

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 9, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Rezoning Application #09-01, Greenspire Planned Development – Information Update

During the March 23, 2010 City Council meeting, the Council accepted Rezoning Application #09-01, Greenspire Planned Development and set a public hearing date for April 13, 2010. Also during the March 23rd meeting, the Council considered comments from interested citizens and the applicant and requested additional information from the City Administration and City Attorney. Attached is a communication from Community Development Director Erickson that addresses the following:

1. Additional information received from the applicant;
2. New information received from legal counsel representing Dr. Mohney;
3. April 7, 2010 zoning protest petition; and
4. Responses to several Councilmember inquiries.

A personal and confidential attorney/client communication from the City Attorney has also been provided to Councilmembers per the discussion at the last Council meeting.

Subsequent to the public hearing, Council is advised to consider approving Rezoning Application #09-01 from RM-1, multi-family residential and R-1C, one-family residential to PD, planned development per the revised tentative plan map received on April 8, 2010, written narrative dated February 23, 2010, and seven conditions contained in the Department of Community Development report date February 26, 2010 with the residential density based on 81.9 acres and 692 dwelling units as revised by the applicant.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: April 7, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #09-01, Greenspire Planned Development – Follow-up Information

The City Council received the above-captioned rezoning at the March 23, 2010 meeting and also considered comments from interested citizens and the applicant. A public hearing was established for the April 13, 2010 meeting. Following is a review of:

1. Additional information that has been received from the applicant in response to comments offered at the Council meeting (attached),
2. New information received from legal counsel representing Dr. Mohny (attached),
3. A protest petition received from the property owners adjacent to land encompassed in Rezoning #09-01 (attached),
4. Responses to several inquiries that were raised by Councilmembers at the Council meeting.

With regard to additional information that has been received from American Village Builders/Hinman Company, there is an apparent ownership dispute involving a 6.85 acre portion of Hampton Lake area including a 1.84 acre portion of land in the southwest corner of the tract incorporated into the proposed Greenspire PD tentative plan. Although the applicants maintain they own this small area and tract of land, the rezoning application has been modified and this area and portion of land has been removed from the rezoning application. Attached is a revised tentative plan provided by the applicants. As indicated in the e-mail from Mr. Dobson, the modified area to be rezoned by the applicants is consistent with records on file in the Office of the City Assessor. Further discussion involving ownership interest of this 6.85 acre portion of Hampton Lake area including a 1.84 acre portion of land is a private matter between those property owners who believe they have an interest in this portion of property. Once resolved, city property records will be updated based on final, recorded documentation when it is available.

As a result of this 1.84 acre portion of land being removed from the rezoning application, the overall acreage for the purpose of calculating residential density has been reduced from 83.74 to 81.9 acres. The applicant, however, has reduced the overall number of units from 708 to 692 (the number of units in Phase VI has been reduced from 120 to 104 units) so the density modification requested by the applicants will remain at 8.45 units per acre.

Attached is information from Attorney Clifford Bloom, legal counsel for Dr. Russell Mohny. The facsimile correspondence was received on April 1, 2010 and addresses three primary issues: Use of the Hampton Lake bottomlands for residential density calculations, ownership of the Hampton Lake bottomlands and access to or use of Hampton Lake of any portion of the new development. The bottomlands of Hampton Lake were not used by the applicants to calculate overall residential density. With regard to ownership of "bottomlands" and as previously indicated, ownership of this area remains a private matter between property owners and can be resolved in the manner provided by law. Finally, Hampton Lake is a water body of the State of Michigan and lake access is provided through the Gourdneck State Game Area at several access points within the City of Portage. Owners who have

riparian interests including the owners of Greenspire Apartments and Dr. Mohney, among others, have lake access rights. As indicated in the Final Report on Rezoning Application #09-01, and in the Greenspire PD tentative plan narrative from the applicant, commitments have been made by the applicant to limit use of Hampton Lake (no beach facility, not more than one dock, non-motorized watercraft) and to continue to protect the lake (no shoreline construction or water wells).

On April 7, 2010, a valid protest petition signed by all the owners along Tozer Court, Shirley Court and 3500 Vanderbilt Avenue was received. Per the Michigan Zoning Enabling Act, as amended, the protest petition must be submitted before final legislative action on the amendment and signed by: *"The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. (Publicly owned land shall be excluded in calculating the 20% land area requirement...)"*. As a consequence of the protest petition, the statute further indicates that: *"(A)pproval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body.."*. The attached map shows the applicable area of land (with publicly owned land excluded) and the petition includes 70% of the allowable area extending outward 100 feet from any point on the boundary of the land proposed to be rezoned.

Several inquiries were made at the March 23rd Council meeting. Following are responses to the inquiries to further assist you and the Councilmembers at the upcoming public hearing.

Inquiry: Council member O'Brien asked for a clarification of what the parcels are from one to six as distinguished from what the phases are from one to six.

Response: The rezoning application submitted by American Village Builders and the Hinman Company involves six phases, Phases I through III with 384 residential dwelling units that already exist as the Greenspire Apartment complex. As presented and amended by the applicants, proposed Phase IV, Phase V and Phase VI involve 308 additional multiple family residential units and commercial and office development on the total 92.8 acre tract.

As for parcels 1 through 6 that were the subject of some comments at the March 23rd City Council meeting, these parcels are in reference to an ALTA/ACSM Survey that was completed by a consulting firm engaged by the applicant. The phases in the rezoning and the phases on the survey are not directly related and do not have common boundaries. The latter "survey" phases represent legal descriptions that are of record as presented by American Village Builders/Hinman Company and were referenced for survey purposes.

Inquiry: Kim Dillon, 8546 Shirley Court, expressed a concern for traffic issues that may arise.

Response: As also referenced in the rezoning application, and in the Final Report on Rezoning Application #09-01, several private driveways exist: Greenspire Drive, which is a private boulevard street that is the formal access to the existing Greenspire Apartment complex; Tozer Court and Shirley Court, which are private drives that are only partially improved that serve existing single family dwellings. Shirley Court is also planned as a driveway from West Centre Avenue that will provide secondary access to the planned commercial and office development. Principal vehicle access will be located at West Centre and Cooley Avenue. The existing Greenspire Drive boulevard will also remain to serve the existing multiple family residential development. The traffic generated by the proposed development can be accommodated by the adjacent public roadway. Further review of traffic, access and possible signalization of the West Centre Avenue/Cooley Drive intersection will occur when final plans are submitted for the various phases of the Greenspire PD.

Vehicle access that will serve the existing single family dwellings is not anticipated to be affected. The commercial and office development elements are located along West Centre

Avenue and would be approximately 1,200 feet north of the existing dwellings. The principal and secondary access driveways will adequately serve the development.

Inquiry: Mayor Pro Tem Sackley asked whether the Planning Commission had access to the information provided by Doug Rhodus, 2333 Vanderbilt Avenue.

Response: The information that was provided by Mr. Rhodus was directly related to the ALTA/ACSM Survey that was accomplished by the consultant hired by American Village Builders/Hinman Company. An ALTA/ACSM Survey is not required for the rezoning of property. It is believed that Mr. Rhodus was providing a critique of the survey based on his experience and expertise. Mr. Rhodus did not present this information to the Planning Commission, nor to the City Administration for review or comment, but submitted the comments at the March 23rd Council meeting.

Inquiry: Councilmember O'Brien asked if an environmental study is required. Mr. Doug Rhodus, 2333 Vanderbilt Avenue, questioned whether an environmental study is the same as the DNRE checking for endangered species before the development begins.

Response: An environmental study was not required as part of the Greenspire Planned Development rezoning request. A study that addresses environmental or other relevant issues could be accomplished and it may be preferable that such a study be accomplished as part of the submission of a final plan, when more specific development information is provided and considered.

As indicated in the staff report to the Planning Commission, previous environmental studies have been completed in the vicinity of Hampton Lake. State and/or Federal laws regarding the protection of environmentally sensitive areas such as wetlands, floodplains, water bodies and endangered species do exist and development projects must comply with these laws. Furthermore, the narrative provided by the applicants states they will abide by MDNRE rules and regulations related wetlands and endangered species.

Inquiry: If the ALTA/ACSM Survey is acceptable to the State and the DNRE, does the City Council need it for the public hearing?

Response: An ALTA/ACSM Survey is not required as part of a rezoning application.

Inquiry: Councilmember Urban asked that staff provide the level of certification that is required for the description for the property for the rezoning and Planned Development proposal, and brought up the issue of the property descriptions not matching the map.

Response: A specific level of surveyor certification for the submission of a rezoning application is not required. The public notice included a Vicinity Map, property addresses and /or property identification numbers describing the land being requested for rezoning. The applicants maintain that legal documents show the tract is owned by them. However, the applicant has withdrawn the area that is the subject of the apparent ownership dispute. As a final comment on the property descriptions, it is recognized that there can be some "lag time" between legal documents recorded at the county offices and, then, incorporating the updated information in the City of Portage property records.

With this particular rezoning, a larger area for legal notice was used that was based on the property included in the proposed Greenspire PD tentative plan. This conservative approach ensured that interested citizens were advised of the opportunity to comment on the rezoning.

Inquiry: Councilmember O'Brien asked that staff address the issues involved in placing a building in the proper location and what assurances do staff provide the Planning Commission and City

Council that the setbacks are correct and the buildings are being properly placed within the boundaries of the owner's property.

Response: The tentative plan submitted by the applicant outlines the general development concept for the entire project including land uses, density, building locations, height, setback and bulk, off-street parking, common open space, among other details. Submission of the tentative plan is intended to provide the community with the opportunity to survey all existing and proposed conditions pertaining to the project. After approval by the City Council, the applicant is provided with an assurance that the tentative concepts are acceptable and that detailed engineering may proceed. Final plans that are submitted must be in substantial conformance to the approved tentative plan.

With regard to an existing Greenspire Phase II building located immediately south of proposed Phase IV, the preliminary ALTA/ACSM survey information submitted by the applicants indicate a small portion (southeast corner) of the building was constructed within the 30-foot RM-1, multi-family setback area. The approved 1977 site plan shows a 30-foot building setback from the east property line. Given the several decades that have elapsed, there may be several reasons for the incorrect siting of this building including surveyor or builder error, or that the preliminary ALTA/ACSM survey is incorrect. However, a rezoning to PD, planned development will eliminate this technical nonconformity and the existing setback will be established. In any case, with the submittal of a final plan diligence on the part of the owner, surveyor, construction specialists and others will be properly exercised.

I am prepared to further discuss this information at your convenience.

Attachments: Email information submitted by American Village Builders and the Hinman Company
 Revised tentative plan map
 Correspondence from Attorney Clifford Bloom, dated April 1, 2010
 April 7, 2010 protest petition with map
 March 23rd inquiries from Councilmembers per City Clerk Hudson

Jeffrey Erickson - Greenspire Rezoning

From: "Greg Dobson" <gdobson@avbinc.com>
To: <ericksoj@portagemi.gov>
Date: 4/1/2010 9:22 AM
Subject: Greenspire Rezoning
CC: "Rich MacDonald" <RichM@hinmancompany.com>

A concern was raised at the Tuesday, March 23, 2010, City Council meeting as to whether the southwestern portion of our land should be rezoned. While we disagree with that there is any issue at all, as Attorney Brown indicated at the meeting, this is a matter between private parties. As such, we do not want this insignificant issue to cloud the overall merits of the submitted Tentative Plan. Therefore we ask that rezoning request be limited to the land indicated on the attached plan, which corresponds to the attached City of Portage GIS report which was used in noticing the various meetings relating to this rezoning application."

Greg Dobson
AVB COMPANIES
o 269 329 3636
f 269 372 2445
e gdobson@avbinc.com
4200 W. Centre Ave
Portage, MI 49024
www.avbconstruction.com
www.avbhomes.com

**CITY OF PORTAGE, MICHIGAN
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 (Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on March 23, 2010, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on April 13, 2010, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Sections 19 and 20, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
3201 West Centre Avenue	00020-131-O
3317 West Centre Avenue	00019-105-O
3413 West Centre Avenue	00019-095-O
3423 West Centre Avenue	00019-096-O
3145 Greenspire Drive	00020-135-O
8380 Greenspire Drive	00020-130-O
8401 Greenspire Drive	00020-136-O
3413 Fawn Cove Lane	00019-100-O
8615 Tozer Court	00020-140-O

From RM-1, multiple family residential and R1-C, one family residential to PD, planned development, or any other classification allowed by law.

PLEASE TAKE FURTHER NOTICE that if the owners of at least twenty percent (20%) of the area of land included in the proposed zoning change, or if the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred feet (100') from any point on the boundary of the land included in the proposed change, excluding public right-of-way or other publicly owned land, file a written protest petition against the proposed amendment presented to the City Council before final legislative action on the amendment, a two-thirds vote of the City Council will be required to pass the amendment.

Dated: March 25, 2010


James R. Hudson, City Clerk

April 1, 2010

RECEIVED

APR 02 2010

COMMUNITY DEVELOPMENT

The Honorable Peter J. Strazdas
Mayor, City of Portage
City Hall
7900 South Westnedge Avenue
Portage, Michigan 49002

**Re: The Proposed Planned Development ("PD")
The Greenspire Development
American Village Builders Companies and the Hinman Company
Hampton Lake**

Dear Mayor Strazdas:

We are legal counsel for Russell Mohny, M.D. Dr. Mohny owns a significant amount of the shoreline of Hampton Lake and the riparian rights to his various properties located on the lake. Dr. Mohny has concerns regarding the planned development ("PD") rezoning proposal (often informally called "Greenspire") presently pending with the City of Portage (the "City") from American Village Builders Companies and the Hinman Company (collectively, the "Developer"). Apparently, the Developer is not only proposing the PD zoning designation for the properties it now desires to develop, but is also attempting to "roll in" the existing residential development on Hampton Lake into the overall PD.

Dr. Mohny has several concerns regarding this matter. First, Dr. Mohny is surprised that the Developer is apparently attempting to include and "count" bottomlands located under Hampton Lake as part of the PD, to be utilized for density calculations for the PD. Our firm represents in excess of 30 municipalities throughout West Michigan, and very few of those municipalities would allow a developer to count bottomlands located under a lake for purposes of minimum lot size requirements, density, and similar zoning matters. Dr. Mohny respectfully urges the City not to allow the Developer in this case to count any of the bottomlands that it claims it owns under Hampton Lake for density calculations or for meeting any other minimal requirements of the City of Portage Zoning Ordinance, as amended (the "Zoning Ordinance").

Even if the Zoning Ordinance for the City were highly unusual and expressly allows the land under a lake to be counted for purposes of building density calculations, given that the PD is discretionary and that the City Council can attach reasonable conditions to the approval of a PD, any building density granted by the City Council pursuant to a PD approval should not reflect any bottomlands under Hampton Lake.

COPY



Even though the City's public hearing notice for the PD and some of the submitted drawings show a portion of the bottomlands of Hampton Lake as being attributable to the development at issue, Mr. Jeffrey Erickson, the City's Director of Community Development, indicated to me earlier this week that the City has not, in fact, allowed the Developer to "count" any bottomlands under Hampton Lake for purposes of density calculations (or density "credits") for the proposed PD. Since it now appears that it is the City's position that the property under Hampton Lake cannot be counted for purposes of density calculations for the proposed PD, Dr. Mohney respectfully urges the City to stick to that determination. Other dimensional requirements (such as setbacks and height restrictions) should also not be waived or lessened for this proposed PD.

