwelling unit, there is permitted one sign, not exceeding one square foot in area, indicating the name of the occupant.
2. For a permitted use other than a dwelling unit, there is permitted one freestanding sign and one wall identification sign together not exceeding a total of 32 square feet in area per side, provided that such a sign:
 - a. Is at least ten feet from any property line; and
 - b. Does not exceed ten feet in height.

B. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign identifying a single-family residential development city owned property or right-of-way. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:

1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
2. The person responsible for maintaining and repairing the sign.
3. Compensation to the city for continued use of the property.

4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

(Ord. No. 03-01 (Exh. A, § 42-625), 2-18-2003; Ord. No. 09-03, 4-14-2009)

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

- A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.
- B. For a rental or management office, there is permitted one wall sign, not exceeding two square feet in area.
- C. For identifying a multifamily housing project, there is permitted one freestanding or wall sign, not exceeding 32 square feet in area per vehicular entrance, provided that such sign:
 1. Is at least ten feet from any property line; and
 2. Does not exceed ten feet in height.
- D. For a permitted use other than a dwelling unit, there is permitted one freestanding and one wall identification sign, together not exceeding a total of 32 square feet in area per side, provided that such signs:
 1. Are at least ten feet from any property line; and
 2. Do not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-626), 2-18-2003)

Sec. 42-547. MHC district.

In an MHC manufactured home community district:

- A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.
- B. For each manufactured home park vehicular entrance, there is permitted one free-

standing identification sign, not exceeding 32 square feet in area per side, provided that such sign:

1. Is at least ten feet from any property line; and
2. Does not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-627), 2-18-2003)

Sec. 42-548. PD, planned development district.

In the PD planned development district:

- A. For a permitted use other than a dwelling unit, there is permitted one freestanding accessory sign per zoning lot, not exceeding one square foot for each 2½ feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot with less than 300 feet of frontage. A zoning lot with more than 300 feet of frontage may have an additional sign based upon the ratio of one square foot of sign per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size of any one sign is 50 square feet.
- B. Where multiple use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot.
- C. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential district is provided for each square foot of sign permitted on the lot, provided that all such signs:
 1. Are at least ten feet from any property line; and
 2. Do not exceed 15 feet in height.
- D. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The

combined total of all wall signs shall not exceed 100 square feet per street frontage.

- E. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.
- F. For each dwelling unit there is permitted one sign not exceeding one square foot in area indicating the name of the occupant.
- G. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in section 42-545.B.

(Ord. No. 03-01 (Exh. A, § 42-628), 2-18-2003; Amend. of 10-2-2007; Ord. No. 09-03, 4-14-2009)

Sec. 42-549. P-1, parking district.

In a P-1 vehicular parking district:

- A. One freestanding or wall sign is permitted, not to exceed six square feet in area per side, designating conditions of use, provided that a freestanding sign:
 - 1. Is ten feet from any property line; and
 - 2. Does not exceed ten feet in height.
 - B. Entrance and exit signs are permitted as provided in section 42-433.E.
- (Ord. No. 03-01 (Exh. A, § 42-629), 2-18-2003)

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot

less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

- 1. Are at least ten feet from any property line; and
- 2. Do not exceed 15 feet in height.

B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

- C. In addition to the sign area allowed in this subsection, one additional freestanding sign may be erected at each vehicular entrance to identify the development and facilities located in an OTR zone therein, provided that such sign:
 - 1. Does not exceed 50 square feet in area per side;
 - 2. Is ten feet from any property line; and

3. Does not exceed 15 feet in height.
(Ord. No. 03-01 (Exh. A, § 42-629.1), 2-18-2003)

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
 - 1. Are at least ten feet from any property line; and
 - 2. Do not exceed 15 feet in height.
- B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for

one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

(Ord. No. 03-01 (Exh. A, § 42-629.2), 2-18-2003)

Sec. 42-552. B-2, community business; B-3, general business; and CPD, commercial planned development districts.

In a B-2, community business district, B-3, general business district, or a CPD, commercial planned development district:

- A. For each zoning lot, there is permitted one freestanding accessory sign, up to 50 square feet in area per side, for lots 125 feet or less in width, to be increased at a ratio of one square foot per each 2½ feet of lot frontage in excess of the initial 125 feet, up to a lot 300 feet wide. A zoning lot having in excess of 320 feet of frontage may have one additional sign based upon the same ratio of one square foot of sign area for each 2½ feet of lot frontage over the initial 320 feet of frontage. The maximum size for any one sign is 120 square feet.
- B. When multiple-use zoning lots are involved, for each additional use on the zoning lot beyond the initial use, 15 square feet of sign area is permitted, the total area of freestanding signs not to exceed 50 percent over the sign size originally permitted for the lot.
- C. For a lot with frontages on more than one street, each frontage may be treated as a separate frontage for the purpose of establishing permitted freestanding sign area and number.
- D. For a corner lot, the distance between permitted freestanding signs shall be not less than 100 feet, as measured along the property lines, but in no case shall there be a distance of less than 70 feet between such signs. Each such sign shall be oriented to the street frontage it serves. If one freestanding sign is used, then the percentage of freestanding sign area permitted on one street frontage may be

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTIONS 42-542; 42-545; 42-546; 42-550 AND 42-551
ARTICLE 4 OF CHAPTER 42, ZONING**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-542. General requirements.

- A. *Unchanged.*
- B. Sign measurements:
 - 1. The entire area of one side of the sign face within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
 - 2. *Unchanged.*
 - 3. *Unchanged.*
 - 4. *Unchanged.*
 - 5. *Unchanged.*
- C. through I. *Unchanged.*

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

- A. *Unchanged.*
- B. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:
 - 1. Is at least ten (10) feet from any property line; and
 - 2. Does not exceed ten (10) feet in height.

- C. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.
- D. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign located on city owned property or right-of-way identifying a single-family residential development. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:
 - 1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
 - 2. The person responsible for maintaining and repairing the sign.
 - 3. Compensation to the city for continued use of the property.
 - 4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

- A. *Unchanged.*
- B. *Unchanged.*
- C. *Unchanged.*
- D. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:
 - 1. Is at least ten (10) feet from any property line; and
 - 2. Does not exceed ten (10) feet in height.
- E. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
1. Are at least ten (10) feet from any property line; and
 2. Do not exceed fifteen (15) feet in height.
- B. *Unchanged.*
- C. *Unchanged.*

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
1. Are at least ten (10) feet from any property line; and
 2. Do not exceed fifteen (15) feet in height.

B. *Unchanged.*

Dated: _____

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 2/12/00

LLJ
CITY ATTORNEY

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 26, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Brownfield Redevelopment Incentive Policy, Treystar Holdings, LLC

ACTION RECOMMENDED: That City Council consider approval of a local-only tax increment financing incentive for the Treystar Holdings, LLC, CentrePort Commons brownfield project, 8019 Portage Road, without a Michigan Business Tax credit and without State of Michigan tax increment participation as specified in the City of Portage Brownfield Redevelopment Incentive Policy.

At the request of Treystar Holdings, LLC, the CentrePort Commons brownfield project has been withdrawn from any State of Michigan brownfield incentive consideration. While no state incentive is requested, Treystar has requested that a local-only tax increment financing incentive for the CentrePort project be approved. Attached is a copy of a letter received from Attorney Alan Schwartz who represents Treystar.

As background information, Treystar owns approximately eight acres of land at the intersection of Portage Road and East Centre Avenue and has been planning redevelopment of the brownfield site with a 53,000 square-foot, multi-building business center. Per the Brownfield Redevelopment Financing Act (Public Act 381 of 1996), as amended, Treystar initially requested a brownfield state tax credit incentive (\$470,000) and a tax increment finance incentive (\$291,000) in November 2006, which were approved by City Council. The CentrePort Commons project was the first brownfield application in the City of Portage to request a tax increment financing incentive in addition to the state business tax credit incentive. However, after preliminary discussions with state officials, continued weakening economic conditions and business tax changes by the state, Treystar did not formally submit the application to the state.

Treystar reinitiated the brownfield project in November 2009 and requested a brownfield state tax credit incentive (\$803,000) and a tax increment finance incentive (\$282,000). Brownfield Redevelopment Plan Amendment No.6 and the required development agreement prepared for the Treystar project were approved by City Council on December 15, 2009. Following action by City Council, the required work plan was submitted to the State of Michigan for a Michigan Business Tax credit (MBT) and tax increment finance involving the capture of local taxes and school operating taxes. However, Mr. Joe Agostinelli, Community Assistant Specialist, Michigan Economic Development Corporation (MEDC), advised Treystar in a January 25, 2010 email communication (attached), that the MEDC would not support the Treystar request for the MBT incentive, or the additional incentive to capture taxes for school operating purposes because portions of the eight acres are not contaminated, the development costs are comparable to a greenfield site and some of the eligible demolition work has been completed. Treystar then requested that the City of Portage notify MEDC and formally withdraw the required work plan (attached).