Based on the above, the area under Hampton Lake that has been marked as "Parcel 6" on some of the Developer's drawings should be removed or not so designated.

Dr. Mohney is also concerned that the Developer appears to be making representations to the City that it owns more of the bottomlands under Hampton Lake than is, in fact, the case. Apparently, the Developer has indicated (at least at one time) that it owns all of the bottomlands under Hampton Lake and none of the other property owners (including Dr. Mohney) is riparian. Of course, the Developer is not the only riparian on Hampton Lake and does not own all of the bottomlands. Dr. Mohney owns several riparian properties on Hampton Lake and owns a significant portion of the bottomlands of the lake.

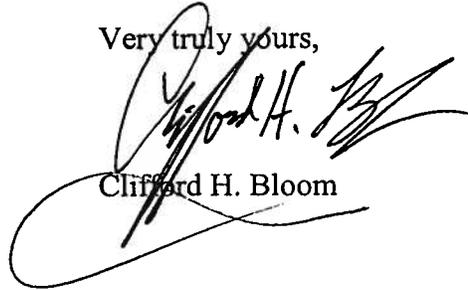
Not only does the Developer not own all of the bottomlands of Hampton Lake, but Dr. Mohney is also concerned that the Developer's drawings (and even the City's public hearing notice) shows the Developer as owning more of the bottomlands of Hampton Lake than is the case. In Michigan, deciding which riparian landowner owns which portion of the bottomlands (and at what angles bottomlands boundary lines radiate) is not an easy exercise. Surveyors and engineers can give their opinions regarding the allocation of bottomlands to particular riparian landowners, but ultimately, only the courts can definitively determine and fix the same. See *Heeringa v Petroelje*, 279 Mich App 444, 449; 760 NW2d 538 (2008). Dr. Mohney respectfully asserts that the bottomlands being claimed by the Developer (and as shown on some maps and potentially, even the City's tax maps) is not correct.

Finally, it is Dr. Mohney's understanding that apart from the existing residential units at Hampton Lake, no portion of the new development proposed pursuant to the pending PD application will have access to or the use of Hampton Lake. Dr. Mohney requests that as a part of final PD, an express condition or requirement should be inserted making it clear that no portions of the new development will have access to Hampton Lake.

The Honorable Peter J. Strazdas
April 1, 2010
Page 3

Dr. Mohny thanks you and City officials for their careful consideration of these issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Clifford H. Bloom", with a large, sweeping flourish underneath.

Clifford H. Bloom

egk

cc: Russell Mohny, M.D.
Maurice Evans, City Manager
James Hudson, City Clerk
Jeffrey Erickson, Director of Community Development

99999 (001) 504647.1

To: James R. Hudson, City Clerk

Subject: Proposed Ordinance to amend Article 4 of Chapter 42 of the Codified Ordinances of Portage, Michigan



Joseph Gesmundo, on behalf of American Village Builders (ANB) and Greenspire Apartments, is applying for a change of zoning from RM-1, multiple family residential and R1-C, one-family residential to a Planned Development (PD) for the parcel of land identified as follows:

Tracts of land located in Sections 19 and 20, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

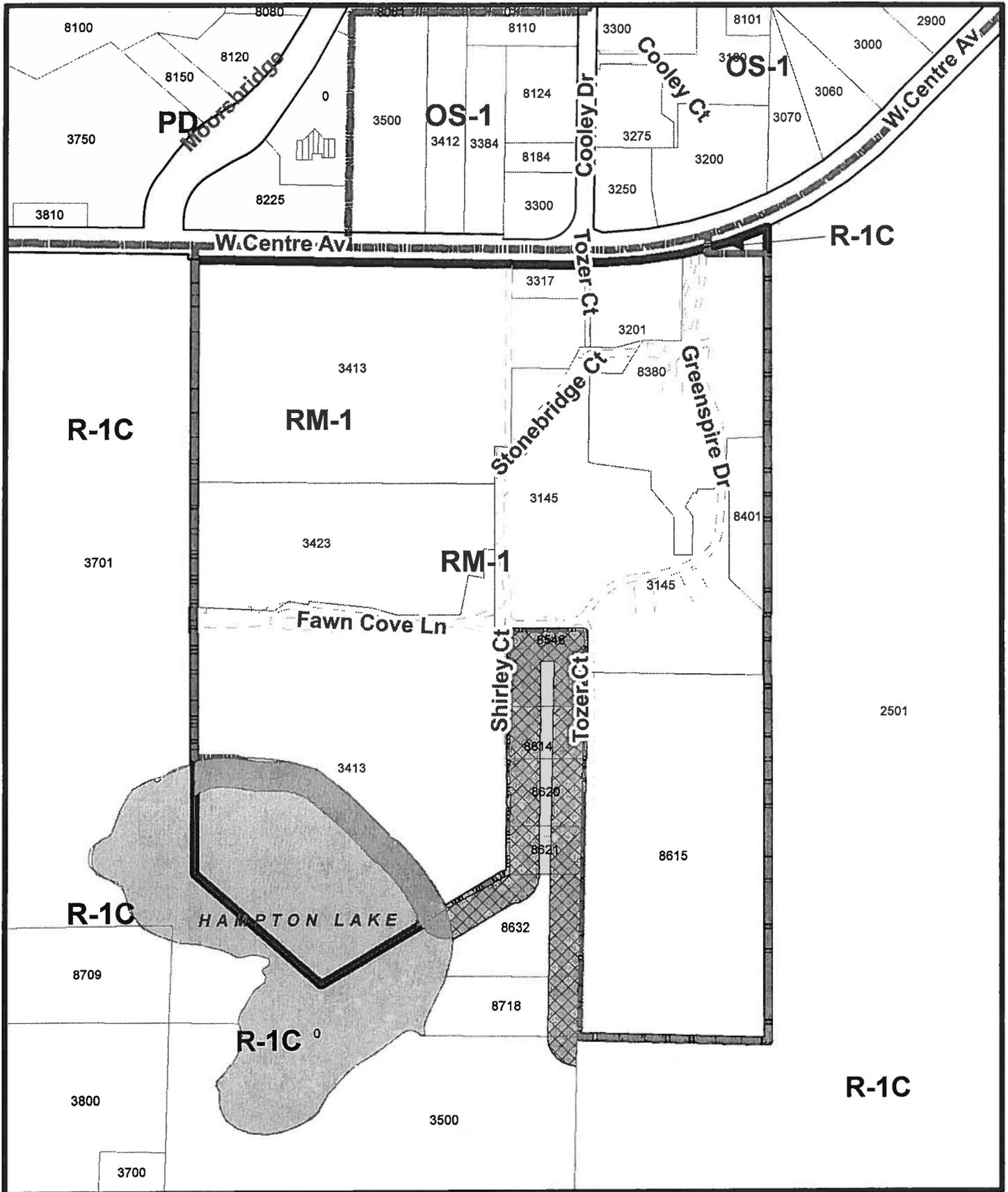
Street Addresses	Parcel ID Numbers
3201 West Centre Avenue	00020-131-C
3317 West Centre Avenue	00019-105-C
3413 West Centre Avenue	00019-095-C
3423 West Centre Avenue	00019-096-C
3145 Greenspire Drive	00020-135-C
8380 Greenspire Drive	00020-130-C
8401 Greenspire Drive	00020-136-C
3413 Fawn Cove Lane	00019-100-C
8615 Tozer Court	00020-140-C

Pursuant to MCL 125.3403, as citizens and neighbors of the proposed change who are owners of land within 100 feet of the boundary of the project, we are concerned about this proposal, and the impact it will have on the quality of life of the residents of surrounding neighborhoods and the effect it will have on the riparian rights of the residents who own property on Hampton Lake.

We the undersigned petition the Portage ~~Planning Commission~~ ^{City Council} to refrain from rezoning these parcels.

	Name (Please print)	Address	Signature	Date
1	Betty Lee Ongley	8620 Tozer	Betty Lee Ongley	3/30/10
2	Russell E. Mohner	3500 Vanderbilt	Russell E. Mohner	3/30/10
3	Cleora I. Mohner	3500 Vanderbilt	Cleora I. Mohner	3/30/10
4	Harold Bartholomew	8614 Skidley	Harold Bartholomew	3/30/10

5	Hall			
6	Carol Bartholomew	8614 Shirley Ct.	CAROL BARTHOLOMEW	3-30-10
7	TERRY HALL	8621 Shirley Ct	Hall	3-30-10
8	Russell Mohney	8632 Shirley Ct	Russell Mohney	4/3/10
9	Russell F. Mohney	8632 Shirley Ct.	Russell Mohney	4/3/10
10	Cleora I. Mohney	8632 Shirley Ct	Cleora I. Mohney	4/6/10
11	Kim Dillon	8546 Shirley Ct	Kim Dillon	4/6/10
12	Don Dillon	8546 Shirley Ct	Don Dillon	4/6/10
13	Russell Mohney	8718 Shirley Ct.	Russell Mohney	4/6/10
14	Cleora Mohney	8718 Shirley Ct.	Cleora I. Mohney	4-6-10
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				



Rezoning #09-01

3145-8401 Greenspire Dr, 8615 Tozer Ct,
 3201- 3423 W Centre Av, 3413 Fawn Cove Ln

	Properties Protesting Rezoning
	100' Boundary



1 inch = 450 feet

**REZONING APPLICATION #09-01, GREENSPIRE PLANNED
DEVELOPMENT (PD):**

Mayor Strazdas asked that the City Manager arrange an appointment with Dr. Russell Mohney, 3500 Vanderbilt Avenue, for review the documents in question.

Councilmember Urban asked the City Attorney to provide the law on riparian rights, including access, at the public hearing.

Councilmember O'Brien asked for a clarification of what the parcels are from one to six as distinguished from what the phases are from one to six.

Kim Dillon, 8546 Shirley Court, expressed a concern for traffic issues that may arise.

Mayor Strazdas asked City Attorney Randy Brown to provide the standards or criteria that City Council has to consider on a PD rezoning request in order to better focus City Council during the public hearing.

Mayor Pro Tem Sackley asked if certain milestones or commitments are not met, the zoning reverts back, and Mr. Brown said, "Yes, after two years."

Mayor Pro Tem Sackley asked whether the Planning Commission had access to the information provided by Doug Rhodus, 2333 Vanderbilt Avenue.

Doug Rhodus, 2333 Vanderbilt Avenue, questioned whether an environmental study is the same as the DNRE checking for endangered species before the development begins.

Councilmember O'Brien summarized that some of the responses to the questions that have been posed, if City Council sets a public hearing, are for the State DNRE and some are for City staff: if the ALTA/ACSM Survey is acceptable to the State and the DNRE, does the City Council need it for the public hearing; is an environmental impact study required; are there any other legal requirements for this particular project as proposed; and for the City Attorney, if there are property owners who dispute a property lines, what legally can City Council consider or not consider.

Councilmember Urban said it is possible that the Planning Commission considered a map that is in dispute or is in error and asked for an opinion from the City Attorney on this.

Councilmember Urban asked that staff provide the level of certification that is required for the description for the property for the rezoning and Planned Development proposal, and brought up the issue of the property descriptions not matching the map.

Councilmember O'Brien asked the City Attorney what is the burden of proof if there are boundary line questions or a dispute, and City Attorney Brown asked to be allowed to answer these questions at the public hearing.

Mr. Brown deferred to Community Development Director Jeffrey Erickson with regard to what actions are taken internally by City staff, and indicated that legally the City should use its own records as the City does not have the responsibility to determine boundaries, only the use of the property, but can always review what is presented.

Councilmember O'Brien asked that staff address the issues involved in placing a building in the proper location and what assurances do staff provide the Planning Commission and City Council that the setbacks are correct and that buildings are being properly placed within the boundaries of the owner's property.

Mr. Brown answered that the City does have the necessary records - the deeds, the maps - to determine where property lines are, and indicated that every time an application comes in, the Community Development Department staff compares that information against the City records.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 5, 2010

FROM: Maurice S. Evans, City Manager

MSE (for M. Evans)

SUBJECT: Adoption of Bond Resolutions

ACTION RECOMMENDED: That City Council adopt:

- a. the Bond Resolution authorizing the sale of City of Portage Capital Improvement Bonds, Series 2010, in the amount of \$3,850,000; and
- b. the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2010.

The attached bond resolutions provide for the initiation of the legal process required to issue bonds to fund Fiscal Year 2010-11 Capital Improvement Program projects and for the continued financing of 2008-09 Capital Improvement Projects not bonded in full.

The resolutions have been prepared by Bond Counsel John Axe. The projects for which the bonds are to be issued are as follows:

	Capital Improvement Bonds
<u>Water Projects</u>	
South Westnedge Avenue Water Main Replacement	320,000
Storm Drainage Improvements Program	175,000
Total	<u>495,000</u>
	Capital Improvement Bonds
<u>Sewer Projects</u>	
Barberry Avenue Sanitary Sewer Rehabilitation	45,000
West Milham Sanitary Sewer	535,000
Ohio Street Lift Station	60,000
Total	<u>640,000</u>

<u>Capital Improvement Projects</u>	<u>Capital Improvement Bonds</u>
Park Trails Improvements	50,000
Softball Field Improvements	30,000
Police Facility Improvements	50,000
Mobile Computers	45,000
West Milham Avenue/South 12 th Street Intersection Improvements	60,000
Street Infrastructure Improvements – Portage Public Schools	165,000
Local Street Reconstruction Program	165,000
Bikeway Improvements	74,000
Sidewalk Improvements – Portage Public Schools	45,000
Senior Center Improvements	30,000
Currier Drive & Mustang Blvd. at Centre Avenue Intersection	205,000
I-94 Improvements, West City Limits to Portage Road	1,480,047
Equipment Fund Vehicles	315,953
Total	<u>2,715,000</u>

Adoption of the bonding resolutions is recommended.

Attachments

cc: Daniel S. Foecking, Finance Director
John R. Axe, Bond Counsel

CITY OF PORTAGE

At a _____ meeting of the City Council of the City of Portage, Michigan, held on the ____ day of _____, 2010, at __:__.m., Eastern Daylight Savings Time, at the City Hall in Portage, Michigan there were:

PRESENT: _____

ABSENT: _____

The following preambles and resolution were offered by _____ and seconded by _____:

**BOND RESOLUTION
City of Portage
Capital Improvement Bonds, Series 2010**

WHEREAS, there have been prepared and presented to the City Council (the "Council") of the City of Portage, Michigan (the "City"), a description of improvements to the City of Portage (the "Capital Improvement Project"), all as more fully described in EXHIBIT A, pursuant to the terms of Section 517 of Act No. 34, Public Acts of Michigan, 2001 as amended ("Act 34"); and

WHEREAS, it has been estimated that the period of usefulness of the Capital Improvement Project is not less than 20 years and that the total cost of the Capital Improvement Project and issuing the Bonds will not exceed \$3,850,000 to be provided by the proceeds from the sale of bonds by the City pursuant to Act 34; and

WHEREAS, the City proposes to undertake the Capital Improvement Project and to incur taxable or tax-exempt debt (the "Reimbursement Obligations") to finance all or a portion of the costs of the Capital Improvement Project; and

WHEREAS, the City may make certain expenditures for said Capital Improvement Project prior to issuance of the Reimbursement Obligations and may wish to use the proceeds of the Reimbursement Obligations to reimburse all or a portion of said expenditures; and

WHEREAS, it is in the public interest and for the public benefit that the City designate an authorized officer for the purposes of declaring official intent of the City with respect to expenditures; and

WHEREAS, there has been prepared and attached hereto as APPENDIX I a form of notice entitled "NOTICE OF INTENTION OF THE

CITY OF PORTAGE TO ISSUE CAPITAL IMPROVEMENT BONDS AND NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON" (the "Notice of Intention").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE, MICHIGAN, AS FOLLOWS:

1. **Approval of Plans:** The preliminary plans and estimates relating to the Capital Improvement Project and identified in EXHIBIT A hereto are hereby approved and ordered filed with the City Clerk.

2. **Insertion of Notice of Intent:** It is hereby determined that the Notice of Intention provides information sufficient to adequately inform the electors and taxpayers of the City of the nature of the obligations to be undertaken by the City by the issuance of the bonds and of their right under Act 34 to file a petition requesting a referendum election on the issuance of the bonds.

3. **Form of Notice of Intent:** The form and content of the Notice of Intention as set forth in Appendix I, are hereby approved, and the City Clerk is hereby authorized and directed to cause the Notice of Intention to be published once in the Kalamazoo Gazette, a newspaper of general circulation within the City which is hereby determined to be the newspaper reaching the largest number of electors and taxpayers of the City. The notice shall be inserted in an advertisement at least one-quarter of a page in size.

4. **Referendum Period:** The referendum period within which voters and taxpayers shall have the right to circulate petitions is 45 days after publication of the notice of intention authorized in paragraph 2.

5. **Official Intent:** The Finance Director of the City is hereby authorized to declare official intent of the City with respect to reimbursement.

6. **Individual Declarations of Intent:** Each declaration of official intent shall be substantially in the form set forth in APPENDIX II attached hereto and by this reference incorporated herein, and said form may be modified from time to time on the advice of bond counsel to the City and as necessary to conform to requirements of the reimbursement regulations as the same may be adopted by the Internal Revenue Service or amended from time to time, or with the requirements of applicable rulings or regulations relating to tax-exempt borrowings.

7. **Filing Official Intent:** The Finance Director of the City is hereby directed to file each declaration of official intent in the office of the Clerk of the City of Portage, which location constitutes the customary location of the records of the City which are available to the general public.

8. **Declarations of Intent Available:** The City Clerk is further directed to assure that each declaration of intent is continuously available during normal business hours of the City on every business day of the period beginning the earlier of 10 days after the date of execution of said declaration of intent and ending on the date of issuance of the Reimbursement Bonds.

9. **Bond Details:** Pursuant to Section 517 of Act 34, the bonds of the City, aggregating not to exceed the principal sum of \$3,850,000, shall be issued for the purpose of defraying the City's portion of the cost of the Capital Improvement Project. The bonds shall be known as "City of Portage Capital Improvement Bonds, Series 2010" (the "Bonds") and shall be dated July 1, 2010 or such later date not more than twelve calendar months thereafter as the Finance Director of the City shall provide by order. The Bonds shall be fully registered Bonds, both as to principal and interest, in any one or more denominations of \$5,000 or a multiple of \$5,000 numbered from 1 upwards as determined by the Finance Director of the City, regardless of rate and maturity date. The Bonds shall mature on July 1 in each year as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2012	\$225,000	2019	\$210,000	2026	\$165,000
2013	225,000	2020	210,000	2027	165,000
2014	225,000	2021	210,000	2028	165,000
2015	230,000	2022	165,000	2029	165,000
2016	230,000	2023	165,000	2030	170,000
2017	205,000	2024	170,000	2031	170,000
2018	210,000	2025	170,000		

The Bonds shall be in substantially the form attached hereto as Exhibit B with such changes, additions or deletions as are not inconsistent with this resolution.

10. **Discount:** The Bonds may be offered for sale at a price of not less than 98% of the face amount thereof, and the Finance Director of the City is authorized, in his or her discretion, to provide for a higher minimum purchase price in the Request for Proposal for the Bonds.

11. **Interest Payment and Date of Record:** The Bonds shall bear interest payable January 1, 2011 and each July 1 and January 1 thereafter, until maturity, which interest shall not exceed 7% per annum. Interest shall be paid by check or draft mailed to the registered owner of each Bond as of the applicable date of record, provided, however, that the Finance Director of the City may agree with the bond registrar on a different method of payment. If interest is paid differently, the Bond form attached as EXHIBIT B and Request for Proposal form attached as EXHIBIT C shall be changed accordingly.

The date of record for each interest payment shall be the 15th day of the calendar month preceding the date such payment is due.

12. **Prior Redemption:** Bonds maturing prior to July 1, 2019, shall not be subject to redemption prior to maturity. Bonds maturing on and after July 1, 2019 shall be subject to redemption in whole or in part on any date on and after July 1, 2018, and in any order, at the option of the City, at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion and the amount not being redeemed each constitutes an authorized denomination. In the event that less than the entire principal amount of a bond is called for redemption, upon surrender of the Bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the Bond a new bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each Bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption if different than otherwise provided in the resolution authorizing the issuance of the Bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Bonds so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the bond registrar to redeem the same.

13. **Capitalized Interest:** As the Finance Director of the City so orders prior to the time of delivering the Bonds, up to two years of the interest payable on the Bonds is to be capitalized.

14. **Reduction in Aggregate Amount of Bonds:** In the event the cost of acquiring and constructing the Capital Improvement Project shall be less than the current cost estimates and after this bond resolution has been adopted it shall be determined by the Finance Director of the City that the Capital Improvement Project cost shall be less than such estimates, the Finance Director of the City shall reduce the principal amount of the Bonds by \$5,000 denominations, one such denomination for each maturity in any order of maturity, to the extent required to avoid the issuance of more Bonds than will be required in light of the proposals received, and the Request for Proposal shall be correspondingly altered.

15. **Bond Registrar and Paying Agent/Book Entry Depository Trust:** The Finance Director of the City shall designate, and may enter into an agreement with, a bond registrar and paying

agent for the Bonds (sometimes referred to as the "Bond Registrar") which shall be a bank or trust company located in the State of Michigan which is qualified to act in such capacity under the laws of the United States of America or the State of Michigan. The Finance Director of the City from time to time as required may designate a similarly qualified successor bond registrar and paying agent. The Bonds shall be deposited with a depository trustee designated by the Finance Director of the City who shall transfer ownership of interests in the Bonds by book entry and who shall issue depository trust receipts or acknowledgments to owners of interests in the Bonds. Such book entry depository trust arrangement, and the form of depository trust receipts or acknowledgments, shall be as determined by the Finance Director of the City after consultation with the depository trustee. The depository trustee may be the same as the Bond Registrar otherwise named by the Finance Director, and the Bonds may be transferred in part by depository trust and in part by transfer of physical certificates as the Finance Director may determine.

16. **Transfer or Exchange of Bonds:** Any bond shall be transferable on the bond register maintained by the Bond Registrar with respect to the Bonds upon the surrender of the Bond to the Bond Registrar together with an assignment executed by the registered owner or his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon receipt of a properly assigned Bond the Bond Registrar shall authenticate and deliver a new Bond or Bonds in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees.

Bonds may likewise be exchanged for one or more other Bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the Bond or Bonds being exchanged. Such exchange shall be effected by surrender of the Bond to be exchanged to the Bond Registrar with written instructions signed by the registered owner of the Bond or his or her attorney in form satisfactory to the Bond Registrar. Upon receipt of a Bond with proper written instructions the Bond Registrar shall authenticate and deliver a new Bond or Bonds to the registered owner of the Bond or his or her properly designated transferee or transferees or attorney.

Any service charge made by the Bond Registrar for any such registration, transfer or exchange shall be paid for by the City, unless otherwise agreed by the City and the Bond Registrar. The Bond Registrar may, however, require payment by a bondholder of a sum sufficient to cover any tax or other governmental charge payable in connection with any such registration, transfer or exchange.

17. **Mutilated, Lost, Stolen or Destroyed Bonds:** In the event any Bond is mutilated, lost, stolen or destroyed, the Mayor and the Clerk of the City may, on behalf of the City,

execute and deliver, a new Bond having a number not then outstanding, of like date, maturity and denomination as that mutilated, lost, stolen or destroyed.

In the case of a mutilated Bond, a replacement Bond shall not be delivered unless and until such mutilated Bond is surrendered to the Bond Registrar. In the case of a lost, stolen or destroyed Bond, a replacement Bond shall not be delivered unless and until the City and the Bond Registrar shall have received such proof of ownership and loss and indemnity as they determine to be sufficient, which shall consist at least of (i) a lost instrument Bond for principal and interest remaining unpaid on the lost, stolen or destroyed Bond; (ii) an affidavit of the registered owner (or his or her attorney) setting forth ownership of the Bond lost, stolen or destroyed and the circumstances under which it was lost, stolen or destroyed; (iii) the agreement of the owner of the Bond (or his or her attorney) to fully indemnify the City and the Bond Registrar against loss due to the lost, stolen or destroyed Bond and the issuance of any replacement Bond; and (iv) the agreement of the owner of the Bond (or his or her attorney) to pay all expenses of the City and the Bond Registrar in connection with the replacement, including the transfer and exchange costs which otherwise would be paid by the City.

18. **Execution and Delivery:** The Mayor (or the Mayor Pro Tem, in the absence of the Mayor) and the Clerk of the City are hereby authorized and directed to execute the Bonds for and on behalf of the City by manually executing the same or by causing their facsimile signatures to be affixed. If facsimile signatures are used, the Bonds shall be authenticated by the Bond Registrar before delivery. The Bonds shall be sealed with the City's seal or a facsimile thereof shall be imprinted thereon. When so executed and (if facsimile signatures are used) authenticated, the Bonds shall be delivered to the Finance Director of the City, who is hereby authorized and directed to deliver the Bonds to the purchaser upon receipt in full of the purchase price for the Bonds.

19. **Source of Repayment:** The City agrees to pledge for the repayment of the Bonds sufficient amounts of City taxes levied each year provided that the amount of taxes necessary to pay the principal and interest on the Bonds, together with the other taxes levied for the same year, shall not exceed the limit authorized by law.

20. **Principal and Interest Fund:** All monies set aside by the City toward the cost of the Capital Improvement Project shall be kept by the City in a separate fund hereby established, to be known as the "Principal and Interest Fund." All moneys in the Principal and Interest Fund shall be kept in a separate depository account with one or more banks or trust companies where the principal of and interest on the bonds are payable, and such moneys shall be used solely for the payment of the

principal of and interest on the Bonds and expenses incidental thereto. All accrued interest and the premium, if any, received from the purchaser of the Bonds shall be deposited in the Principal and Interest Fund upon receipt. Capitalized interest, as determined pursuant to Section 6, shall be deposited in the Principal and Interest Fund.

21. **Acquisition and Construction Fund:** There is hereby established an Acquisition and Construction Fund into which all proceeds of the borrowing shall be deposited, except the accrued interest on the Bonds and premium, if any, received from the purchaser of the Bonds and any capitalized interest. All moneys in the Acquisition and Construction Fund shall be used solely for the payment in full of costs of the Capital Improvement Project, including the costs of issuing the Bonds. Surplus moneys remaining in the Acquisition and Construction Fund after completion of the Capital Improvement Project and payment in full of the costs of the Capital Improvement Project (or provision for such payment) shall be deposited in the Principal and Interest Fund.

22. **Investments:** Moneys in the Principal and Interest Fund and the Acquisition and Construction Fund may be continuously invested and reinvested in the United States government obligations, obligations the principal of and interest on which are unconditionally guaranteed by the United States government, or in interest-bearing time deposits selected by the Finance Director of the City which are permissible investments for surplus funds under Act No. 20 of the Public Acts of 1943, as amended. Such investments shall mature, or be subject to redemption at the option of the holder, not later than (a) in the case of the Principal and Interest Fund, the dates moneys in such fund will be required to pay the principal of and interest on the Bonds, and (b) in the case of the Acquisition and Construction Fund, the estimated dates when moneys in such fund will be required to pay costs of the Capital Improvement Project. Obligations purchased as an investment of moneys in the Principal and Interest Fund or the Acquisition and Construction Fund, as the case may be, shall be deemed at all times to be a part of such fund, and the interest accruing thereon and any profit realized from such investment shall be credited to such fund.

23. **Depositories:** All of the banks located in the State of Michigan are hereby designated as permissible depositories of the moneys in the funds established by this Resolution, except that the moneys in the Principal and Interest Fund shall only be deposited in such banks where the principal of and interest on the Bonds are payable. The Finance Director of the City shall select the depository or depositories to be used from those banks authorized in this Section.

24. **Arbitrage and Tax Covenants:** Notwithstanding any other provision of this resolution, the City covenants that it will not at any time or times:

(a) Permit any proceeds of the Bonds or any other funds of the City or under its control to be used directly or indirectly (i) to acquire any securities or obligations, the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) in a manner which would result in the exclusion of any Bond from the treatment afforded by Section 103(a) of the Code by reason of the classification of any Bond as a "private activity bond" within the meaning of Section 141(a) of the Code, as a "private loan bond" within the meaning of Section 141(a) of the Code or as an obligation guaranteed by the United States of America within the meaning of Section 149(b) of the Code; or

(b) Take any action, or fail to take any action (including failure to file any required information or other returns with the United States Internal Revenue Service or to rebate amounts to the United States, if required, at or before the time or times required), within its control which action or failure to act would (i) cause the interest on the Bonds to be includible in gross income for federal income tax purposes, cause the interest on the Bonds to be includible in computing any alternative minimum tax (other than the alternative minimum tax applicable to interest on all tax-exempt obligations generally) or cause the proceeds of the Bonds to be used directly or indirectly by an organization described in Section 501(c)(3) of the Code, or (ii) adversely affect the exemption of the Bonds and the interest thereon from the State of Michigan income taxation.

25. **Qualified Tax-Exempt Obligations:** The Bonds are designated as "qualified tax-exempt obligations" for purposes of deduction of interest expense by financial institutions under the provisions of Section 265 of the Code, unless, at the time the Request for Proposal is circulated, the Bonds have been determined to be ineligible to be so designated on the basis of the City's reasonable expectations at the time of such circulation. In such event, the Request for Proposal shall be changed appropriately and the Bond shall there be so designated.