The City of Portage Brownfield Redevelopment Incentive Policy provides the framework for processing and considering brownfield incentives under Act 381. Section 3 of the policy specifies that *“Portage City Council will support tax increment financing if such financing is necessary for the granting of a Michigan Business Tax credit by the State of Michigan for an office, commercial or industrial project on a brownfield site. The state and all local taxing jurisdictions are expected to participate.”* At the request of Treystar, the brownfield project has been withdrawn from consideration by the state for any brownfield incentive but Treystar has requested a local-only tax increment financing incentive for the CentrePort project. This modified incentive would involve the capture of a maximum of \$162,000 over a four-year period, which includes \$15,000 for program administration. As shown on Table 3, Tax Increment Revenue Projection of Brownfield Redevelopment Plan No.6 (attached), this tax revenue would be collected from local units of government including the City of Portage, Kalamazoo Valley Community College, Kalamazoo Regional Education Service Agency, Portage District Library and Kalamazoo County and a maximum of \$147,000 returned to Treystar as reimbursement for identified project costs incurred for site work, infrastructure, environmental response, demolition and other eligible work activities directly related to the brownfield project as specified on pages 8 through 10 of the redevelopment plan and as permitted by Section 2(m) of Act 381.

City Council adopted the City of Portage Brownfield Redevelopment Incentive Policy (attached) on July 22, 2008. In addition to city support through low tax and utility rates, infrastructure improvements to encourage private sector development and quality of life investments to enhance the community, the policy indicates that Portage will consider providing brownfield incentives via Act 381 to off-set the additional costs of development imposed on a project because it is a brownfield. Five brownfield applications have been approved in the City of Portage and state tax credits have been authorized by the State of Michigan to facilitate these brownfield redevelopment projects.

The City Administration has reviewed the local-only tax increment financing incentive requested by Treystar and recommends approval of the incentive. As indicated in Section 3.B.3.f. of the adopted city policy, City Council may make appropriate modifications to increase the financial assistance and level of city participation. Local support for tax increment financing is important to the success of the CentrePort Commons brownfield project. While the preferred approach to foster brownfield redevelopment is to support a state MBT credit for the project, which minimizes the direct impact on local tax revenue resources of the participating local units of government, this redevelopment project is consistent with approved land use and environmental objectives of the city and is located in a commercial revitalization area identified in the City Comprehensive Plan. Additionally, construction at this location may stimulate further investment in the Portage Road commercial corridor, which will provide additional tax base growth and related economic benefits to the community. These community benefits are considered to be potentially significant and, in this specific case, support for a local-only tax increment finance incentive for the Treystar CentrePort brownfield project is recommended.

Attachments: E-mail communication dated January 25, 2010 from Mr. Joe Agostinelli
E-mail communication dated February 3, 2010 from Community Development Director Erickson
City of Portage Brownfield Redevelopment Incentive Policy
Letter dated February 9, 2010 from Attorney Alan Schwartz
Table 3 from the approved Brownfield Redevelopment Plan

Christopher Forth - Centreport Commons

From: Joe Agostinelli <agostinellij@michigan.org>
To: 'Fritz Brown' <fbrown@treystar.com>
Date: 1/25/2010 3:47 PM
Subject: Centreport Commons
CC: 'Christopher Forth' <forthc@portagemi.gov>, "'ericksoj@portagemi.gov'" <ericksoj@portagemi.gov>

Dear Fritz-

As promised on Friday, I presented your project at our CATeam weekly meeting, and at our Community Development Packaging meeting today. Unfortunately, neither group is supportive of your MBT credit request, nor the request to approve the capture school taxes under an Act 381 Work Plan. The group indicated that it is not supportive of the Site Prep and Public Infrastructure items located on the portions of the site that are not contaminated and only are only eligible due to the combination of parcels with a contaminated former gas station site, as these costs would be the same on comparable greenfield site. Packaging indicated that we would have considered school TIF for the Demolition activities on the portion of the site where the contamination is located. However, since the demolition already occurred, it is legally ineligible for reimbursement with school taxes, making that issue moot at this point.

The MBT Credit application process is handled in two steps. Since we have declined to invite submittal of a Part II MBT credit application, and you have not submitted a Part II, no further action as required on your end relative to the MBT credit request. However, on the TIF side, Act 381 requires that we take action on any administratively complete work plan within a set timeframe. As such, my suggestion would be that the City send us a letter notifying us of their intent to withdraw their Act 381 Work Plan. If a withdrawal letter is not received, we will need to place the project on the February MEGA board agenda and recommend that the board formally deny the request. Please advise whether or not a withdrawal letter will be forthcoming.

I'm sorry that this project is not being supported as you had hoped. If you have any questions, please do not hesitate to call.

Regards,

-Joe

Joe Agostinelli
CATeam - Community Assistance Specialist
Michigan Economic Development Corporation (MEDC)
300 N. Washington Square | Lansing, MI 48913
Mobile: 517.242.5480 | Voicemail: 517.241.7643 | Fax: 517.373.8179
www.michiganadvantage.org/cat

Jeffrey Erickson - RE: Treystar Holdings, LLC PA 381 Work Plan

From: "VanDale, Darlene (DNRE)" <VANDALED@michigan.gov>
To: ericksoj@portagemi.gov
Date: 2/3/2010 11:28 AM
Subject: RE: Treystar Holdings, LLC PA 381 Work Plan
CC: raineros@michigan.org; helzere@michigan.org; agostinellij@michigan.org; ZIMONTB@michigan.gov

Thank you, Jeff. Just want to make sure you know that withdrawal of the work plan excludes the use of the local school operating tax also. If you have any questions, please let me know.

Darlene

Darlene Van Dale
Brownfield Redevelopment Specialist
Department of Natural Resources & Environment
Remediation Division
989-705-3453
www.michigan.gov/brownfieldauthority

From: Zimont, Ben (DNRE)
Sent: Wednesday, February 03, 2010 11:11 AM
To: VanDale, Darlene (DNRE)
Subject: FW: Treystar Holdings, LLC PA 381 Work Plan

From: Jeffrey Erickson [mailto:ericksoj@portagemi.gov]
Sent: Wednesday, February 03, 2010 11:04 AM
To: Zimont, Ben (DNRE)
Subject: Fwd: Treystar Holdings, LLC PA 381 Work Plan

Ben-

Per our brief telephone discussion this morning, the following email was forwarded to Joe Agostinelli that requests withdrawal of the CentrePort project. The developer has decided to not seek the MBT credit and to not seek the capture of state education monies (tax increment component). As I understand the process, and what you require, your colleague has been advised that the 381 Work Plan for this project is withdrawn.

If you have any questions, please call.

Thanks

JEFF

Jeffrey M. Erickson, AICP
Director of Community Development
269.329.4477

>>> Christopher Forth 2/3/2010 8:47 AM >>>

Joe:

As a follow-up to my voice mail message to you yesterday and your January 25, 2010 e-mail communication to Fritz Brown, the 381 Work Plan involving the CentrePort Commons Project, 8019 Portage Road, is being withdrawn at the request of the developer, Treystar Holdings LLC.

If you have any questions or comments, please contact me at your earliest convenience.

Sincerely,

Christopher Forth, AICP
Deputy Director for Planning and Development Services
Telephone: (269) 329-4474
Facsimile: (269) 329-4506

CITY OF PORTAGE BROWNFIELD REDEVELOPMENT INCENTIVE POLICY

The City of Portage encourages the growth and development of the local industry and business tax base, the creation of additional job opportunities for community residents and desires to continue to provide incentives for industry and business expansion. The City Council also recognizes the essential responsibility to the community to maintain the array of public services necessary to ensure the high quality of life that exists in Portage. To facilitate tax base expansion and to fulfill these responsibilities, the City Council hereby establishes this City of Portage Brownfield Redevelopment Incentive Policy.

The City of Portage is *A Place for Business Opportunities to Grow!* To continue to be a community in which growth and development can prosper, the following attributes important to all industries and businesses will be maintained:

- **Low Tax Rate.** The maintenance of the lowest feasible tax rate compared to other full-service cities is essential to economic development and will facilitate expansion and job creation: A very competitive City of Portage tax rate will be continued.
- **Utility Service Rates.** The maintenance of competitive utility rates is also important to provide opportunities for continued growth and development: Cost effective rates and the efficient delivery of utility services by the City of Portage will be continued.
- **Capital Improvements.** Investments in existing public street, water and sewer infrastructure and the expansion of these public systems are necessary and will encourage additional private sector investment: The annual 10-year Capital Improvement Program budget will continue to reflect essential public improvements within the community.
- **Quality of Life Investments.** To provide opportunities for industry and business expansion and to ensure high quality of life standards, public safety, business and neighborhood services, cultural and recreational programming and related community attributes must be maintained: Quality of life investments will be continued by the City of Portage to foster a safe, *Living, Working and Learning* community.