26. **Defeasance or Redemption of Bonds:** If at any time,

- (a) the whole amount of the principal of and interest on all outstanding Bonds shall be paid, or
- (b) (i) sufficient moneys, or Government Obligations (as defined in this Section) not callable prior to maturity, the principal of and interest on which when due and payable will provide sufficient moneys, to pay the whole amount of the

principal of and premium, if any, and interest on all outstanding Bonds as and when due at maturity or upon redemption prior to maturity shall be deposited with and held by a trustee or an escrow agent for the purpose of paying the principal of and premium, if any, and interest on such Bonds as and when due, and (ii) in the case of redemption prior to maturity, all outstanding Bonds shall have been duly called for redemption (or irrevocable instructions to call such Bonds for redemption shall have been given)

then, at the time of the payment referred to in clause (a) of this Section or of the deposit referred to in clause (b) of this Section, the City shall be released from all further obligations under this resolution, and any moneys or other assets then held or pledged pursuant to this resolution for the purpose of paying the principal of and interest on the Bonds (other than the moneys deposited with and held by a trustee or an escrow agent as provided in clause (b) of this Section) shall be released from the conditions of this resolution, paid over to the City and considered excess proceeds of the Bonds. In the event moneys or Government Obligations shall be so deposited and held, the trustee or escrow agent holding such moneys or Government Obligations shall, within 30 days after such moneys or Government Obligations shall have been so deposited, cause a notice signed by it to be given to the registered holders hereof not more than sixty (60) days nor less than forty-five (45) days prior to the redemption setting forth the date or dates, if any, designated for the redemption of the Bonds, a description of the moneys or Government Obligations so held by it and that the City has been released from its obligations under this Resolution. All moneys and Government Obligations so deposited and held shall be held in trust and applied only to the payment of the principal of, premium, if any, and interest on the Bonds at maturity or upon redemption prior to maturity, as the case may be, as provided in this Section.

The trustee or escrow agent referred to in this Section shall (a) be a bank or trust company permitted by law to offer and offering the required services, (b) be appointed by resolution of the City, and (c) at the time of its appointment and so long as it is serving as such, have at least \$25,000,000 of capital and unimpaired surplus. The same bank or trust company may serve as trustee or escrow agent under this Section and as Bond Registrar so long as it is otherwise eligible to serve in each such capacity.

As used in this Section, the term "Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

27. **Filing with Municipal Finance Division:** If necessary the City Manager, or if there is no City Manager, the Mayor is authorized and directed to:

- (a) apply to the Municipal Finance Division of the Michigan Department of Treasury for approval of the sale of the Bonds;
- (b) file with such application all required supporting material; and
- (c) pay all fees required in connection therewith.

28. **Negotiated Sale - Request for Proposal:** The City hereby determines that in order to save the cost of publication of an official Notice of Sale that it will sell the bonds at a negotiated sale after solicitation of proposals from prospective purchasers by its Financial Consultant. The City's Financial Consultant is authorized to solicit proposals from at least twenty-five prospective purchasers and to circulate a Request for Proposal at least seven days prior to the date fixed for receipt of proposals for the purchase of the Bonds. The Request for Proposal shall be in substantially the form attached to this resolution as Exhibit C with such changes therein as are not inconsistent with this resolution and as are approved by the City Finance Director after conferring with Bond Counsel. The Financial Consultant is hereby designated to act for and on behalf of the City to receive proposals for the purchase of the Bonds and to take all other steps necessary in connection with the sale and delivery thereof.

29. **Bond Anticipation Notes:** Prior to the issuance of the Bonds but after expiration of the referendum period set forth in paragraph 4 above, the City may issue its Bond Anticipation Notes (the "Notes") in an amount not to exceed 50% of the entire issue in anticipation of the proceeds of the Bonds as authorized by Section 413 of Act 34. The Notes shall also be payable from other revenues of the City.

The City may declare the possibility of issuing the Notes which will be used to pay the costs of Capital Improvement Project falling due prior to the issuance of the Bonds.

The Notes, if issued, shall be dated July 1, 2010 or on the first day of any month thereafter in 2010 or 2011 as the City Finance Director shall order.

The Notes, if issued, shall bear interest payable at maturity, semi-annually or at other intervals as the City Finance Director shall order.

The Notes, if issued, shall mature on or before July 1, 2011. An earlier or later maturity date may be established by order of the City Finance Director.

30. Retention of Bond Counsel. The firm of Axe & Ecklund, P.C., attorneys of Grosse Pointe Farms, Michigan, is hereby retained to act as bond counsel for the City in connection with the issuance, sale and delivery of the Bonds.

31. Retention of Financial Consultants. Municipal Financial Consultants Incorporated, Grosse Pointe Farms, Michigan, is hereby retained to act as financial consultant and advisor to the City in connection with the sale and delivery of the Bonds.

32. Conflicting Resolutions. All resolutions and parts of resolutions in conflict with the foregoing are hereby rescinded.

33. Effective Date. This Resolution shall become effective immediately upon its adoption and shall be recorded in the minutes of the City as soon as practicable after adoption.

A roll call vote on the foregoing resolution was then taken, and was as follows:

YES: _____

NO: _____
ABSTAIN: _____

The resolution was declared adopted.

las.r1-por187

STATE OF MICHIGAN)
) ss.
CITY OF PORTAGE)

The undersigned, being the duly qualified and acting Clerk of the City of Portage, hereby certifies that the foregoing is a true and complete copy of a resolution duly adopted by the City of Portage City Council at its _____ meeting held on the _____ day of _____, 2010, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the City. I further certify that the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that minutes of such meeting were kept and will be or have been made available as required thereby.

Clerk, City of Portage

DATED: _____, 2010

las.r1-por187

EXHIBIT A

DESCRIPTION OF PROJECT

Please see attached.

TOTAL COST ESTIMATES

Construction Costs, Acquisition Costs,
Engineering Costs, Equipment Costs,
& Contingency

\$3,850,000

las.r1-por187

PROJECT DESCRIPTION

Park Trail Improvements \$50,000

Activities will include overlaying the asphalt trails at Schrier Park and crack fill, heat treating as needed on other park trails. Woodchip mulch will be renewed on the trails at Schrier and West Lake Nature Preserve. Superdeck will be replaced/upgraded as well as benches along trails.

Softball Field Improvements \$30,000

Replace or repair unsightly or damaged chain link fence and other needed improvements on all eight softball diamonds at South Westnedge and Ramona Parks.

Police Facility Improvements \$50,000

This project will ensure facility integrity and maintain structural, electrical, plumbing, mechanical and heating systems. Project includes guaranteed maintenance program for heating, ventilation and air conditioning, as well as budget estimates for replacement and maintenance of the existing roof and interior building structures. The preventative maintenance upgrades and repairs to police/court building were outlined in the 2006 building infrastructure review conducted by The Design Forum, Inc., dated February 2007. Priority of the listed projects includes replacement of the flat north roof, windows, secondary generator, and flooring.

Mobile Computers \$45,000

Install mobile computers in Fire Department apparatus in FY 2010-2011. Subsequent years will add integrated digital recording and enhanced connectivity to the city network.

West Milham Avenue/South 12th Street Intersection Improvements \$60,000

Improve the traffic safety, flow and efficiency of the West Milham Avenue/South 12th Street intersection by realigning West Milham Avenue and Texas Drive and installing a new traffic signal or constructing a new traffic round-about. The Kalamazoo County Road Commission will serve as the lead agency for the project with the City of Portage contributing its share of the cost of property acquisition, design, construction and construction inspection.

Street Infrastructure Improvements - Portage Public Schools \$165,000

Street infrastructure improvements associated with the planned improvements by Portage Public Schools at Portage Central High School and Portage Northern High. Planned improvements include:

- New traffic signal on South Westnedge Avenue at the main entrance to Portage Central High School;
- Modifications to existing traffic signals on West Milham Avenue in conjunction with Portage Northern High School improvements.

Local Street Reconstruction Program \$165,000

Reconstruction of local streets that were previously strip paved, or where heavy maintenance activities have been applied, that require a greater level of sub-base pavement rehabilitation to ensure long-term serviceability. Projects will include localized storm drainage improvements, curb and gutter or paved shoulder replacement/repair, sidewalk repairs, including installation of Americans with Disabilities Act specified handicap ramps and necessary drive approaches and lawn restoration where required.

Local streets to be reconstructed within this project include Meredith, East Milham, Woody Noll, Brittany Drive, Bayham Lane, Tuscany Drive, Tuscany Court, Wexford Drive, Dakota Avenue, and Merryview Drive.

Bikeway Improvements \$74,000

Seal coat, crack fill and overlay to Lovers Lane, Romence Road Parkway and Shaver Road Bikeway Trails. Improvements to paved shoulder bikeways include overlays, strip patching, sealing and striping.

Sidewalk Improvements - Portage Public Schools \$45,000

City share cost of construction of sidewalks to facilitate pedestrian connections at the new public schools.

- New sidewalk on the east side of South 12th Street from the new elementary school south to Queen Victoria Lane;
- New sidewalk on the west side of Portage Road from Bacon Avenue to Auburn Woods Trail.

New sidewalks allow students to walk to school rather than being bussed. Portage Public Schools has installed sidewalks and the city would share in the project cost.

Senior Center Improvements \$30,000

Fire alarm system upgrade/replacement; Exterior and interior painting and laminate upgrades per 2006 city building maintenance studies.

Barberry Avenue Sanitary Sewer Rehabilitation \$45,000

Rehabilitate sanitary sewer system on Barberry Avenue as necessary to prevent groundwater contamination. A study will be conducted to determine the necessary repairs needed to restore the integrity of the system.

Storm Drainage Improvements Program \$175,000

Address identified flooding problem areas that adversely impact public streets, commercial areas and private properties. Improvements planned under this program include expansion of certain critical retention basins, structural modifications to problem storm retention basins, berming to redirect storm flows, storm sewer improvements, drainage channel regarding, among others.

FY 2010-2011: Burt Drive at Austin Court
Tiffany Avenue at Harvest Lane

South Westnedge Avenue Water Main Replacement \$320,000

Replacement of deteriorating water mains in South Westnedge Avenue from Melody Avenue to East Centre Avenue.

West Milham Avenue, US-131 to Angling Road \$535,000

Install new sanitary sewer appurtenances in West Milham Avenue from US-131 to Angling Road connecting to the existing sewer at Grand Traverse Lane. This project will be done in conjunction with the West Milham Avenue street widening project from Angling Road to South 12th Street.

Ohio Avenue Lift Station Renovation \$60,000

Renovation of the Ohio Avenue Lift Station to include replacement of control panels, pumps, wet well and additional site landscaping. Project also involves investigation of deficiencies that may exist in other sanitary sewer lift stations.

Street Improvements - Portage Public Schools \$205,000

Street infrastructure improvements associated with the planned improvements by Portage Public Schools at Portage Central High School, Portage Northern High School and Lake Center Elementary School. Planned improvements include:

- New traffic signal at East Centre Avenue/Currier Drive intersection;
- New traffic signal on South Westnedge Avenue at the main entrance to Portage Central High School;

- Modifications to existing traffic signals on West Milham Avenue and Portage Road in conjunction with school bond projects.

I-94 Improvements, West City Limits to Portage Road \$1,480,047

Widen I-94 to six lanes within the city limits from 12th Street to Portage Road including reconstruction of existing bridge structures at Oakland Drive, South Westnedge Avenue, Lovers Lane, railroad crossings, and Portage Road. Sound barriers will be installed. Improvements will be done by the Michigan Department of Transportation with the City of Portage paying a local share of cost.

\$350,000 - Fully fund city share of design and construction cost for bridge widening, interchange improvements and widening of I-94 from South 12th Street to east of Oakland Drive.

\$1,000,000 - City share of construction cost for bridge widenings, interchange improvements, and widening of I-94 from east of Oakland Drive to Portage Road.

Equipment Purchases as follows:

2007 15 cubic yard Vactor, Model 2115-824-PD, positive displacement storm/sanitary sewer cleaning truck-\$240,000

2010 GMC Sierra with Utility Dump Body and Lift Gate \$26,850

2010 GMC Sierra \$20,366

2009 John Deere Model 3320 Utility Tractor (new) \$28,737

Las.r1-por187

APPENDIX I

NOTICE OF INTENTION OF THE CITY OF PORTAGE
TO ISSUE NOT TO EXCEED \$3,850,000 IN
CAPITAL IMPROVEMENT BONDS AND
NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON

TO ALL ELECTORS AND TAXPAYERS OF
THE CITY OF PORTAGE:

NOTICE IS HEREBY GIVEN that the City Council of the City of Portage, Michigan (the "City"), has authorized the issuance of not to exceed \$3,850,000 in Capital Improvement Bonds to provide for the acquisition and construction of improvements to the City of Portage located in the City described in Exhibit A attached hereto (the "Capital Improvement Project"). The Bond Resolution provides further that the City will finance all or a portion of the total cost of the Capital Improvement Project by the issuance of one or more series of capital improvement bonds (the "Bonds") pursuant to the provisions of Section 517 of Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34"). The maximum amount of Bonds to be issued in one or more series shall not exceed \$3,850,000, the term of the Bonds shall not exceed 20 years and the Bonds shall bear interest at a rate or rates that will result in a net interest cost of not more than 7% per annum. The maximum Capital Improvement Project cost is estimated at not to exceed \$3,850,000.

FULL FAITH AND CREDIT AND TAXING POWER OF
THE CITY OF PORTAGE WILL BE PLEDGED

NOTICE IS FURTHER GIVEN that in the Bond Resolution the City will obligate itself to make payments to the Bond Holder in amounts sufficient to pay the principal of and interest on the Bonds. The limited tax full faith and credit of the City will be pledged for the making of such bond payments. Pursuant to such pledge of its full faith and credit, the City will be obligated to levy such ad valorem taxes upon all taxable property in the City as shall be necessary to make bond payments, which taxes, however, will be subject to applicable statutory and constitutional limitations on the taxing power of the City. In addition to its obligation to make payments on the Bonds, the City will agree in the Bond Resolution to pay all costs and expenses of operation and maintenance of the Capital Improvement Project and all expenses of the City incidental to the issuance and payment of the Bonds, to the extent such expenses are not payable from the proceeds of the Bonds.

RIGHT TO PETITION FOR REFERENDUM

NOTICE IS FURTHER GIVEN to the electors and taxpayers of the City to inform them of the right to petition for a referendum on the question of issuing the Bonds. The City intends to issue the Bonds without a vote of the electors thereon. If, within 45-days after publication of this notice, a petition for referendum requesting an election on the Bonds, signed by not less than 10% or 15,000 of the registered electors of the City, whichever is less, has been filed with the City Clerk, the Bonds shall not be issued unless and until approved by a majority of the electors of the City voting thereon at a general or special election.

This notice is given by order of the City Council pursuant to Act 34. Further information may be obtained at the office of the City of Portage City Clerk, 7900 S. Westnedge Avenue, Portage, Michigan 49002.

EXHIBIT A

Park Trail Improvements \$50,000

Activities will include overlaying the asphalt trails at Schrier Park and crack fill, heat treating as needed on other park trails. Woodchip mulch will be renewed on the trails at Schrier and West Lake Nature Preserve. Superdeck will be replaced/upgraded as well as benches along trails.

Softball Field Improvements \$30,000

Replace or repair unsightly or damaged chain link fence and other needed improvements on all eight softball diamonds at South Westnedge and Ramona Parks.

Police Facility Improvements \$50,000

This project will ensure facility integrity and maintain structural, electrical, plumbing, mechanical and heating systems. Project includes guaranteed maintenance program for heating, ventilation and air conditioning, as well as budget estimates for replacement and maintenance of the existing roof and interior building structures. The preventative maintenance upgrades and repairs to police/court building were outlines in the 2006 building infrastructure review conducted by The Design Forum, Inc., dated February 2007. Priority of the listed projects includes replacement of the flat north roof, windows, secondary generator, and flooring.

Mobile Computers \$45,000

Install mobile computers in Fire Department apparatus in FY 2010-2011. Subsequent years will add integrated digital recording and enhanced connectivity to the city network.

West Milham Avenue/South 12th Street Intersection Improvements \$60,000

Improve the traffic safety, flow and efficiency of the West Milham Avenue/South 12th Street intersection by realigning West Milham Avenue and Texas Drive and installing a new traffic signal or constructing a new traffic round-about. The Kalamazoo County Road Commission will serve as the lead agency for the project with the City of Portage contributing its share of the cost of property acquisition, design, construction and construction inspection.

Street Infrastructure Improvements - Portage Public Schools \$165,000

Street infrastructure improvements associated with the planned improvements by Portage Public Schools at Portage Central High School and Portage Northern High. Planned improvements include:

- New traffic signal on South Westnedge Avenue at the main entrance to Portage Central High School;
- Modifications to existing traffic signals on West Milham Avenue in conjunction with Portage Northern High School improvements.

Local Street Reconstruction Program \$165,000

Reconstruction of local streets that were previously strip paved, or where heavy maintenance activities have been applied, that require a greater level of sub-base pavement rehabilitation to ensure long-term serviceability. Projects will include localized storm drainage improvements, curb and gutter or paved shoulder replacement/repair, sidewalk repairs, including installation of Americans with Disabilities Act specified handicap ramps and necessary drive approaches and lawn restoration where required.

Local streets to be reconstructed within this project include Meredith, East Milham, Woody Noll, Brittany Drive, Bayham Lane, Tuscany Drive, Tuscany Court, Wexford Drive, Dakota Avenue, and Merryview Drive.

Bikeway Improvements \$74,000

Seal coat, crack fill and overlay to Lovers Lane, Romence Road Parkway and Shaver Road Bikeway Trails. Improvements to paved shoulder bikeways include overlays, strip patching, sealing and striping.

Sidewalk Improvements - Portage Public Schools \$45,000

City share cost of construction of sidewalks to facilitate pedestrian connections at the new public schools.

- New sidewalk on the east side of South 12th Street from the new elementary school south to Queen Victoria Lane;
- New sidewalk on the west side of Portage Road from Bacon Avenue to Auburn Woods Trail.

New sidewalks allow students to walk to school rather than being bussed. Portage Public Schools has installed sidewalks and the city would share in the project cost.

Senior Center Improvements \$30,000

Fire alarm system upgrade/replacement; Exterior and interior painting and laminate upgrades per 2006 city building maintenance studies.

Barberry Avenue Sanitary Sewer Rehabilitation \$45,000

Rehabilitate sanitary sewer system on Barberry Avenue as necessary to prevent groundwater contamination. A study will be conducted to determine the necessary repairs needed to restore the integrity of the system.

Storm Drainage Improvements Program \$175,000

Address identified flooding problem areas that adversely impact public streets, commercial areas and private properties. Improvements planned under this program include expansion of certain critical retention basins, structural modifications to problem storm retention basins, berming to redirect storm flows, storm sewer improvements, drainage channel regarding, among others.

FY 2010-2011: Burt Drive at Austin Court
Tiffany Avenue at Harvest Lane

South Westledge Avenue Water Main Replacement \$320,000

Replacement of deteriorating water mains in South Westledge Avenue from Melody Avenue to East Centre Avenue.

West Milham Avenue, US-131 to Angling Road \$535,000

Install new sanitary sewer appurtenances in West Milham Avenue from US-131 to Angling Road connecting to the existing sewer at Grand Traverse Lane. This project will be done in conjunction with the West Milham Avenue street widening project from Angling Road to South 12th Street.

Ohio Avenue Lift Station Renovation \$60,000

Renovation of the Ohio Avenue Lift Station to include replacement of control panels, pumps, wet well and additional site landscaping. Project also involves investigation of deficiencies that may exist in other sanitary sewer lift stations.

Street Improvements - Portage Public Schools \$205,000

Street infrastructure improvements associated with the planned improvements by Portage Public Schools at Portage Central High School, Portage Northern High School and Lake Center Elementary School. Planned improvements include:

- New traffic signal at East Centre Avenue/Currier Drive intersection;
- New traffic signal on South Westnedge Avenue at the main entrance to Portage Central High School;
- Modifications to existing traffic signals on West Milham Avenue and Portage Road in conjunction with school bond projects.

I-94 Improvements, West City Limits to Portage Road \$1,480,047

Widen I-94 to six lanes within the city limits from 12th Street to Portage Road including reconstruction of existing bridge structures at Oakland Drive, South Westnedge Avenue, Lovers Lane, railroad crossings, and Portage Road. Sound barriers will be installed. Improvements will be done by the Michigan Department of Transportation with the City of Portage paying a local share of cost.

\$350,000 - Fully fund city share of design and construction cost for bridge widening, interchange improvements and widening of I-94 from South 12th Street to east of Oakland Drive.

\$1,000,000 - City share of construction cost for bridge widenings, interchange improvements, and widening of I-94 from east of Oakland Drive to Portage Road.

Equipment Purchases as follows:

2007 15 cubic yard Vactor, Model 2115-824-PD, positive displacement storm/sanitary sewer cleaning truck-\$240,000

2010 GMC Sierra with Utility Dump Body and Lift Gate \$26,850

2010 GMC Sierra \$20,366

2009 John Deere Model 3320 Utility Tractor (new) \$28,737

TOTAL COST ESTIMATES

Construction Costs, Acquisition Costs,
Engineering Costs, Equipment Costs, & Contingency **\$3,850,000**

James R. Hudson
City Clerk

DATED: [Date of Publication]

las.r1-por187

APPENDIX II

FORM OF DECLARATION
OF OFFICIAL INTENT

I, the undersigned _____ of the City of Portage, Michigan, do hereby certify as follows:

1. I am an officer of the City authorized to declare official intent of the City to reimburse expenditures made, prior to the issuance of debt, from the proceeds of said debt.

2. This Declaration relates to the following expenditures (the "Expenditures"):

<u>Amount</u>	<u>General Purpose</u>
---------------	------------------------

3. The Expenditures are with respect to property (the "Property") having:

(A) the following general character, type or purpose:

_____;

(B) the following size, quantity or cost: _____

; and

(C) a reasonably expected economic life at least one (1) year.

4. I understand that a substantial deviation between the above description of the Property for which the Expenditures are being made and the actual Property which is acquired or constructed will invalidate this declaration of official intent with the result that any proceeds of tax-exempt debt which are used to reimburse for the Expenditures will not be deemed to have been expended upon such reimbursement.

5. The City intends to reimburse the Expenditures by incurring taxable or tax-exempt debt (the "Reimbursement Obligations").

6. The expected source of funds that will be used to pay the Expenditures is as follows: _____
_____.

7. The expected source of funds to be used to pay debt service on the Reimbursement Obligation is as follows:

8. This declaration of intent is consistent with the budgetary and financial circumstances of the City as of the date hereof in that there are no funds which are now or are reasonably expected to be, (A) allocated on a long-term basis, (B) reserved, or (C) otherwise available pursuant to the City's budget, to pay the Expenditure.

9. The City does not have a pattern of failure to reimburse expenditures for which official intent has been declared in that at least seventy-five percent (75%) of all expenditures made after _____, for which the City has declared an intent to reimburse from the proceeds of taxable or tax-exempt debt have been, or are expected to be, so reimbursed.

10. I acknowledge that in the event that the City fails to use the proceeds of Reimbursement Obligations issued within three (3) years of the date hereof to reimburse expenditures the same may adversely affect the ability of the City to use the proceeds of tax-exempt obligations in the future to reimburse for expenditures made prior to the issuance of such obligations.

11. I further acknowledge that unless the Expenditures constitute preliminary expenditures (in the nature of architect services and soil testing but excluding land acquisition) for the Property not in excess of ten percent (10%) of the expected cost of the Capital Improvement Project of which the Property constitutes a part, the Expenditures will be paid within not in excess of two (2) years following the date hereof or, as an alternative, this declaration of intent will be renewed.

12. I further acknowledge that it is expected that the proceeds of Reimbursement Obligations will be used for reimbursement of each Expenditure not later than (A) the date that is one (1) year after the date on which such Expenditure is paid, or (B) the date that is one (1) year after the date on which the Property is placed in service.

13. I further acknowledge that I will assure that the allocation referenced in item 12 (A) will be evidenced by an entry on the records of the City maintained with respect to the Reimbursement Obligations, (B) will specifically identify the Expenditure being reimbursed, and (C) on the advice of the appropriate counsel will be sufficient to relieve the allocated proceeds of the Reimbursement Obligations covered by such entry from any restrictions under the relevant legal documents and applicable state law that apply only to unspent proceeds of Reimbursement Obligations.

14. I further acknowledge that I will assure that except as referenced in item 15 the proceeds of the Reimbursement

Obligations that are used to reimburse the Expenditures will not be used, directly or indirectly, (A) to pay debt service on an issue of tax-exempt obligations, (B) to create or increase the balance in a sinking fund established for the payment of debt service on the Reimbursement Obligations or another issue of tax-exempt obligations of the City or to replace funds that have been, are being, or will be so used for reserve or replacement fund purpose, or (C) to reimburse any expenditures or any payment with respect to financing of an expenditure that was originally paid with proceeds of any tax-exempt obligations of the City to any person or entity other than the City.

15. I understand that item 14 does not prohibit the use of those proceeds of the Reimbursement Obligations that are used to reimburse the Expenditures for (A) deposit in a bona fide debt service fund (that is, a fund established to pay debt service on any tax-exempt obligation of the City, other than the Reimbursement Obligation, which is depleted annually except for a reasonable carry over amount not in excess of one (1) year's interest earnings on said fund or one-twelfth (1/12th) of annual debt service), (B) to pay current debt service coming due within the next succeeding one-year period on any tax-exempt obligation of the City, other than the Reimbursement Obligations, or (C) to reimburse for expenditures originally made from the proceeds of a tax-exempt obligation of the City which were not reasonably expected by the City, on the date of issue of such obligation, to be used for such expenditure.

IN WITNESS WHEREOF, the undersigned has executed this declaration of official intent this _____ day of _____, _____.

las.r1-por187

[FORM OF BOND]

UNITED STATES OF AMERICA - STATE OF MICHIGAN -
CITY OF PORTAGE

CITY OF PORTAGE
CAPITAL IMPROVEMENT BOND, SERIES 2010

No. _____

<u>RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF ISSUANCE</u>	<u>CUSIP</u>
		_____ 1, _____	

=====

REGISTERED OWNER:

PRINCIPAL AMOUNT:

=====

FOR VALUE RECEIVED, the City of Portage, County of Kalamazoo (the "City"), State of Michigan, hereby acknowledges itself indebted and promises to pay (but only from the sources referred to herein) on the Maturity Date specified above, unless paid prior thereto as hereinafter provided, to the Registered Owner specified above, or its registered assigns, the Principal Amount specified above upon presentation and surrender of this Bond at the principal corporate trust office of _____, _____, Michigan, as paying agent and bond registrar (the "Bond Registrar"), together with interest thereon to the Registered Owner of this Bond, as shown on the books of the City maintained by the Bond Registrar, on the applicable date of record from the Date of Issuance specified above, or such later date through which interest has been paid, at the Rate per annum specified above, commencing _____ 1, _____, and semiannually thereafter on the first day of _____ and _____ in each year to and including the Maturity Date or earlier redemption of this Bond. The date of record for each payment of interest shall be the 15th day of the month preceding the date such payment is due. Interest is payable by check or draft mailed by the Bond Registrar to the Registered Owner at the address shown on the books of the City maintained by the Bond Registrar on the applicable date of record and shall be calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months.

This Bond is one of a series of bonds of like date and tenor except as to denomination, date of maturity and interest rate, numbered from 1 upwards, aggregating the principal sum of _____ Dollars (\$_____),

issued by the City, pursuant to and in full conformity with the Constitution and Statutes of the State of Michigan and especially Section 517 of Act No. 34, Public Acts of Michigan, 2001, as amended (the "Act"), for the purpose of

which is located in _____, Michigan (the "Capital Improvement Project").

This Bond and the series of which this is one are payable as follows: _____

which are hereby irrevocably pledged for the payment of the principal of, premium, if any, and interest on the bonds. To secure payment of the principal of, premium, if any, and interest on the bonds. The _____ pledged to the payment of the principal of, premium, if any, and interest on the bonds shall be and remain subject to the statutory lien until the principal of, premium, if any, and interest on the bonds have been paid in full. The limited tax full faith and credit of the City has been pledged for the making of such payments, and the City is obligated to levy ad valorem taxes in such amounts as shall be necessary for the making of such cash rental payments. HOWEVER, NO TAXES MAY BE LEVIED IN EXCESS OF CONSTITUTIONAL AND STATUTORY LIMITS.

Bonds maturing prior to _____ 1, _____ shall not be subject to redemption prior to maturity. Bonds maturing on or after _____ 1, _____ shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part, on any interest payment date on or after _____ 1, _____. Bonds so called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitutes an authorized denomination. In the event that less than the entire principal amount of a bond is called for redemption, upon surrender of the bond to the Bond Registrar, the Bond Registrar shall authenticate and deliver to the Registered Owner of the bond a new bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption, if different than otherwise provided in the resolution authorizing the issuance of the bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Bonds so

called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Bond Registrar to redeem the same.

This Bond shall be transferable on the books of the City maintained by the Bond Registrar upon surrender of this Bond to the Bond Registrar together with an assignment executed by the Registered Owner or his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon receipt of a properly assigned bond, the Bond Registrar shall authenticate and deliver a new bond or bonds in authorized denominations in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees.

This Bond may likewise be exchanged for one or more other bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the bond or bonds being exchanged. Such exchange shall be effected by surrender of the bond to be exchanged to the Bond Registrar with written instructions signed by the Registered Owner of the bond or his or her attorney in form satisfactory to the Bond Registrar. Upon receipt of a bond with proper written instructions the Bond Registrar shall authenticate and deliver a new bond or bonds to the Registered Owner of the bond or his or her properly designated transferee or transferees or attorney.

The Bond Registrar is not required to honor any transfer or exchange of bonds during the fifteen (15) days preceding an interest payment date. Any service charge made by the Bond Registrar for any such registration, transfer or exchange shall be paid for by the City (subject, however, to reimbursement by the City pursuant to the Lease), unless otherwise agreed upon by the City and the Bond Registrar. The Bond Registrar may, however, require payment by a bondholder of a sum sufficient to cover any tax or other governmental charge payable in connection with any such registration, transfer or exchange.

This Bond and the bonds of this series have ___ been designated as "qualified tax-exempt obligations" for purposes of Paragraph 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit until the certificate of authentication hereon has been duly executed by the Bond Registrar, as authenticating agent.

It is hereby certified, recited and declared that all things, conditions and acts required to exist, happen and be performed precedent to and in connection with the issuance of this Bond and the other bonds of this series, existed, have happened and have been performed in due time, form and manner as required by the Constitution and Statutes of the State of Michigan, and that the total indebtedness of the City, including

this series of bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Portage, State of Michigan by its City Council has caused this Bond to be executed in its name with the facsimile signatures of its Mayor and its Clerk and has caused a facsimile of its seal to be affixed hereto, and has caused this Bond to be authenticated by the Bond Registrar, as the City's authenticating agent, all as of the Date of Issuance set forth above.