In addition to these important locally-determined economic development and growth factors, the City Council will offer eligible industries and businesses the opportunity to apply for brownfield incentives under Michigan Statute. The City Council is desirous of fostering brownfield redevelopment to strengthen the tax base and to encourage job creation. The City Council also recognizes its fiduciary responsibility to the community to provide public services and uphold the quality of life. Periodic review of the brownfield policy is necessary to ensure consistency with the community needs and objectives.

Inquiries concerning this policy can be directed to the Department of Community Development (269.329.4477), or the Office of the City Clerk (269.329.4511) in Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002.

Brownfield Redevelopment Policy

The following sections reference the framework for processing and considering brownfield redevelopment incentive applications as provided under the Brownfield Redevelopment Financing Act (PA381 of 1996, as amended). This policy, these procedures and related provisions will

assist the private investors in the ongoing effort to enhance the productive capacity of environmentally distressed property and contribute to the health and vibrancy of the City of Portage. The following sections address --

1. The Intent of the City of Portage Brownfield Redevelopment Program
2. The General Review Criteria for Brownfield Applications
3. Brownfield Redevelopment Financial Incentives in the City of Portage
4. Brownfield Redevelopment Application Review Process
5. Amendment of the City of Portage Brownfield Plan Process
6. State of Michigan Review Process
7. Annual Report Requirements for the City and the Applicant

1. The Intent of the City of Portage Brownfield Redevelopment Program

Per the resolution adopted by the City Council in July 2001, the City of Portage Brownfield Redevelopment Program was established to facilitate reuse of environmentally distressed property (functionally obsolete and/or blighted areas) in the community. This economic development program is intended to place vacant and/or underutilized/blighted properties back into productive use, fostering reinvestment in the city and, also, discouraging sprawl development. Consistent with the intent of PA381 of 1996, as amended, City Council established the Portage Brownfield Redevelopment Authority in August 2001 and appointed the Board of Directors of the Portage Economic Development Corporation/Tax Increment Finance Authority (EDC/TIFA) to serve as the Portage Brownfield Authority.

The objective of the Act is to assist in effectively addressing brownfield properties and consider the level of assistance necessary to encourage redevelopment. It is acknowledged that the greater development costs associated with a brownfield, when compared to the development costs of a property that is not environmentally contaminated or obsolete, is a significant consideration in successful redevelopment and use. The State of Michigan has enacted programs to assist in brownfield redevelopment, including Michigan Business Tax credits, and has authorized local units of government to capture incremental increases in local and school property tax revenues to finance eligible activities on a brownfield property including environmental response activities, demolition, public infrastructure improvements, site preparation and lead and asbestos abatement.

2. The General Review Criteria for Brownfield Applications

The City Council will evaluate brownfield redevelopment applications based on the following criteria. The criteria shall be equally applied during the review of applications from eligible property owners:

- The brownfield redevelopment application will facilitate the environmental clean-up to accepted State of Michigan standards and the productive reuse of one or more distressed properties.
- The brownfield redevelopment application involves property that is included in the Portage Brownfield Redevelopment Plan.
- The brownfield redevelopment application involves property that is designated for office, business or industrial use in the Portage Zoning Code and is planned for office, business or industrial use in the Portage Comprehensive Plan.
- The financial incentives to be provided for the project will not result in the impairment of the operation or the financial soundness of any affected taxing unit.
- A public purpose would be served; i.e., expanded tax base as well as the multiplier effects of additional employment, income and capital investment in the community.
- The project will provide for an expansion of the employment base in the community.

- The proposed facilities will be compatible with the present and future requirements for city services such as roads, utilities and public safety.
- The applicant meets current financial obligations to the city, is in compliance with all applicable state and city codes and ordinances and has no pending or current litigation against the city (including appeals to the Michigan Tax Tribunal).

The preceding criteria are not intended to be exhaustive. The City Council reserves the right to consider such additional criteria that are intended under this policy and that are consistent with promoting the general health, safety, and welfare of the City of Portage.

3. Brownfield Redevelopment Financial Incentives in the City of Portage

The Portage City Council wishes to encourage the environmental clean-up and the redevelopment of eligible brownfield sites by leveling the playing field between “brownfield” and “greenfield” sites. The Portage City Council will offer the following incentives to stimulate reinvestment in eligible brownfield sites.

- A. Michigan Business Tax Credit. The preferred approach to foster the redevelopment of brownfield properties by the private sector is to support an application to the State of Michigan for the Michigan Business Tax (MBT) credit program for small projects (\$10 million or less) and large projects (over \$10 million) where developers of eligible brownfield properties can receive a tax credit equal to 12.5 percent of the eligible investment. Eligible investment costs include demolition, construction, restoration, alteration, renovation, site improvements, and addition of machinery, equipment and fixtures for the owner or lessee. It is recognized that the City of Portage support for the issuance of a tax credit and the receipt of this tax credit by the property owner represents a significant redevelopment incentive.
- B. Tax Increment Financing Incentive. Tax increment financing (TIF) allows the use of tax revenues that result from an increase in taxable value caused by the construction of new commercial or industrial facilities. Tax revenues can then be used to fund/reimburse the cost of eligible brownfield redevelopment activities.
 1. The Portage City Council will support tax increment financing if such financing is necessary for the granting of a Michigan Business Tax credit by the State of Michigan for an office, commercial or industrial project on a brownfield site. The state and all local taxing jurisdictions are expected to participate. Tax increment financing may be approved to reimburse the applicant only for those costs attributed to approved activities directly related to the brownfield property such as public infrastructure, stormwater retention, environmental response, demolition that is a response activity, including reasonable interest expenses as allowed by the Act, and for related fees and costs associated with the tax increment plan. financing, scheduling, reporting and related activities. City Administration costs for review and approval of the brownfield application and plan that involve tax increment financing will be incorporated into the tax increment finance plan as allowed by the Act. The city will not borrow money or issue negotiable revenue bonds or notes to finance eligible activities.
 2. In order for a project to be considered for tax increment financing, the following minimum threshold criteria must be met:
 - a. The property must be zoned for business use and located in a “Commercial Revitalization Area” as identified in the Comprehensive Plan and meet the business guidelines of the state brownfield program (retail operations that are not “big box” retailers unless as an anchor in a retail center located in an historically underserved market in a traditional

- downtown area or a significant commercial node that complements rather than competes with existing retailers); OR
- b. The property must be zoned for industrial use and located within the general industrial area identified in the Comprehensive Plan and meet the manufacturing guidelines of the state brownfield program (preference given to re-use of existing obsolete/blighted industrial facilities by a Michigan manufacturer in a competitive industry, which preserves/creates jobs, or is high growth potential technology-based company); AND
 - c. The tax capture is limited to a maximum of five years or a predetermined amount as approved by the City Council; AND
 - d. The applicant is not responsible for any existing on-site environmental contamination.
3. The City Council may make modifications to increase the financial assistance and level of city participation, which are deemed appropriate and consistent with the requirements of Act 381 and objectives stated in this policy, for a brownfield project that involves the following significant economic development benefits to the community:
- a. The project is necessary for a new business to locate or an existing business to expand in the city.
 - b. The minimum taxable value of the project upon completion will be at least \$5 million.
 - c. The project will result in the creation and/or retention of a significant number of full time equivalent jobs in the community.
 - d. The project will result in a significant average annual salary level for each full-time equivalent job.
 - e. The project has the potential to create spin-off development through multiplier effects that have positive community economic impact.
 - f. Others benefits as may be determined by the City Council.

4. Brownfield Redevelopment Application Review Process

The application review process is intended to allow the community the opportunity to review the proposed brownfield redevelopment project in advance of the finalization of a formal brownfield plan amendment. Approval of the application by the City Council will allow the applicant to proceed with preparation of the formal brownfield plan amendment. The application review process includes the following information/steps:

- A. Applications shall be completed and submitted to the Department of Community Development and include the following:
 1. Application form, together with the adopted fee.
 2. Project summary with site plan, site sketch, graphics or other illustrations that detail the project
 3. Summary of environmental conditions and eligible activities that necessitate consideration of a brownfield plan amendment.
 4. Preliminary estimate of the captured taxable value and tax increment revenues from all eligible properties, if applicable.
 5. Preliminary estimate of the impact of tax increment financing on the revenues of all taxing units subject to tax capture, if applicable.