CITY OF PORTAGE

By: Mayor

[SEAL]

By: Clerk

DATE OF AUTHENTICATION:

BOND REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the series of bonds designated "City of Portage Capital Improvement Bonds, Series 2010."

By: _____, Michigan
as Bond Registrar and Authenticating Agent
Authorized Representative

CERTIFICATE

The above is a true copy of the legal opinion of Axe & Ecklund, P.C., a true copy of which was delivered on the date of delivery of the Bonds to which it relates.

BY: Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ this Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer this Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature:

Notice: The signature(s) to this assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

The transfer agent will not effect transfer of this Bond unless the information concerning the transferee requested below is provided:

Name and Address: _____

(Include information for all joint owners if bond is held by joint account)

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF TRANSFEREE

(Insert number for first named transferee if held by joint account)

las.r1-por187

[FORM OF REQUEST FOR PROPOSAL]

§ _____

CITY OF PORTAGE, STATE OF MICHIGAN

CITY OF PORTAGE
CAPITAL IMPROVEMENT BONDS, SERIES 2010

SEALED OR ELECTRONIC PROPOSALS: Sealed written proposals for the purchase of the bonds described herein (the "Bonds") will be received by the undersigned on behalf of the City of Portage (the "City"), at the office of the City Finance Director, 7900 South Westnedge Ave., Portage, Michigan, 49002 on _____, _____, until ____:____.m., Eastern _____ Time, at which time and place the proposals will be publicly opened and read.

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

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

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

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

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

BOND DETAILS: The Bonds will be fully registered bonds, both as to principal and interest, in any one or more denominations of \$5,000 or a multiple of \$5,000, not exceeding the aggregate principal amount for each maturity, dated _____ 1, _____, numbered from 1 upwards and will bear interest from their date

of issuance payable on _____ 1, _____ and semiannually thereafter on each _____ 1 and _____ 1 until maturity. The Bonds will mature on _____ 1 of each year as follows:

<u>YEAR</u>	<u>PRINCIPAL</u>	<u>YEAR</u>	<u>PRINCIPAL</u>
-------------	------------------	-------------	------------------

PRIOR REDEMPTION: Bonds maturing prior to _____ 1, _____ shall not be subject to redemption prior to maturity. Bonds maturing on or after _____ 1, _____ shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part, on any interest payment date on or after _____ 1, _____. Bonds so called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitutes an authorized denomination. In the event that less than the entire principal amount of a bond is called for redemption, upon surrender of the bond to the Bond Registrar, the Bond Registrar shall authenticate and deliver to the Registered Owner of the bond a new bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption, if different than otherwise provided in the resolution authorizing the issuance of the bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Bond Registrar to redeem the same.

INTEREST RATE AND PROPOSAL DETAILS: The Bonds shall bear interest at a rate or rates not exceeding ___% per annum, to be fixed by the proposals therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. THE INTEREST RATE BORNE BY BONDS MATURING IN ANY YEAR SHALL NOT BE AT A RATE LOWER THAN THE RATE BORNE BY BONDS MATURING IN ANY PRECEDING YEAR. No proposal for the purchase of less than all of the Bonds, at a price less than ___% of their par value or at an interest rate or rates that will result in a net interest cost of more than ___% per annum, will be considered.

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

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

BOND REGISTRAR, PAYING AGENT AND DATE OF RECORD:

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

PURPOSE AND SECURITY: The Bonds are to be issued pursuant to Section 517 of Act No. 34, Public Acts of Michigan, 2001, as amended (the "Act"), for the purpose of acquiring and constructing improvements to the City of Portage located in the City of Portage, Michigan (the "Capital Improvement Project"). The City agrees to pledge for the repayment of the Bonds sufficient amounts of City taxes levied each year provided that

the amount of taxes necessary to pay the principal of and interest on the Bonds, together with the other taxes levied for the same year, shall not exceed the limit authorized by law and the Michigan Constitution.

BOND INSURANCE AT PURCHASER'S OPTION: If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the proposer/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Bonds. Any increased costs of issuance of the Bonds resulting from such purchase of insurance shall be paid by the purchaser. Any additional rating agency fees shall be the responsibility of the purchaser. FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE BONDS FROM THE CITY.

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a wire transfer in an amount equal to 2% (\$_____) of the face amount of the Bonds, and payable to the order of the City will be required of the successful proposer as a guarantee of good faith on the part of the proposer, to be forfeited as liquidated damages if such proposal be accepted and the proposer fails to take up and pay for the Bonds. If a check is used, it must accompany each proposal. If a wire transfer is used, the successful proposer is required to wire the good faith deposit not later than Noon, prevailing Eastern Time, on the next business day following the sale using the wire instructions provided by Municipal Financial Consultants Incorporated. The good faith deposit will be applied to the purchase price of the Bonds. No interest shall be allowed on the good faith checks, and checks of each unsuccessful proposer will be promptly returned to such proposer's representative or by registered mail. The good faith check of the successful proposer will be cashed immediately, in which event, payment of the balance of the purchase price of the Bonds shall be made at the closing.

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

LEGAL OPINION: Proposals shall be conditioned upon the approving opinion of Axe & Ecklund, P.C., Grosse Pointe Farms, Michigan (the "Bond Counsel"), a copy of which will be printed on the reverse side of each bond and the original of which will be furnished without expense to the purchaser of the Bonds at

the delivery thereof. The fees of Bond Counsel for its services in connection with such approving opinion are expected to be paid from Bond Proceeds. Except to the extent necessary to issue such opinion and as described in the Official Statement, Bond Counsel has not been requested to examine or review, and has not examined or reviewed, any financial documents, statements or other materials that have been or may be furnished in connection with the authorization, marketing or issuance of the Bonds and, therefore, has not expressed and will not express an opinion with respect to the accuracy or completeness of the Official Statement or any such financial documents, statements or materials.

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

THE BONDS HAVE _____ BEEN DESIGNATED AS "QUALIFIED TAX-EXEMPT OBLIGATIONS" WITHIN THE MEANING OF SECTION 265 (b) (3) OF THE INTERNAL REVENUE CODE OF 1986.

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

DELIVERY OF BONDS: The City will furnish Bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the Bonds, will be delivered at the time of

delivery of the Bonds. If the Bonds are not tendered for delivery by twelve o'clock noon, Eastern Time, on the 45th day following the date of sale or the first business day thereafter if the 45th day is not a business day, the successful proposer may on that day, or any time thereafter until delivery of the Bonds, withdraw its proposal by serving written notice of cancellation on the undersigned, in which event the City shall promptly return the good faith deposit. Payment for the Bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the Bonds shall be paid by the purchaser at the time of delivery. Unless the purchaser of the Bonds furnishes the Bond Registrar with a list of names and denominations in which it wishes to have the Bonds issued at least ten (10) business days before delivery of the Bonds, the Bonds will be delivered in the form of one bond for each maturity, registered in the name of the purchaser. **Notwithstanding the foregoing, the successful proposer will be required to pay for and accept delivery of the Bonds on**

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

OFFICIAL STATEMENT:

Hard Copy

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

Internet

In addition, the City has authorized the preparation and distribution of a Nearly Final Official Statement containing information relating to the Bonds via the Internet. The Nearly

Final Official Statement can be viewed and downloaded at www.i-dealprospectus.com/PDF.asp?doc= or at www.tm3.com.

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

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

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

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

THE RIGHT IS RESERVED TO REJECT ANY OR ALL PROPOSALS.

ENVELOPES: Envelopes containing the proposals should be plainly marked "Proposal for City of Portage Capital Improvement Bonds, Series 2010."

Daniel Foecking
Finance Director,
City of Portage

las.r1-por187

CITY OF PORTAGE

At a _____ meeting of the City Council of the City of Portage held at 7900 South Westnedge Ave., Portage, Michigan, 49002 on _____, 2010 at __:___.m. Eastern Daylight Savings Time, there were:

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____ and seconded by _____.

RESOLUTION APPROVING THE UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE BY THE CITY OF PORTAGE FOR THE CAPITAL IMPROVEMENT BONDS, SERIES 2010

WHEREAS, the City of Portage (the "City") by resolution of its Council has approved the issuance of the City of Portage Capital Improvement Bonds, Series 2010 in the principal amount of \$3,850,000 (the "Bonds"); and

WHEREAS, Bond Counsel, in order to comply with federal securities regulations, has prepared this resolution.

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY OF PORTAGE as follows:

1. This Council, for and on behalf of the City of Portage, hereby covenants and agrees, for the benefit of the beneficial owners of the Bonds to be issued by the City of Portage for the Project, to enter into a written undertaking (the "Undertaking") required by Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be substantially in the form attached to the official statement for the Bonds. The Undertaking shall be enforceable by the beneficial owners of the Bonds or by the Underwriter on behalf of such beneficial owners (provided that the Underwriter's right to enforce the provisions of the Undertaking shall be limited to a right to obtain specific enforcement of the City's obligations hereunder and under the Undertaking), and any failure by the City to comply with the provisions of the Undertaking shall not be deemed a default with respect to the Bonds.

The Mayor, City Finance Director, City Clerk and/or other officer of the City charged with the responsibility for issuing the Bonds shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the terms of the City's Undertaking.

2. The Disclosure Certificate as attached to the official statement for the Bonds is hereby approved as is the execution thereof by the designated officials.

3. All resolutions, or portions thereof, insofar as they may be in conflict with the foregoing, are hereby rescinded.

A vote on the foregoing resolution was taken and was as follows:

YES: _____

NO: _____

ABSTAIN: _____

CERTIFICATION

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

Clerk, City of Portage

SEAL

las.rc-por187

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 9, 2010

FROM: Maurice S. Evans, City Manager

MS (for M. Evans)

SUBJECT: Contract Renewal for Information Technology Services Management

ACTION RECOMMENDED: That City Council accept the annual renewal agreement of SARCOM, Inc., to continue to provide information technology services management on behalf of the City of Portage for a period of five years at a negotiated price of \$2,344,826 and authorize the City Manager to execute all documents related to this action on behalf of the city.

The Purchasing Ordinance for the City of Portage establishes guidelines for the acquisition of goods and services associated with the provision of city service. Clear standards are articulated for the purchase of materials and supplies and the level of expenditures at which quotations or sealed bids are to be secured. The Purchasing Ordinance is also clear that “bidding will not be required in respect to contracts for professional services.” Nevertheless, where initial professional service contracts are proposed the City Administration will routinely request proposals for service from interested firms to ensure competitively priced service by the best qualified professional staff. Once contractual relationships are established, an evaluation of contract performance is undertaken to consider performance and service delivery over the course of the agreement. In those instances where service expectations or contract responsibilities have not been met, proposals will again be sought. In those instances where service provision and contractual obligations have been met, most generally current service providers will be given the opportunity for contract renewal.

The city invests considerably upon the award of most professional services contracts in assisting the professional firm to become knowledgeable and proficient concerning city operating practices, systems and/or historical issues and data that may impact upon the service being delivered. As a result, added value is associated with many longer term professional service contracts that generally promote continuing contractual relationships unless service issues or pricing concerns develop. Clearly, institutional memory and continuity of service in these professional service areas represent underlying value that is considered with each renewal opportunity. This is especially true in major professional service contract relationships such as those the city has established with United Water and SARCOM.

In specific regard to the city contract for Information Technology Service Management, in 2000 the City of Portage made the decision to outsource information technology (IT) services as a result of identified savings and needed expertise in maintaining a growing technology infrastructure. Through a solicitation of proposals, SARCOM, Incorporated, was selected as

offering the city the best IT management services proposal at that time. As a result of continued savings and excellent services, the city entered a second five-year agreement with SARCOM in 2005, which expires in July 2010 but provides for extension of the contract for a period not to exceed a total of ten years (i.e., for an additional five years to 2015).

City staff conducted a thorough evaluation to determine if extension of the current SARCOM contract is warranted. Key indicators were evaluated such as compensation rates; the scope and proficiency of services provided; technical expertise of onsite staff and customer satisfaction. Based on the key indicators evaluated it was determined that SARCOM continues to provide the city with exceptional and cost-effective IT services and remains a valued partner in planning for future IT needs.

At the time of the initial contract award in 2000, a cost-of-service analysis was performed that identified a five-year financial benefit to the city of approximately \$675,000 by outsourcing the same level of IT services and staff with SARCOM. Over the ten years since the original contract award in 2000, SARCOM contract pricing has been limited to an average annual increase of 0.5 percent. During this same ten-year period, the number of applications supported by SARCOM has more than doubled to 400+ without any increase in staffing. SARCOM has also provided the city with an extensive knowledge base of various IT specialists, as opposed to the city maintaining a comprehensive and expensive in-house staff for this purpose. The city also continues to benefit through the numerous SARCOM partnerships, which provide the city with significant discounts on technology hardware and software. SARCOM has successfully implemented city initiatives designed to cut organizational costs such as server virtualization, development of low-cost open source programs and implementation of power conservation "green" technologies and policies. As a final point, city staff continue to rate IT Department service delivery at or above 99 percent.

Given the importance of IT operations and the favorable evaluation of the current relationship, contract renewal negotiations were initiated early to ensure sufficient time for the city to establish an acceptable agreement. Section 14.1 of the current contract with SARCOM indicates that the contract may be extended by mutual agreement in annual increments, for a renewal period of one year each, provided that 1) funds are available and approved, 2) that the Contractor has established a satisfactory record of performance, and 3) the renewal proposal is satisfactory to both the Contractor and the city. Accordingly, city staff has negotiated a 2010-2015 annual renewal agreement that provides for a five-year cost that reflects no increase over the current five-year contract price; no increase in compensation rates over the term of the proposed agreement; no reduction of service levels and the ability to adjust compensation rates annually based on the city budgetary requirements. The average annual price of approximately \$468,965 over the five-year period represents an actual cost reduction of over \$16,000 (3.3 percent) from the current year contract price of \$485,000.

As the IT needs of the city continue to grow, having an experienced national technology solutions partner with broad skill sets and capabilities is crucial. Funds are identified in the fiscal year 2010-2011 proposed budget to support SARCOM IT services. It is recommended that City Council accept the Information Services Management annual renewal agreement of SARCOM, Incorporated at a total five-year cost of \$2,344,826.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 8, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Garden Lane Water Treatment Plant Operation and Maintenance

ACTION RECOMMENDED: That City Council amend the current (third) five-year contract with United Water for the provision of utility management and operation services from March 1, 2007 through February 29, 2012 to include operation and maintenance of the Garden Lane Water Treatment Plant in the not-to-exceed annual amount of \$171,016 and authorize the City Manager to execute all documents related to this action on behalf of the city.

On January 23, 2006, new federal rules were promulgated regarding arsenic levels in public drinking water. The unfunded federally mandated rule established a new arsenic maximum contaminant level (MCL) of 0.010 milligrams per liter (10 parts per billion) for public drinking water. By comparison, the previous standard for arsenic in drinking water was 0.050 milligrams per liter. The new standard is a five-fold reduction in the MCL for arsenic and is having a dramatic impact on water utilities across the country. Arsenic in groundwater occurs naturally and has been historically low in the Kalamazoo/Portage aquifer except for a few isolated wells. However, several of the Garden Lane Wells (No. 1, 2 and 3) have shown significant increases in arsenic levels in recent years.