The application will be promptly processed when all required information has been submitted.

- B. Review of a brownfield redevelopment application will be coordinated by the Department of Community Development and a report will be prepared for the consideration of the City Manager. The Department of Community Development may request the assistance of appropriate departments in the preparation of the report. If the application requests the tax

increment financing incentive, the Finance Department will be involved in the review of the application and financing documents and may request the services of municipal financial consultants. The report will include appropriate analyses and be prepared giving consideration to the application, Michigan Statute, the General Review Criteria specified in this policy and any other pertinent considerations. If City Council approves the brownfield redevelopment application, the approval will extend for a six month period, after which a new application will be required. During this approval period, the applicant will prepare an amendment to the City of Portage Brownfield Plan, which will be considered as required by Act 381 and relevant statutory requirements.

5. Amendment to the City of Portage Brownfield Plan Process

Within six months of the City Council approval of the brownfield application, the applicant may proceed and prepare an amendment to the City of Portage Brownfield Redevelopment Plan for consideration by the city to include an additional eligible property per the following sections:

- A. Preparation of the Brownfield Redevelopment Plan. The applicant, or designated agent, is responsible for preparing the Brownfield Redevelopment Plan consistent with the Act. The Brownfield Redevelopment Plan shall be properly completed and submitted to the Department of Community Development.
- B. City Administrative Review. The Brownfield Redevelopment Plan will be reviewed by the Department of Community Development and a report will be prepared for consideration by the City Manager. The Department of Community Development may request the assistance of appropriate departments including the Office of the City Attorney in the preparation of the report. If the application includes tax increment financing incentives, development agreement and related documents, the Finance Department will review the application and may involve the services of municipal financial consultants. The report will include appropriate analyses and be prepared giving consideration to the approved brownfield application, Michigan Statute, this policy and any other pertinent considerations. The review and report will be provided to the Brownfield Redevelopment Authority and to City Council for consideration at the public hearing on the plan.
- C. Brownfield Redevelopment Authority Review. The Authority will review the Brownfield Redevelopment Plan and related documents and develop a recommendation that will be forwarded to City Council. After review by the Authority, the plan will be forwarded to the City Council.
- D. Public Hearing on the Brownfield Redevelopment Plan. City Council will hold a public hearing on the plan consistent with Act 381 including written notice to taxing units subject to tax capture.
- E. Resolution adopted by City Council. After consideration of the proposal and Brownfield Redevelopment Plan, development agreement and related documents, City Council will consider a resolution certifying the plan to the State of Michigan. The applicant would then submit the plan and related documents to the Michigan Department of Environmental Quality (MDEQ) and Michigan Economic Growth Authority (MEGA) for review and approval.

6. State of Michigan Review Process

The MDEQ and MEGA will review the Brownfield Redevelopment Plan to ensure consistency with statutory, procedure and process requirements and notify the City of Portage Brownfield Redevelopment Authority that the plan has been approved, approved with conditions, denied or additional information is needed prior to approval. The applicable state agency(ies) will approve the Michigan Business Tax Credit and Tax Increment Finance Incentives, including the required work

plans. The city and the authority will only use tax increment revenues in a manner consistent with the approval(s) granted by the applicable state agency(ies). If the plan is approved or approved with conditions by the State of Michigan, the City Council and other local units will be advised, as applicable.

7. Annual Report Requirements for the City of Portage and the Applicant

In accordance with Act 381 requirements, an annual financial report will be submitted to the City Council and the State Tax Commission on the status of the activities.

DATE OF ADOPTION BY CITY COUNCIL: July 22, 2008



Calder Plaza Building
250 Monroe Avenue NW
Suite 800
P.O. Box 306
Grand Rapids, MI 49501-0306



ALAN C. SCHWARTZ
Attorney at Law

616.831.1751
616.988.1751 fax
SchwartzA@millerjohnson.com

February 9, 2010

RECEIVED

FEB 10 2010

COMMUNITY DEVELOPMENT

VIA FIRST CLASS MAIL AND EMAIL

Mr. Christopher Forth
City of Portage Brownfield Redevelopment Authority
Portage City Hall
7900 South Westnedge Ave.
Portage, MI 49024

Re: CentrePort Development Project - Brownfield Plan

Dear Mr. Forth:

We represent Treystar Holdings, LLC ("Treystar"), the developer for the CentrePort Development Project (the "Project"). By this letter, Treystar requests that you send a letter to the MEDC withdrawing its Act 381 Work Plan from consideration.

On January 25, 2010, Treystar was notified by the MEDC that it would not recommend that MEGA award a MBT Credit or approve the capture of school taxes in connection with this Project. The MEDC requested that the City send a letter to MEDC withdrawing Treystar's Act 381 Workplan from consideration. According to MEDC, if Treystar's Act 381 Workplan is not withdrawn, the MEDC will recommend that MEGA formally deny Treystar's request for a MBT Credit and the capture of school taxes at its next meeting.

Despite this development, Treystar requests that the City of Portage Brownfield Redevelopment Authority ("Authority") continue its support for the project by capturing local taxes in accordance with Brownfield Plan No. 6, and the Development and Reimbursement Agreement between Treystar and the Authority. Because it has limited funding, the MEDC rarely supports projects that are located outside the urban core of a major city. Given the MEDC's position, the success of this Project depends even more on the Authority's willingness to capture local taxes to offset Treystar's eligible expenses.

MEDC's failure to support the Project should not affect the Authority's decision to support the Project. The Project is a key element for fostering redevelopment of the Centre Ave / Portage St. corridor, which is important to the future growth and prosperity of the City. The Authority previously determined that the Project legally qualifies for Brownfield financing because it promotes economic development on a contaminated property. Brownfield financing is an important and essential element of Treystar's financing for the Project. For all these reasons, Treystar requests that the Authority continue to support this Project through the capture of local taxes.

MILLER JOHNSON

Mr. Christopher Forth
February 9, 2010
Page 2

Please call if you have any questions.

Sincerely,

MILLER JOHNSON

By

A handwritten signature in black ink, appearing to read "Alan C. Schwartz", with a long horizontal flourish extending to the right.

Alan C. Schwartz

ACS:acs
cc. Mr. Fritz Brown

**TABLE 3
TAX INCREMENT REVENUE PROJECTION
CENTREFORT DEVELOPMENT
PORTAGE, MICHIGAN
October 20, 2009**

Community: _____ City of Portage
Project: _____ Centreport

Initial Taxable Value: \$ 437,593
Final Taxable Value (expected in 2014): \$ 4,000,000

	Calendar Year 2008	Calendar Year 2009	Calendar Year 2010	Calendar Year 2011	Calendar Year 2012
Projected Taxable Value <i>Before</i> Improvements (Est.)	\$ 437,593	\$ 467,353	\$ 467,353	\$ 467,353	\$ 467,353
Projected Taxable Value <i>After</i> Improvements (Est.)	\$ 437,593	\$ 492,353	\$ 2,475,000	\$ 2,549,250	\$ 3,000,000
Projected Taxable Value <i>Increment After</i> Improvements (Est.)	\$ -	\$ 25,000	\$ 2,007,647	\$ 2,081,897	\$ 2,532,647

Millage Category	Captured Millage	2008	2009	2010	2011	2012	Accumulated Total (rounded)
State Education Tax (SET)	6.00000	\$ -	\$ 150	\$ 12,046	\$ 12,491	\$ 8,941	
Local School Operating	18.00000	\$ -	\$ 450	\$ 36,138	\$ 37,474	\$ 26,822	
EDUCATION TAXES SUBTOTAL:	24.00000	\$ -	\$ 600	\$ 48,184	\$ 49,966	\$ 35,763	\$ 135,000
City of Portage	10.65980	\$ -	\$ 266	\$ 21,401	\$ 22,193	\$ 15,779	
KVCC	2.81550	\$ -	\$ 70	\$ 5,649	\$ 5,857	\$ 4,165	
KRESA - ISD	4.83160	\$ -	\$ 121	\$ 9,700	\$ 10,059	\$ 7,152	
District Library	1.49000	\$ -	\$ 37	\$ 2,991	\$ 3,102	\$ 2,206	
Kalamazoo County	6.13620	\$ -	\$ 153	\$ 12,319	\$ 12,775	\$ 9,083	
Kalamazoo County Metro Transit	0.40000	\$ -	\$ 10	\$ 803	\$ 833	\$ 592	
LOCAL TAXES SUBTOTAL:	26.33110	\$ -	\$ 658	\$ 52,864	\$ 54,819	\$ 38,977	\$ 147,000

STATE TAX INCREMENT ASSIGNMENTS	2008	2009	2010	2011	2012	Accumulated Total (rounded)
MDEQ TIF CAPTURE	\$ -	\$ 172	\$ 13,850	\$ 14,363	\$ 5,470	
MDEQ Accumulated Totals:	\$ -	\$ 172	\$ 14,023	\$ 28,385	\$ 33,856	
MEGA TIF CAPTURE	\$ -	\$ 428	\$ 34,333	\$ 35,603	\$ 13,561	
MEGA Accumulated Totals:	\$ -	\$ 428	\$ 34,761	\$ 70,364	\$ 83,924	
Total New Tax Captures:	\$ -	\$ 1,258	\$ 101,047	\$ 104,784	\$ 74,740	\$ 282,000
LOCAL BRA ADMINISTRATIVE FEE (Estimated at 10% of yearly Local Tax-Increment):	\$ -	\$ 66	\$ 5,286	\$ 5,482	\$ 3,898	\$ 15,000
Yearly Tax Capture for Eligible Activities (Reimbursed to Developer):	\$ -	\$ 1,192	\$ 95,761	\$ 99,302	\$ 70,842	\$ 267,098
Loc	\$ -	\$ 1,192	\$ 96,953	\$ 196,255	\$ 267,098	\$ 267,098

Maximum TIF Recovery (MDEQ): \$33,856
Maximum TIF Recovery (MEGA): \$83,924
TOTAL State Capture: \$117,780

Maximum TIF Recovery for Developer (Local): \$ 164,220

Total Needed to Reimburse Developer for Eligible Activities Including Interest (State + Local, Rounded): \$ 282,000

Significant Assumptions:

- 5-year build-out
- Interest rate calculated at 4.0% (prime) on hard costs of eligible activities over the course of the loan. Interest reimbursement to developer not deducted from State TIF.
- Final taxable value of entire project = \$4,000,000
- Tax capture table is based on calendar year. Actual tax-increment revenue generation will be in the year following that indicated on the table.

Notes:

1. Tax increments captured for payments to developer will be "capped" at the cost of eligible activities (estimated at \$282,000).
2. Full cost of all eligible activities are expected to be captured by tax revenue generated by 2012 assessments, which is before the project's expected completion (2014).
3. Dollar amounts were calculated using real property values only.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 2, 2010

FROM: Maurice S. Evans, City Manager 

SUBJECT: 2010 Utility Rate Committee

ACTION RECOMMENDED: That City Council appoint three Council and two citizen-at-large representatives to the 2010 Utility Rate Committee and reconvene the Committee.

A Utility Rate Committee is annually appointed by City Council to review and recommend water and sewer utility rates for the ensuing budget year. The 2009 Utility Rate Committee was composed of Mayor Pro Tem Sackley, Councilmembers Campbell and O'Brien and citizen-at-large representatives Mr. Richard Anderson and Mr. Jeff Breneman. Mr. Breneman has indicated a willingness to continue to serve on the Committee while Mr. Anderson is out of the state until the end of April. As such, Mayor Strazdas has recommended former Councilmember Ted Vliek, Sr. be appointed to serve on the Committee.

It is recommended that Council appoint Mayor Pro Tem Sackley, Councilmembers Campbell and O'Brien and citizen-at-large representatives Mr. Jeff Breneman and Mr. Ted Vliek, Sr. to the 2010 Utility Rate Committee and reconvene the Committee. Subsequently, it is also recommended that the Committee meet on Monday, March 22 at 3:00 p.m. in Portage City Hall Conference Room #1.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 3, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: State Tax Commission 14-Point Review

ACTION RECOMMENDED: That City Council receive:

- a. the State Tax Commission Review of Local Unit Assessment Administration Practices, Procedures and Records (14-Point Review);
- b. an Interpretation Report prepared by Joyce Foondle, Southwest Michigan Governmental Consultants; and refer both items to the City Council Assessing Issues Task Force for review and report to the City Council.

Attached is a February 19, 2010 communication from Kelli Sobel, Executive Director of the State Tax Commission, concerning the recently-completed 14-Point Review of the City of Portage Assessment Administration Practices, Procedures and Records. The city scored 173 out of 200, making the city compliant with the General Property Tax Act and State Tax Commission Rules. Also attached is an Interpretation Report prepared by Joyce Foondle, Southwest Michigan Governmental Consultants, addressing each of the 14 points.

It is recommended that the City Council receive the 14-point review and the Interpretation Report and refer both items to the City Council Assessing Issues Task Force for review and report. The Task Force is scheduled to meet on March 26, 2010.

Attachments



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

ROBERT J. KLEINE
STATE TREASURER

February 19, 2010

*C: CM
ASSESSOR
CC*

Peter Strazdas, Mayor
City of Portage
7900 South Westnedge Avenue
Portage, MI 49002



Dear Mayor Strazdas:

As you are aware, the State Tax Commission in December 2009 approved your request for a Full 14 Point Review to be conducted in the City. That review was recently complete. The City scored 173 out of 200 which makes your compliant with the General Property Tax Act and State Tax Commission Rules. We would ask that you carefully review the enclosed document and work to address the deficiencies noted in the review. Should you have any questions, please feel free to contact my office at any time.

Sincerely,

Kelli Sobel, Executive Director
State Tax Commission

Cc: Jayne McLeod, Assessment and Certification Division

Review of Local Unit Assessment Administration Practices, Procedures and Records

MICHIGAN STATE TAX COMMISSION

Random Review Follow Up Review Ordered Review

UNIT: Portage City COUNTY: Kalamazoo

YEAR: 2010 for 2009 roll

YEAR OF ORIGINAL REVIEW (FOLLOW-UP REVIEW): 2010 for 2009 roll

Score: 200 - 27 = 173 Compliant

Name of Township Supervisor/City Manager/Mayor: City Manager Maurice Evans & Mayor Peter Strazdas

Name of Assessing Officer: James Bush

SAB Certification No.: R2911

SAB Certification Level: CMAE IV

Required Unit Level: CMAE IV

1% Administration Fee added to tax collection: Yes No

Notes:

1a. On what date was the assessment roll certified by the above identified assessing officer?

General Law Date: March 2, 2009

Charter Date: March 9, 2009

Date: March 6, 2009

Notes:

1b. On what date did the assessing officer deliver the certified assessment roll (original hard copy) to the local Board of Review for its required March meetings?

General Law Date: March 3, 2009

Charter Date: March 9, 2009

Date: March 9, 2009

Notes:

X 2a. On what date was the assessment roll certified by the local Board of Review?

Date: April 6, 2009

Notes: But MBOR closed on March 24, 2009

2b. Did the local Board of Review utilize State Tax Commission form L-4035 (or equivalent)?

Yes No

Notes:

2c. Did the secretary of the local Board of Review utilize State Tax Commission form L-4035a to document valuation changes authorized by the board?

Yes No Notes:

2d. Did the local unit Board of Review prepare minutes of the meetings and actions authorized by the local Board of Review and file the minutes with the local unit clerk (MCL 211.33)?

March BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
July BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
December BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Notes:

2e. Is the Board of Review in substantial compliance with the requirements of the GPTA (MCL 211.10f, MCL 211.33, R209.28(4))?

March BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
July BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
December BOR Session	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Notes:

2f. On what date did the local unit/Board of Review Close?

March BOR Session March 24, 2009 was last date BOR met according to minutes. April 6, 2009 certificate was signed.

July BOR Session July 21, 2009 Statutory Date July 21, 2009

December BOR Session December 15, 2009 Statutory Date December 15, 2009

Notes: On April 6, 2009 each MBOR member came in one at a time to sign certificate but not all were here at the same time.

X 3a. On what date was the certified copy of the assessment roll delivered to the county equalization department?

Date: April 3, 2009 Notes: roll was certified by assessor, but MBOR signed certificate on April 6, 2009

3b. On what date did the assessing officer deliver State Tax Commission form L-4021 to the county equalization department?

Date: 3-25-2009

Original Hard Copy Electronic/Magnetic File Transfer

Notes:

3c. On what date did the assessing officer deliver State Tax Commission form L-4022 to the county equalization department?

Date: March 25, 2009 electronic & April 6, 2009 signed copy

Original Hard Copy Electronic/Magnetic File Transfer

Notes: electronic copy on 3-25-2009 April 6, 2009 signed paper copy

3d. On what date did the assessing officer deliver a complete State Tax Commission form L-4025 (all property) to the county equalization department?

Date: 3-25-2009

Notes: electronic copy

4. Does the local unit have a printed copy of the 2003 Assessor's Manual for review by the taxpayers and a copy of the manual actually used to make the assessments?