On December 16, 2008, City Council awarded a construction contract in the amount of \$4,444,216 to Adams Building Contractors for the Garden Lane Water Treatment Plant. The treatment plant is now substantially complete. United Water has submitted a proposal to provide all operation, maintenance, chemical and administrative services needed for operation of the Garden Lane Water Treatment Plant in an annual not-to-exceed amount of \$171,016. Additional operation and maintenance cost of the treatment plant was evaluated as part of the design process and funds were established in the 2009-2010 Utility Budget for these anticipated costs. The great majority of the proposed cost is for chemical treatment. United Water will bill the city monthly for cost of services and chemicals actually utilized. City staff has reviewed this cost proposal and believes it to be fair and reasonable.

It is important that the city water and sanitary sewer utility be operated in the most efficient, productive and responsible manner and at the lowest cost to rate payers. As has been experienced over the thirteen-year partnership, United Water (formerly Earth Tech, Inc) has fulfilled this responsibility, which has resulted in significant financial, service quality and

infrastructure benefits to the utility rate payers of this community. It is recommended that City Council amend the current (third) five-year contract with United Water to include operation and maintenance of the Garden Lane Water Treatment Plant in the annual not-to-exceed amount of \$171,016 and authorize the City Manager to execute all documents related to this action.

Attachment



March 25, 2010

Mr. Robert Luders
Financial Services Director
City of Portage
7900 South Westnedge
Portage, Michigan 49002

**Subject: Operation and Maintenance Services for the Garden Lane Well House #4 and
Iron / Arsenic Removal Water Treatment Plant**

Dear Mr. Luders:

United Water is pleased to provide the City of Portage with the following proposal for the operation and maintenance services of the newly constructed #4 Garden Lane Well and the Iron / Arsenic Removal Water Treatment Plant.

In accordance with the existing Operations and Maintenance Agreement, Section 10.7 Extra Work – United Water will provide the following services outlined in the attached description of services. The City of Portage will compensate United Water for such services at actual cost plus a single mark up for overhead and profit of 10%, pursuant to Section 10.7 of the Agreement.

United Water is prepared to begin providing these services immediately upon receipt of written authorization from the City of Portage.

Please feel free to contact us if you have any questions or comments. Again, thank you for this opportunity to present our proposal.

Sincerely,

Kimberly Reeder
Area Manager

Estimated Cost Assumptions:

City of Portage Annual Service Fee (12 months) with Water Treatment Plant

	<u>Annual</u>	<u>Monthly</u>
2010 Base Fee (2010 fee includes 1.5% CPI adjustment)	\$1,968,039.91	\$164,003.33
New WTP Fee (Estimated Time/Materials/Management Fee)	<u>\$ 171,015.90</u>	<u>\$ 14,251.33</u>
2010 Proposed Fee	\$2,139,055.81	\$178,254.65

2010 Contract Year WTP Contract Expenses

1. Startup	\$ 3,461
1. Annual Maintenance Estimate	\$ 11,400
2. Annual Sludge Estimate	\$ 3,638
3. Annual Chemical Estimate	\$ 133,280
4. Annual Sampling & Testing Estimate	\$ 3,690
Total Estimated Expenses (12 MONTH)	\$ 155,469
Total Estimated Annual Service Fee (12 MONTH Not to Exceed)	\$ 171,016

Labor supplied by current contract agreement except as needed for Specialized Labor / Extra Work / Alarms / Overtime

1. Startup:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Sludge Profile • Hypochlorite Digital Titration • Deionized Water • Logbooks • Chlorine Test Kit - Hi Range Free & Total • Chlorine Standards - Hi Range • Chlorine Reagent - Hi Range Free • Chlorine Reagent - Hi Range Total • Sample Collection Bottles • Trash Receptacles | <ul style="list-style-type: none"> • Langlier Test Kit • Iron Test Kit • Sample Bottle Tray • Fluoride Test Kit • Fluoride Reagent • Fluoride Standards • Maintenance Wipes • Wipe Mounts |
|--|---|

2. Maintenance:

- | | |
|---|---|
| <ul style="list-style-type: none"> • Consumables • Electrical & Instrumentation • Lab Supplies • Lubricants | <ul style="list-style-type: none"> • Mechanical • Metering • Plumbing • Tools |
|---|---|

3. Sludge:

• Estimated Water Production=	3000	gpm	
• Mi State Fee =	\$ 0.21	ton	
• Fuel Surcharge (DOE) 5%=	\$ 1.33		
• Environmental Fee 6%=	\$ 1.67		
• Assumed landfill fee =	\$ 26.50	wet ton	(3 ton min.)
• Assumed hauling fee =	\$ 36.10	wet ton	(\$50 delivery/\$311 per 12yd container)
• Assumed total fee =	\$ 65.80	wet ton	
• Annual Disposal Fee=	\$ 3,268		
• Sludge Cost per MG=	\$ 2.07		
• One Time Profile Setup=	\$ 50.00		

4. Chemicals:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Sodium Hypochlorite • Sodium Bi-Sulfite • Hydrofluosilicic Acid (Fluoride) • Sludge Polymer | <ul style="list-style-type: none"> • Carbon Dioxide • Laboratory Reagents |
|--|---|

5. **Sampling and Testing:**

- Partial Chemistry
- Volatile Organic Chemicals
- Metals
- Arsenic
- Synthetic Organic Chemicals - Pesticides
- Synthetic organic Chemicals - Herbicides
- Synthetic Organic Chemicals – Carbamates
- Gross Alpha Radiological
- Radium 226 & Radium 228
- Bacteriological

6. **Labor (as needed for WTP Extra Work / Alarms / Overtime):**

- Operations Supervisor \$ 45.00/ hr \$67.50/ hr OT
- Operations Specialist \$ 31.00/ hr \$46.50/ hr OT
- Specialized Labor (Rates applied as required)

Operational Assumptions:

<u>Wells at the WTP</u>	<u>WTP Flow (MGD)</u>	<u>Cl2 Dosage (mg/l)</u>	<u>Daily Cost</u>	<u>Fluoride Dosage (mg/l)</u>	<u>Daily Cost</u>	<u>Sodium Bi-Sulfite Dosage</u>	<u>Daily Cost</u>	<u>Polymer Dosage</u>	<u>Cost</u>	<u>Daily Cost</u>	<u>Annual Cost</u>
GL3	1.29	8	\$ 69	0.80	\$ 3	0.25	\$ 4	0.01	\$ 0.0	\$ 76	\$ 27,822
GL4	1.43	20	\$ 191	0.80	\$ 4	0.25	\$ 5	0.01	\$ 0.0	\$ 161	\$ 72,661
GL1	1.07	13	\$ 93	0.80	\$ 3	1.00	\$ 14	1.00	\$ 0.1	\$ 167	\$ 40,129
GL2	1.71	20	\$ 229	0.80	\$ 4	1.00	\$ 23	1.00	\$ 0.1	\$ 210	\$ 93,429
Total	5.50	13	\$ 462	0.80	\$ 14	0.25	\$ 46	2.02	\$ 0.2	\$ 691	\$ 234,041

Note: Fluoride cost estimates are already included in the existing contract. The estimated dosage and fluoride expenses are included for reference only. (Est. \$5,114)

<u>Required Wells</u>	<u>System Flow (MGD)</u>	<u>Cl2 Dosage (mg/l)</u>	<u>Cost</u>	<u>Fl Dosage (mg/l)</u>	<u>Cost</u>	<u>PO Dosage (mg/l)</u>	<u>Cost</u>	<u>Total Cost</u>	<u>Annual Cost</u>
Per I & II	2.00	1.80	\$ 55.24	0.65	\$ 4.90	1.97	\$ 67.36	\$ 127.51	\$ 46,540.03
Wed	0.71	1.61	\$ 17.65	0.87	\$ 2.34	0.93	\$ 11.36	\$ 31.35	\$ 11,441.77
Win	0.79	1.60	\$ 19.29	0.70	\$ 2.07	0.98	\$ 13.16	\$ 34.53	\$ 12,603.31
WF I & II	1.36	1.78	\$ 37.07	0.75	\$ 3.84	1.80	\$ 41.77	\$ 82.67	\$ 30,175.68
Total	4.86	6.79	\$ 129.25	2.97	\$ 13.15	5.68	\$ 133.65	\$ 276.06	\$ 100,760.80

Additional wells will be required to operate in the base system due to seasonal demand and a history of low pressure in remote areas of the City.

**WATER TREATMENT PLANT
OPERATIONS AND MAINTENANCE
DESCRIPTION OF SERVICES**

United Water Responsibilities

1. United Water shall provide labor and supplies for the daily operation and maintenance of the City's water treatment plant (WTP), which includes:
 - a. Hands-on daily operation of the water treatment plant. United Water shall operate the plant to the extent of its permitted capacity, design capabilities and consistent with industry standards. Except as prevented by Uncontrollable Circumstances, United Water shall operate the plant during the term of this Agreement on a daily basis. United Water shall respond to routine plant alarms and emergencies on a 24 hour, 7 days per week basis. It is further understood by United Water that any process modification or alteration implemented by United Water without prior approval or consent by the City is done at its own risk.
 - b. Provide a properly certified Water Operator and manage the treatment plant as required by the Michigan Department of Environmental Quality.
 - c. Maintain an updated inventory of hazardous chemicals and submit the SARA Title III Tier Two Report, as applicable, to the MDNRE by March 1st of each year.
 - d. Maintain an electronic maintenance management system to ensure equipment is properly maintained and at a minimum cost, the program and maintenance activities will include:
 - Preventive Maintenance Tasks as recommended by the equipments O&M manuals
 - Documentation of all Corrective and Emergency Repairs
 - Provide historical trending
 - Documentation of parts used in completing Preventive, Corrective, and Emergency Tasks
 - e. Preparing in a timely manner reports and correspondence required by the City and/or federal, state, and local regulatory agencies.
 - f. Serving as the City's advisor and liaison with regulatory agencies in areas related to the operation and compliance of the treatment plant
 - g. Conduct laboratory analysis for all parameters required within the current monitoring plan and for process control parameters in accordance with standard practices
 - h. Make recommendations for emergency generator fuel needs; the City will be financially responsible for fuel necessary to operate the facility's generator
2. United Water will apply aggressive process control techniques and maintenance management practices to ensure that the operation and maintenance of the treatment plant is conducted in a well managed, professional manner. The City will be kept informed of the status and in control of our activities at the plant at all times. This will be accomplished by:
 - a. Providing a properly certified local Project Manager assigned to this project who will report directly to the City's assigned contract administrator.
 - b. Provide a monthly report containing a general status of the previous month's operation and maintenance activities. The monthly report shall be submitted to the City prior to the 10th day of each month.

Operations

1. Daily Rounds and Readings.

United Water will perform rounds and record equipment readings seven days per week. Rounds consist of checking treatment equipment for proper operation and looking or listening for anything unusual. Daily readings consist of recording plant flow, backwash cycles, chemical residuals, tank levels, and chemical usage on daily bench sheets.

2. Chemical Feed Rates.

United Water staff will adjust chemical feed rates based on laboratory data, plant flow, and MDNRE/EPA limits in an effort to control operating costs.

3. Iron/Arsenic Sludge.

United Water staff will conduct sludge pressing campaigns as needed to eliminate the sludge stored in the backwash tank. Sludge campaigns consist of operating the polymer feed equipment and the plate & frame press to dewater the sludge. The dried cake will then be transferred to a roll-off dumpster for transport to the landfill.

4. Daily Log Book Entry.

United Water staff will maintain a daily log of tasks performed, unusual events, high flows, plant alarms and emergencies that occurred during the day.

Laboratory/Sampling

United Water will perform all routine and required laboratory sampling, monitoring, testing, and analyses required for effective process control and regulatory reporting requirements. Some parameters will be sent to a contract lab for analysis, as needed.

1. Grab Sample Collection. Raw & finished water iron (1x week), finished water free & total chlorine residuals (7x week), raw water fluoride residual (1x week), finished water fluoride residual (7x week), raw and finished water coliform bacteria (1x month) and raw & finished water arsenic (1x month).
2. Annual Monitoring Plan required samples will be collected as listed on the MDNRE monitoring schedule as received each January from the Southwest District Office located in Kalamazoo.
3. Chlorine Meter Calibration. The Chlorine meter is calibrated on site prior to sample analysis each day. The online analyzer will be used as a cross check residual.
4. Fluoride Meter Calibration. The Fluoride meter is calibrated on site prior to sample analysis each day.

Equipment Maintenance

1. Preventive Maintenance

United Water will utilize a Computerized Maintenance Management System (CMMS) to manage preventive maintenance at the facility. This program is tailored based on the maintenance needs specified within each equipments Operations and Maintenance manual in conjunction with best practices. Preventive Maintenance consists mainly of: Lubrication, oil level checks, oil changes, temperature checks, pump inspections, and test run of equipment.

2. Routine Maintenance

Routine Maintenance includes, but is not limited to, grounds keeping, painting and building maintenance and other like maintenance activities associated with normal, anticipated wear of physical facilities. It also includes but is not limited to routine activities such as replacement of worn belts, replacement of burned out light bulbs, etc., which occur on an anticipated but non-scheduled basis.

3. Corrective Maintenance. Maintenance consisting of such things as the repair of or replacement with like kind equipment due to a failure. Failures of equipment are typically caused by excessive or unusual wear, or past maintenance deficiencies. Corrective Maintenance activities do not include repairs which alter, modify or otherwise functionally change the operation of the equipment or major activities which would greatly extend or refurbish equipment significantly beyond its normal engineering useful life.

Process Control Program

To assist in process optimization, and to assure the treatment plant is operated to the extent of its capability, operating and laboratory data will be reviewed daily so that informed decisions can be made to adjust the system. Performance will be continually evaluated so that adjustments to improve finished water quality can be made in a timely manner.

Laboratory Quality Assurance/Quality Control (QA/QC)

United Water will perform all routine and required laboratory sampling, monitoring, testing, and analyses required for effective process control. United Water will provide all required regulatory sampling and the testing will be performed by a qualified outside laboratory. We have implemented and will continue managing a comprehensive laboratory quality assurance/quality control program consistent with the Michigan Department of Environmental Quality (MDEQ) and United States Environmental Protection Agency (U.S. EPA) specifications.

Emergency Response

United Water will continuously review and update the facilities emergency response plan and Standard Operating Procedures to ensure we are prepared to respond to all potential emergency situations. We use these tools to provide training for our employees. Nearby United Water staff can provide additional support staff when necessary to guarantee continued plant operation. United Water staff carries cell phones and or pagers for immediate contact.

Safety

United Water will facilitate and manage Health and Safety functions for all employees and subcontractors to maintain a safe work place. In addition, safety procedures such as emergency response plans, equipment lock-out procedures, confined space entry, and other safety and training programs will be reviewed annually and updated as appropriate.

Since safety must be a continuous part of every employee's daily activities, it is integrated into every part of our training program. In addition to the specialized courses, safety tips, warnings, and recommendations will be common elements of Standard Operating Procedures. Special maintenance training will also be held as assurance that proper tools and techniques are used at all times to avoid accidents and injuries.

Resident Complaints

All resident complaints received by the City regarding the water treatment plant can be forwarded to the United Water Project Manager. All complaints will be prioritized and responded to in a professional manner generally within 24 hours.