Yes No

Notes:

5. MCL 211.10e Requirements – Pursuant to MCL 211.10e, please identify which of the following assessors' manuals is utilized by the local unit assessing officer:

a) Michigan Assessors Manual, 1998 Cost Tables

b) Michigan Assessors Manual, 2003 Cost Tables

c) Other (specify): BS&A 2003 cost tables

X 6. MCL 211.10e Requirements – Pursuant to MCL 211.10e, please identify which of the following assessment records are utilized and maintained by the local assessing officer:

- a) Appraisal record card system
- b) Personal property record system
- c) Tax maps
- d) Land value determination (maps grids, tables and analysis)
- e) ECF determinations
- f) Current year printed copy of the assessment roll Original Duplicate Copy

Notes: LVs- RES: Citywide Land Value Map for values assigned (color coded)-have another citywide map showing sales in terms of \$/sq ft & date- no Res sale grids found
COM: LV map shows total price not \$/unit, no sale date (all sales are in 24 mo period), PINs not listed on map, but have land sales listed on grid with PIN, price, date, units & \$/unit. Grid does not group sales & arrive at a final value conclusion to put in database for pricing.
IND: no land sales in 24 mo peroid - no LV maps found.

ECFs- have 81 neighborhoods (many) RES: calculated ECFs for each neighborhood based on the 24 month sales peroid, then adjusted a few neighborhood ECFs up as much as 8% & many down about 3% based on intuition - COM & IND: per Assessor: does not calc Com or Ind ECFs -Assessor reviews neighborhoods on a parcel by parcel basis considering \$/sq ft of sales and assigns an ECF to the neighborhood (range .90-1.00) - City has calculated Com & Ind ECFs for 2010 roll (not reviewed by staff). *see end of report "Additional Notes" for class percentages.

7. MCL 211.10a Requirement – Pursuant to MCL 211.10a does the local unit provide customary business hours for inspection and copying of public records?

Yes If Yes, please indicate designated days and times. (specify): 8a-5p M-F

No

Notes:

If the answer above is NO, has the local unit adopted a policy and/or procedure(s) to be utilized regarding the inspection and copying of public records?

Yes If Yes, please attached a copy of policy/procedure.

No

Notes:

8. Where are the real and personal property records, assessment roll(s) and support documents retained?

- a) Local unit public offices
- b) Office/home of township supervisor
- c) Office/home of assessing officer
- d) Other (specify):

Notes:

9. Assessment Roll Requirements – Please identify which of the following specific date or information is posted to the current assessment roll:

- a) Name & address of property owner
- b) Legal description or STC approved parcel code number
- c) School district code
- d) Property classification
- e) Assessed valuation
- f) Capped valuation
- g) Taxable valuation
- h) Board of Review valuation column
- i) MTT and/or STC valuation column
- j) Homestead or Qualified Agricultural Property Exemption & percentage
- k) Date of last transfer of ownership

Notes:

X 10. Does the true cash value on the appraisal record card agree with the true cash value indicated by the assessed value on the assessment roll?

Yes No If No, date(s) last calculated. (specify):

Notes: 4.8% of the parcels have overrides (1.5%), or flat or zero land values (3.3%) that are not merited.

11. Do the appraisal record cards properly account for all physical items located on the description?

- 90% + Accurate 80% - 89% Accurate 79% or less Accurate

Notes: 91%

12. MCL 211.27a (3) Requirement(s) – Pursuant to MCL 211.27a(3) is the local unit in substantial compliance with the uncapping of taxable valuations the year following a transfer of ownership?

Yes No **If NO, documentation required.**

Notes: No missed uncappings for 345 transferred parcels (0.0%)

13. Based on a sampling of properties involving new construction which occurred in the prior year, do the current year's assessments include new construction?

Yes No **If NO, documentation required.**

Notes: Each of the 14 building permit parcels selected has 2009 CV Additions & equalization new

14. Based on a sampling of known "sale" properties, is the local unit in substantial compliance with STC Bulletin 19 of 1997?

Yes No **If NO, documentation required.**

14b. Calculated Co-efficient of Dispersion: 9.91%

Calculated Price Related Differential: 1.01

Notes:

Additional Notes: item 14 - Based on 9 very low ratio & 9 very high ratio residential sales, there is no significant indication that either low ratio or high ratio sales are followed. * Commercial Real = 25% of total real; Industrial Real = 11%; Residential Real = 64%.

CERTIFICATION: I hereby declare that the foregoing information submitted is a complete and true statement.

Electronic Signature: Jayne McLeod

By clicking the box, I agree the signature I have typed above will be the electronic representation of my signature for purpose when I use it on this document and is a legally-binding contract. I further understand that signing documents using this electronic signature will have the same legally-binding effect as signing my signature using pen and paper.

Date: February 12, 2010

Title: ACD Property Analyst

County:

Unit:

ACD Recap Analysis Of Assessment Records Sampled

Record #	Property Class	Parcel Code	House Class As % of "C"			Observed % Good			Scoring % Calculation By		
			ACD Field Staff	Local Unit	Variance	ACD Field Staff	Local Unit	Variance	Agreement	Actual Accuracy	Weighted Accuracy
1	401	07692-020-O	128%	149%	21%	88.0%	93.0%	5%	64.7%	86.2%	92.7%
2	401	07440-034-O	171%	206%	35%	98.0%	98.0%		52.9%	77.9%	88.6%
3	401	07160-003-O	110%	121%	11%	93.0%	96.0%	3%	76.5%	87.4%	94.4%
4	401	0722-178-O	110%	121%	11%	72.0%	72.0%		58.8%	96.5%	94.6%
5	401	06960-007-A	110%	121%	11%	70.0%	82.0%	12%	52.9%	89.4%	89.9%
6	401	06840-051-O	90%	100%	10%	60.0%	77.0%	17%	58.8%	82.2%	91.9%
7	401	06481-119-O	90%	95%	5%	60.0%	78.0%	18%	52.9%	76.7%	87.1%
8		00008-160-O	105%	105%		65.0%	72.0%	7%	58.8%	95.0%	94.5%
9		00003-065-B	105%	100%	5%	70.0%	65.0%	5%	35.3%	80.0%	91.8%
10		01600-045-O	100%	105%	5%	60.0%	72.0%	12%	58.8%	77.5%	81.2%
21											
22											
23											
24											
25											
		Mean	112%	122%	11%	74%	81%	8%	57%	85%	91%
		Median	108%	113%	11%	70%	78%	6%	59%	84%	92%
		Mode	110%	121%	11%	60%	72%		59%	NA	NA

Category Range Of Percentage Calculations For Individual Parcels

By Item % Of Agreement	35%	to	76%
By Item % Of Accuracy	77%	to	97%
By Weighted % Of Accuracy	81%	to	95%

State Tax Commission 14 Point Review
City of Portage
Interpretation of Report
2/25/10

Joyce A. Foondle, Southwest Michigan Governmental Consultants

I have reviewed the findings of the State Tax Commission and will attempt to explain and expand upon the comments contained therein. Keep in mind this review was performed on the 2009 assessment information.

Summary

The City of Portage review overall was excellent. According to State Tax Commission field staff approximately 35% of all full 14 Point Reviews fail. Particular attention should be given to item 14b, the Coefficient of Dispersion and Price Related Differential. These analyses relate directly to equity and uniformity. The International Association of Assessing Officers shows the 9.91% Coefficient of Dispersion to be below the recommended 15% and the Price Related Differential of 1.01 to be in the mid range of their standards. Both are excellent.

Items deemed to be deficient by the State Tax Commission reviewers have been addressed for the 2010 assessment year. I offer the review, following the format contained on form 4557 "Review of Local Unit Assessment Administration Practices, Procedures and Records".

1a. On what date was the assessment roll certified by the above identified assessing officer?

General Property Tax Law: 211.24 Property tax assessment roll; time; determining value of metallic mining properties and mineral rights; report of state geologist; certification by state tax commission; appeal

- The General Property Tax Law requires the Assessor to sign the "Assessment Roll Certificate" by the first Monday in March. Charter Township and Cities may specify another date in their Charter. The City of Portage requirement for 2009 was March 9. Records show the certificate was signed by the Assessor on March 6th.

1b. On what date did the assessing officer deliver the certified assessment roll (original hard copy) to the local Board of Review for its required March meetings?

- Again the General Property Tax Law requires the Assessor to deliver the assessment roll to the Board of Review by first Tuesday of March unless otherwise specified by Charter. The Charter date is for 2009 was March 9 and the Assessor delivered to the Board of Review March 9th.

2a. On what date was the assessment roll certified by the local Board of Review?

- The date of closure of the Board of Review and Assessment Roll Certificate should be the same. Here the date of certification is April 6 and the Board of Review adjourned on March 24th.

Note: This requirement is problematic for most Assessors. When the Board of Review adjourns the Assessor still needs to check to be sure that all changes were entered correctly

from minutes of the Board of Review. This usually takes a couple days. My recommendation is to leave the Board of Review open past the last action until all changes can be checked. Measures will be taken to ensure compliance for 2010.

2b. Did the local Board of Review utilize State Tax Commission form L-4035 (or equivalent)?

- L-4035 is the Petition Form and was utilized by the Board of Review.

2c. Did the secretary of the local Board of Review utilize State Tax Commission form L-4035a to document valuation changes authorized by the board?

- The L-4035A is a form that is completed signed by the Secretary to the Board of Review whenever there is a taxable value change by a Board of Review. This includes July and December Boards of Review. Form L-4035A was utilized by the Secretary.

2d. Did the local unit Board of Review prepare minutes of the meetings and actions authorized by the local Board of Review and file the minutes with the local unit clerk (MCL 211.33)?

General Property Tax Law: 211.33 Secretary of board of review; record; filing; form.

- Audit shows the minutes were prepared and minutes were located in the office of the Clerk.

2e. Is the Board of Review in substantial compliance with the requirements of the GPTA (MCL 211.10f, MCL 211.33, R209.28(4))?

General Property Tax Law: 211.10(f) is the following "Preparation of certified assessment roll; costs; quality of tax maps and appraisal records; levy of interim taxes; substitution of latest complete assessment roll; effect and labeling of interim tax levy; notice of new assessment; petition for hearing; contents of notice; final levy; reporting difference in tax; sharing additional taxes or credits against tax liability; technical assistance; certified copy of orders; copy of final determination.

General Property Tax Law: 211.33 Secretary of board of review; record; filing; form.

State Tax Commission Rule: R 209.28(4) Board of review; procedure. (4) Each action of the board of review to change the valuation, either upon its own motion or upon petition filed by a property owner, shall be by roll call vote and shall be entered in the minutes of the board and entered by the board in permanent ink in a separate column of the assessment roll being reviewed.

- The review above checked for preparation of Assessment Roll, tax maps and record appraisal cards. It also looked at the changes to the Assessment Roll noted on the original roll submitted to the Board of Review by the Assessor. The reviewer noted March, July and December were compliant with the law and State Tax Commission Rule 209.28(4).

2f. On what date did the local unit/Board of Review Close?

- The reviewer noted that the date of adjournment of the March Board of Review did not match the Board of Review Assessment Roll Certificate date. This question is similar to 2a above with the same conclusion. It would indicate by the notes by the reviewer all members should sign at the same time.

Note: Measures will be taken to ensure compliance for 2010.

3a. On what date was the certified copy of the assessment roll delivered to the county equalization department?

- Here there are notes that the dates did not coincide. The March Board of Review should have signed the Assessment Roll Certificate on the 24th and the Assessor should have signed the certificate prior to submission to the county equalization department.

Note: Measures will be taken to ensure compliance for 2010.

3b. On what date did the assessing officer deliver State Tax Commission form L-4021 to the county equalization department?

- Form L-4021 shows all the assessed values previous year values, current year values, new loss and adjustments, and all adjustments including Board of Review changes. The assessment roll was electronically given to the equalization department the 25th of March the day after adjournment.

3c. On what date did the assessing officer deliver State Tax Commission form L-4022 to the county equalization department?

- Form L-4022 shows the previous year totals per class, current year totals per class and the total of all adjustment, new and loss. Notes indicate electronic copy delivered on the 25th of March with signed copy on the 6th of April.

3d. On what date did the assessing officer deliver a complete State Tax Commission form L-4025 (all property) to the county equalization department?

- Form L-4025 is used for the calculation of Headlee millage rollback. This form shows the beginning values (2008) and ending totals (2009) with only additions and losses. The reviewer had indicated electronic submission on the 25th of March.

4. Does the local unit have a printed copy of the 2003 Assessor's Manual for review by the taxpayers and a copy of the manual actually used to make the assessments?

- The manual does exist in the office of the Assessor.

5. MCL 211.10e Requirements – Pursuant to MCL 211.10e, please identify which of the following assessors' manuals is utilized by the local unit assessing officer:

General Property Tax Law: 211.10e Use of official assessor's manual or any manual approved by state tax commission ;records.

- The State Tax Commission authorizes use of their cost tables. BS & A Software keeps up with any changes to those tables and has available download updates. The latest cost tables (2003) and the computer cost tables provided are being utilized in development of assessments.

6. MCL 211.10e Requirements – Pursuant to MCL 211.10e, please identify which of the following assessment records are utilized and maintained by the local assessing officer:
General Property Tax Law: 211.10e Use of official assessor's manual or any manual approved by state tax commission ;records.

- The State Tax Commission authorizes use of their cost tables. BS & A Software keeps up with any changes to those tables and has available download update. The reviewer noted that there was an appraisal card system, personal property card system, tax maps, current year printed assessment roll including original and duplicate. Other notes regarding this section indicated that there were residential land value maps but no land value grids. Commercial land value maps show total price, no unit amounts, sale dates or land value grids for conclusion of value. There were no industrial land value sales, maps were not available. Residential ECF (Economic Condition Factor) data was available. Final conclusions for ECF were adjusted by neighborhood. There were no ECF's calculations for Commercial and Industrial. Properties were adjusted on a per parcel basis.

Note: Residential Land Value Grids and Commercial/Industrial ECF's have been calculated for 2010 assessment roll. Extensive documentation of residential ECF's and reason for deviation from calculated ECF has been completed for the 2010 assessment roll.

7. MCL 211.10a Requirement – Pursuant to MCL 211.10a does the local unit provide customary business hours for inspection and copying of public records?
General Property Tax Law: 211.10a Assessment rolls and appraisal cards; inspection and copying. Sec. 10a. All property assessment rolls and property appraisal cards shall be available for inspection and copying during the customary business hours.

- There are regular business hours 8AM – 5PM Monday – Friday

8. Where are the real and personal property records, assessment roll(s) and support documents retained?

- All records and documents are located at the City of Portage public offices.

9. Assessment Roll Requirements – Please identify which of the following specific date or information is posted to the current assessment roll:

- All required data had been posted to the current assessment roll.

10. Does the true cash value on the appraisal record card agree with the true cash value indicated by the assessed value on the assessment roll?

- Reviewer indicated that there was a total of 4.8% of parcels with “overrides” and flat land values.

Note: All parcels with “overrides” were reviewed prior to completion of the 2010 assessment roll and override removed where appropriate. Flat land values will need to be addressed for the 2011 assessment roll.

11. Do the appraisal record cards properly account for all physical items located on the description?

- There was 91% accuracy in listing of physical items on those parcels visited by State Tax Commission.

12. MCL 211.27a (3) Requirement(s) – Pursuant to MCL 211.27a(3) is the local unit in substantial compliance with the uncapping of taxable valuations the year following a transfer of ownership?

General Property Tax Law: 211.27a Property tax assessment; determining taxable value; adjustment; exception;"transfer of ownership" defined; qualified agricultural property; notice of transfer of property; applicability of subsection (10); definitions. (3) Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer.

- There were no missed uncappings.

13. Based on a sampling of properties involving new construction which occurred in the prior year, do the current year's assessments include new construction?

- All parcels sampled were compliant

14. Based on a sampling of known "sale" properties, is the local unit in substantial compliance with STC Bulletin 19 of 1997?

- Bulletin 19 of 1997 is titled "THE ILLEGAL PRACTICES OF: A) "FOLLOWING SALES" AND B) ASSESSING OVER 50%". The reviewer has noted that a sampling of high and low ratio sales in the three main property classes did not show an indication of following sales.

14b. Calculated Co-efficient of Dispersion:

- Coefficient of dispersion (COD). The average deviation of a group of numbers from the median expressed as a percentage of the median. In ratio studies, the average percentage deviation from the median ratio.
- Equity—(1) In assessment, the degree to which assessments bear a consistent relationship to market value. Measures include the coefficient of dispersion, coefficient of variation, and price-related differential. (2) In popular usage, a synonym for tax fairness. (3) In ownership, the net value of property after liens and other charges have been subtracted.

(Definitions taken from IAAO (International Association of Assessing Officers) Standard on administration of Monitoring and Compliance Responsibilities and Standard on Ratio Studies)

- Low COD (Coefficient of dispersion) (15 or less) tend to be associated with good appraisal uniformity. (Source IAAO Property Appraisal and Assessment Administration)
- Calculated Price Related Differential

Price Related Differential - The Price Related Differential (PRD) is found by dividing the mean by the weighted mean. The statistic has a slight bias upward. Price related differentials above 1.03 tend to indicate assessment regressivity (an appraisal bias such that high-value properties are appraised lower than low-valued properties); PRD's less than 0.98 tend to indicate assessment progressivity (an appraisal bias such that high-valued properties are appraised higher than low valued properties).