Purchasing

United Water proposes that all purchases of services and goods made as part of this description of services will be administered by United Water. This approach reduces administrative burdens on the city and its staff. Our firm can purchase without restrictive, long-term contract agreements, providing for quick response to needs. We continually seek out the best price and best quality products in order to provide you with quality cost-effective services. However, we remain open to the City purchasing certain services and goods directly.

Management Programs

United Water will provide innovative, up-to-date management programs that we have developed over the course of doing business. These programs ensure sound O&M practices for quality operation and client communications. Our programs and technical personnel place heavy emphasis on financial management and continuous communications with our clients and regulatory agencies. In addition to our typical management programs, we have customized our approach to address the specific needs of the City of Portage.

Client Communications

Communication between United Water and the City will be an ongoing occurrence. Recordkeeping and reporting are important ways of enabling our clients to make knowledgeable decisions regarding capital replacements, repairs, O&M, and other spending matters. United Water' Management Reporting System is designed to keep the client informed about the operations of the wastewater facilities.

1. **Monthly Operating Reports.** United Water will prepare and submit comprehensive written reports to the city detailing operation and maintenance activities on a monthly basis. These reports will be submitted in a timely manner so that they can be distributed for the City's regularly scheduled twice monthly council meetings. We will keep you involved and thoroughly informed of the status of the facilities. At a minimum, we include a summary of the plants' performance, finished water production totals, status of flow and loadings versus baselines established, operational expenditures, status of maintenance, maintenance expenditures, regulatory issues and all other pertinent information. We, will also, submit additional reports for special activities such as capital improvement recommendations, regulatory agency correspondence, and plant improvements.
2. **Annual Reports.** On an annual basis, United Water will submit a report showing in detail what occurred in the previous year regarding operations, management, and financial matters.
3. United Water remains flexible to tailor our reports to meet the needs of the city. Our project management staff will always remain available to attend local council meetings, budget meetings, or any meetings desired by the City.

Regulatory Agency Liaison

United Water will serve as the liaison and representative in all matters related to the operation of the water plant with the regulatory agencies, including the preparation and submission of all monthly and annual discharge reports. Copies of all correspondence will be forwarded to the City's designated representative and included within the Monthly Operating Reports. United Water' QA/QC program will comply with all MDNRE and U.S. EPA monitoring and reporting requirements.

City of Portage Responsibilities

1. The City of Portage shall be responsible for coordinating the startup and commissioning of the facility and all associated equipment with AECOM, Filtronics and all equipment suppliers, etc.
2. The acceptance testing of the facility and equipment.
3. All Capital Improvement expenses including media replacement.
4. Paying all utility costs

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 8, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Public Safety Communications Message Switch Purchase

ACTION RECOMMENDED: That City Council approve the purchase of one IBM communications message switch at a cost of \$10,450 and authorize the City Manager to execute all documents related to this action on behalf of the city.

The city IT infrastructure includes a message switch for all public safety communications. This message switch plays an important role with internal and external communications between police vehicles and dispatch as well as communicating LEIN information to the State of Michigan. This switch also facilitates communication of information back to the two public safety mid-range IBM computers. The current switch has been in service for ten years and is showing signs of failure.

Due to stringent IBM reseller purchasing rules, there is only one local vendor that is eligible to sell the message switch to the City of Portage, making this a sole source purchase. The eligible vendor, New World Systems, submitted a quote of \$10,450 for a new message switch. The IT Department solicited quotes from four other non-eligible IBM resellers as a price check and the New World pricing proved to be the lowest overall cost.

It is recommended that Council approve the purchase of one IBM communications message switch at a cost of \$10,450 and authorize the City Manager to execute all documents related to this action. Funds for this expenditure were previously approved as a Capital Improvement Project and are available in the fiscal year 2009-10 Capital Improvement Budget.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 5, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, Height Modification.

ACTION RECOMMENDED: That City Council consider approving the height modification for Centre Meadows Apartments, 1405, 1419 and 1503 East Centre Avenue to construct a three-story multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet.

Attached is information concerning a request by Milham Group, LLC, to construct a three-story, 126,540 square foot multiple family residential apartment building for senior residents along the north side of East Centre Avenue, east of Lovers Lane. As background information, the Planning Commission and City Council approved a height modification in 2007 for a similar apartment project proposed by Allman Development on the subject property. The proposal involved construction of a three-story, 104,700 square foot building to a height of 40-feet with three architectural features extending to a height of 57.5 feet. The project, however, did not move forward.

Consistent with the Zoning Code, City Council approval is required since the building height is proposed to exceed 30 feet when located adjacent to a one-family residential zoning district. The proposed building will be 36-feet to the midpoint between eave and roof peak, with a single cupola extending to a height of 49 feet. The apartment building will be set back approximately 355 feet from the north property line and 90 feet from the west property line. The property adjacent to the north and west property lines is zoned R-1B, single family residential. Furthermore, the apartment building will be situated approximately 350 feet from the nearest single family residential dwelling at 7843 Lovers Lane.

The natural topography of the subject property and surrounding area will also result in the building being situated between 10-16 feet lower in elevation than adjacent single family residences located to the south and southwest, along East Centre Avenue and Lovers Lane. Areas of mature trees/natural vegetation will be preserved along the east and west property lines and along the northern and southern portions of the development.

The Department of Community Development supports the application and the Planning Commission voted unanimously to recommend approval of the proposed height modification at the March 18th meeting. It is recommended that City Council consider approving the height modification requested by Milham Group, LLC to facilitate this development project.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: April 5, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue,
Height Modification.

An application has been received from Milham Group, LLC requesting a height modification to construct a three-story, multiple family residential apartment building to a height of 36-feet (midpoint between eave and peak) with one architectural feature/cupola on top of the building extending to a height of 49-feet. The size of the building is 126,540 square feet (42,180 square feet per floor). According to the applicant, the senior apartment facility will be restricted to individuals aged 55 years and older. The requested three-story building will allow the structure to be built up with a smaller overall footprint, thereby, preserving areas of mature trees.

The proposed apartment building will be setback approximately 355 feet from the north property line and 90 feet from the west property line, which abut property zoned for R-1B. From the east property line (zoned RM-1), the building will be setback 95 feet and 264 feet from the south property line (zoned OS-1). The apartment building will be situated approximately 350 feet from the nearest single family residential dwelling at 7843 Lovers Lane and will be in excess of 400 feet from Lovers Lane and more than 630 feet from East Centre Avenue. The natural topography of the subject property and surrounding area will result in the apartment building being situated between 10-16 feet lower in elevation than adjacent single family residences located to the south and southwest, along East Centre Avenue and Lovers Lane.

After the public hearing on March 18, 2010, the Planning Commission voted 9-0 to approve the Height Modification for Centre Meadows Senior Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, to construct a three-story, multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet subject to installation of landscaping treatments along the west, south and east sides of the building that soften and break-up the expanse of the three-story building walls. The Planning Commission also voted unanimously to recommend to City Council that the Height Modification for Centre Meadows Senior The City Administration also supports the requested height modification as detailed in the application materials submitted by Milham Group, LLC and based on a finding that the building location/orientation, setback distances, natural topography, preservation of mature trees and supplemental landscaping will help mitigate potential adverse impacts consistent with Section 42-350(B)(6) of the Zoning Code.

Attached find the Planning Commission transmittal, Department of Community Development report and related materials for review.

Attachments: Planning Commission transmittal dated April 5, 2010
Planning Commission Minutes dated March 18, 2010
Department of Community Development report dated March 12, 2010 with attachments

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: April 5, 2010

SUBJECT: Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, Height Modification.

During the March 18, 2010 meeting, the Planning Commission convened a public hearing to consider a Height Modification request for Milham Group, LLC to permit construction of a three-story multiple family residential apartment building to a height of 36-feet at the midpoint, between the eave and peak, with one architectural feature/cupola on top of the building extending to a height of 49-feet. Mr. Tim Woodhams (property owner/developer) was present to provide a brief description of the development project and support the application. No additional citizens spoke in regard to the proposed height modification.

After careful consideration of the development proposal and Zoning Code criteria including building location/orientation, setback distances, natural topography and preservation of mature trees, a motion was offered by Commissioner Pearson, seconded by Commissioner Bailes, to approve the Height Modification request for Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, to allow construction of a three-story multiple family residential building to a height of 36-feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet subject to installation of landscaping treatments along the west, south and east sides of the building that soften and break-up the expanse of the three-story building walls. Specific details regarding landscaping treatments will be reviewed as part of the formal site plan consideration. The Planning Commission also recommends that City Council approve the Height Modification for Centre Meadows Senior Apartments subject to the same conditions and submittal of a site plan. The motion was unanimously approved 9-0.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Thomas Fox
Chairman

PLANNING COMMISSION

March 18, 2010

The City of Portage Planning Commission meeting of March 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 four citizens were in attendance.

MEMBERS PRESENT:

Cory Bailes, James Cheesebro, Miko Dargitz, Paul Welch, Jim Pearson, Rick Bosch, 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 and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

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

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the March 4, 2010 meeting minutes. Commissioner Dargitz requested the first sentence of the last paragraph on page 2, be amended by adding "expressing concerns about trespassing" immediately following "MDNR-E e-mails." Commissioner Dargitz also requested the first sentence of the last paragraph on page 3 be amended by adding at the end of the sentence "...to allow the MDNRE staff to attend the meeting and explain their concerns expressed in their e-mails." A motion was made by Commissioner Bosch, seconded by Commissioner Stoffer, to approve the minutes as submitted as amended. The minutes were unanimously approved.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Height Modification Request, Centre meadows Senior Apartments, 1405, 1419 and 1503 East Centre. Mr. Forth summarized the staff report dated March 12, 2010 regarding a height modification request by the Milham Group to construct a three-story, 36-foot high multiple family residential apartment building with one architectural feature (cupola) that will extend to a height of 49 feet. The 122 apartment unit building will be age restricted to persons 55 years and older. The south 450 feet of the site is zoned OS-1, office service and the north 837 feet is zoned RM-1, multiple family: The building and parking lot will be located in the RM-1 zone.

The applicant, Mr. Tim Woodhams, was present to explain and support the project. The Commission members discussed with the applicant and staff the footprint of the building, elevation differences between the proposed building and surrounding residential homes, screening/landscaping, maximum number of units

permitted, amount of off-street parking needed and the 2010 project compared to the 2007 project. The public hearing was opened by Chairman Fox. No other citizens spoke in support or opposition to the height modification request. A motion was offered by Commissioner Welch, seconded by Commissioner Bailes, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was offered by Commissioner Pearson, seconded by Commissioner Bailes, to approve the Height Modification request for Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, to construct a three-story, multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet subject to installation of landscaping treatments along the west, south and east sides of the building that soften and break-up the expanse of the three-story building walls. Specific details regarding landscaping treatments will be reviewed as part of the formal site plan consideration. The Planning Commission also recommends that City Council approve the Height Modification for Centre Meadows Senior Apartments subject to the same condition and submittal of a site plan. The proposed building location/orientation, setback distances, natural topography, preservation of mature trees and supplemental landscaping will help mitigate potential adverse impacts on adjacent single family residential districts. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

7:30 p.m. The Commission took a short recess and reconvened the meeting in Conference Room 1 at 7:35 p.m. to discuss the 2010-2020 Capital Improvement Program.

2010-2020 Capital Improvement Program. Mr. Forth indicated an overview of the 2010-2020 Capital Improvement Program (CIP) was provided during the March 4, 2010 meeting. Mr. Forth also indicated a letter was included in the final agenda from several business owners along Cooley Drive requesting installation of a traffic signal at the West Centre/Cooley Drive intersection as part of the 2010-11 capital improvement projects. Mr. Forth noted that installation of a traffic signal at this intersection was discussed as part of the Greenspire PD, planned development rezoning application. A signal warrant study had been recently completed for this intersection and concluded installation of a signal is not warranted at this time. However, city staff will monitor the intersection as development of the proposed Greenspire expansion project progresses, if approved by City Council.

Chairman Fox suggested the Commission review each section and comment on projects as necessary. With regard to the Streets category, the Commission briefly discussed signalization of the West Centre/Cooley Drive intersection and rollover of CIP funds from one year to the next. Commissioner Dargitz mentioned she thought the cost for the Street Infrastructure Improvement project for Portage Public Schools traffic signalization project appeared high. Mr. Forth indicated the traffic signalization equipment (mast arms, poles, signal heads, etc.) are expensive. Portage Public Schools is also contributing money to fund the projects. Commissioner Cheesbro asked for additional information on the West Milham/12th Street intersection improvement project. Mr. Forth further explained the project.

TO: Planning Commission

DATE: March 12, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Height Modification: Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue.

I. INTRODUCTION/BACKGROUND:

Milham Group, LLC, is requesting a height modification to construct a three-story, multiple family residential apartment building to a height of 36-feet at the midpoint between eave and peak, with one architectural feature/cupola on top of the building that will extend to a height of 49 feet. The proposed building is U-shaped and approximately 290 feet in width with wings that are 250 feet in length and connected by interior corridors. The building area is 126,540 square feet, with each floor being 42,180 square feet. There will be a total of 122 apartment units in this senior apartment facility for use by individuals aged 55 years and older. The south 450 feet of the subject site is zoned OS-1, office service and the north 837 feet is zoned RM-1, multiple family: The building and parking lot will be located in the RM-1 zone.

In 2007, the Planning Commission and City Council approved a height modification for a similar apartment development proposed by Allman Development on the subject property. The proposal was to construct a 104,700 square foot, three-story, 40-foot high apartment building with three architectural features that extended to a height of 57.5 feet. Allman Development did not go forward with this project.

II. ZONING CODE REQUIREMENTS:

Section 42-350(B)(6) of the Land Development Regulations establishes a building height standard of 25 feet and two-stories when the zoning lot abuts a single family residential zoning district, which can be increased to 30 feet and three-stories with Planning Commission approval. Increases to structural height beyond 30 feet and three-stories must be approved by the Planning Commission and City Council. In granting building height modifications, the Commission/Council "...shall require that all yards shall be at least equal in their depth to the height of the structure." Furthermore, the Commission/Council must determine that the "...topography, natural features or other land use characteristics, including the distance of the proposed structure from other uses, adequately mitigate adverse impacts on any adjoining or surrounding uses."

III. ANALYSIS:

The site is bordered to the north by vacant land and the Consumers Energy Company transmission tower property which is zoned R-1B, one family residential. The Christian Assembly of God church, 7835-7837 Lovers Lane, and a non-conforming duplex, 1319 East Centre Avenue, also zoned R-1B, are to the west. Adjacent to the south are non-conforming single family residences and a small greenhouse operation zoned OS-1, office service. To the east is a non-conforming single family residence, which is zoned OS-1 and R-1M, multiple family residential.

Construction of a single three-story building, as opposed to multiple two-story buildings, will result in a smaller overall building footprint across the property and will also allow for preservation of more open space area. As stated in the applicant's written narrative, "...adjoining properties are impacted less with

construction of a single structure in the middle of the property than with multiple two-story buildings spread across the site...". The requested increase in height of the three-story building to 36-feet is necessary to accommodate a gable roof design for the structure. While the proposed architectural feature/cupola will extend to a height of 49-feet, this single feature comprises less than 0.02% of the overall building area.