- The COD of 9.91% and Price Related Differential of 1.01 show equity and uniformity.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 4, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Storm Drainage Improvements – Oakland Drive Park Stormwater Basin

ACTION RECOMMENDED: That City Council:

- a. award a contract to the low bidder, Robert Bailey Contractors, Incorporated, for the construction of the Oakland Drive Park Stormwater Basin Improvements in the not-to-exceed amount of \$123,058.58;
 - b. amend a construction engineering services contract with Paradigm Design, Incorporated, in the not-to-exceed amount of \$14,500;
- and authorize the City Manager to execute all documents on behalf of the city.

As part of the 2009-10 Capital Improvement Program, funds were budgeted to investigate and correct storm drainage problem areas indentified during the September 2008 storm event. The September 14, 15 and 16, 2008 storm event deposited between 7.5 and 9 inches of rain in the Portage area and exposed several storm drainage deficiency locations. The storm event caused serious flooding throughout the Kalamazoo County area and was classified as a “100-year” storm event, meaning that a rain event of this magnitude has a one-percent chance of occurring in any given year. The Oakland Drive Park stormwater basin was increased in size as part of the Oakland Drive street widening project in 2005. Regionally rising groundwater levels since the basin was expanded has reduced the available stormwater capacity of the basin and in September 2008, the basin overflowed into Oakland Drive and surrounding private properties.

On August 22, 2009, City Council awarded an engineering design services contract to Paradigm Design, Incorporated, to design an expansion of the Oakland Drive Park stormwater area. The completed design, which incorporates expansion of the existing park sledding hill area, will not impact the park functions for public use.

On February 25, 2010, eighteen construction bids were received for the project. The bids ranged from \$123,058.58 to \$306,174.91, with the low bid submitted by Robert Bailey Contractors, Incorporated. This company has successfully completed many similar type projects for the city and is capable of completing this project.

In addition, city staff requested Paradigm Design prepare a proposal to perform construction inspection, survey and material testing for the project. Paradigm Design has submitted a cost in the not-to-exceed amount of \$14,500 to perform the necessary construction engineering services. The cost proposed has been reviewed and is reasonable for the level of effort required.

It is recommended that City Council award a contract to the low bidder Robert Bailey Contractors, Incorporated, for construction of the Oakland Drive Park Stormwater Basin Improvements in the not-to-exceed amount of \$123,058.58 and amend a contract with Paradigm Design, Incorporated, in the not-to-exceed amount of \$14,500 and authorize the City Manager to execute all documents related to these contracts on behalf of the city. Sufficient funds are budgeted in the Fiscal Year 2009-10 Capital Improvement Program for these projects. A bid tabulation is attached for the information of Council.

Attachment

BID TABULATION

Oakland Drive Park Storm Water Improvements

Bids Opened February 25, 2010

Bidder:	Total Bid
Robert Bailey Contractors 1727 Construction Drive Kalamazoo, MI 49048	\$123,058.58
Weick Brothers 3029 Weicks Drive Hopkins, MI 49328	\$131,276.35
Remington Excavating 40360 County Road 3878 Bloomington, MI 49026-9730	\$132,352.80
H & K Excavating 10345 West Y Avenue Schoolcraft, MI 49087	\$138,451.20
Lounsbury Excavating 32673 E. Red Arrow Hwy. Paw Paw, MI 49079	\$149,900.00
Wingspread 14625 E. C Ave. August, MI 49012	\$150,906.00
Peters Construction 3325 E. Kilgore Road Kalamazoo, MI 49001	\$156,297.55
Hoffman Brothers 8574 Verona Road Battle Creek, MI 49014	\$157,813.78
Cross Lake Construction 8676 Sears Road Horton, MI 49246	\$159,972.10
Byholt, Inc. 10363 Sprinkle Road Vicksburg, MI 49097	\$176,394.00
Balkema Excavating 1500 River Street Kalamazoo, MI 49048	\$179,241.35
Cripps Fontaine Excavating 7729 Douglas Avenue Kalamazoo, MI 49009	\$189,139.84

BID TABULATION

Oakland Drive Park Storm Water Improvements

Bids Opened February 25, 2010

Balkema Sitework & Development 6565 East K Avenue Kalamazoo, MI 49048	\$203,241.66
Advanced Excavating 49427 Jamestown PO Box 190 Jamestown, MI 49427	\$205,339.40
Woolf Excavating 2829 Cambridge Terrace Kalamazoo, MI 49001	\$209,615.82
Al's Excavating 4515 134th Ave. Hamilton, MI 49419	\$218,326.50
Fulton & Sons 2516 Miller Road Kalamazoo, MI 49001	\$222,357.85
Bultsma Excavating 0-308 Lake Michigan Drive Grand Rapids, MI 49534	\$453,336.91

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 26, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Westfield Well #1 Pump and Motor Rehabilitation

ACTION RECOMMENDED: That City Council award a service contract for the Westfield Well #1 Pump and Motor Rehabilitation to Peerless-Midwest, Incorporated, at a total price of \$24,820 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

In 1997, City Council approved a five-year contract with United Water, formerly Earth Tech, Incorporated, for management and operation of the City of Portage water and wastewater utility systems. The contract called for United Water to perform the daily maintenance activities of the utility including storm drain, wet well, detention basin and sewer line cleaning, street sweeping, assistance with snow removal, water treatment and analysis, fire hydrant repair and water well inspections and maintenance. As a result of the award of the original management and operation contract to United Water on February 7, 1997, Portage utility rate payers experienced significant cost savings, increased performance of maintenance activities and fewer water main breaks.

On January 9, 2007, City Council approved the second five-year renewal of the United Water services contract. Renewal of the contract was based on favorable pricing, which continued the significant cost savings to Portage utility rate payers, excellent performance by United Water personnel in operating and maintaining the city water and sanitary sewer facilities, and the positive findings of an independent auditor that United Water had successfully completed all of the provisions of the original contract.

As part of the second five-year renewal, a rehabilitation versus replacement component was added to the contract. After routine cleaning and inspection of a production well, United Water is responsible for obtaining three quotes for the required repair and/or replacement of well pumps and motors. If the cost to rehabilitate a pump and motor is greater than 70 percent of the replacement cost and the pump and motor have been in service for more than 20 years, the city is responsible for the cost of the maintenance or replacement of the pump and motor.

On December 8, 2009, United Water had Westfield Well #1 cleaned and inspected. United Water and city staff determined that the cost to rehabilitate the pump and motor is greater than 70 percent of the replacement cost and the pump and motor have been in service over 20 years. United Water has obtained three quotes from qualified contractors for the rehabilitation of the

pump and motor. The low quote for the rehabilitation is from Peerless-Midwest, Incorporated. This contractor has satisfactorily completed similar projects for the city in the past. Sufficient funds are available to finance this project in the water operating budget.

It is recommended that City Council award a contract for the Westfield Well #1 Pump and Motor Rehabilitation to Peerless-Midwest, Incorporated, at a total price of \$24,820 and authorize the City Manager to execute all documents related to the contract on behalf of the city. A bid tabulation is attached for the information of City Council.

Attachment

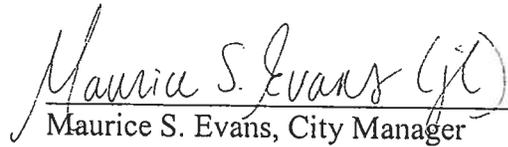
TABULATION
WESTFIELD WELL #1 PUMP AND MOTOR REHABILITATION

<u>BIDDER</u>	<u>BID</u>
Peerless-Midwest, Inc. 55860 Russell Industrial Parkway Mishawaka, IN 46545	\$24,820
Solberg, Knowles & Associates 5720 Wealthy Street Newaygo, MI 49337	\$26,095
Cook Drilling Company, LLC 2428 S. 11 th Niles, MI 49120	\$26,149

MATERIALS TRANSMITTED

Friday, February 19, 2010

1. Communication from the City Manager regarding the Agenda for the *Mayor and City Council for the Day* event on Tuesday, February 23, 2010 – Information Only.
2. Communication from the City Manager regarding the Health Management Program – Information Only.

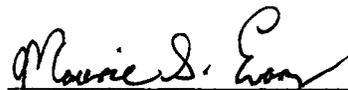

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

MATERIALS TRANSMITTED

Friday, February 26, 2010

1. Communication from the City Manager regarding the State Tax Commission 14-Point Review.
2. Communication from the City Manager regarding Ordinance Amendment #09-C, Home Occupation Regulations – Information Only.
3. Communication from the City Manager regarding the proposed 2010-2020 Capital Improvement Program – Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager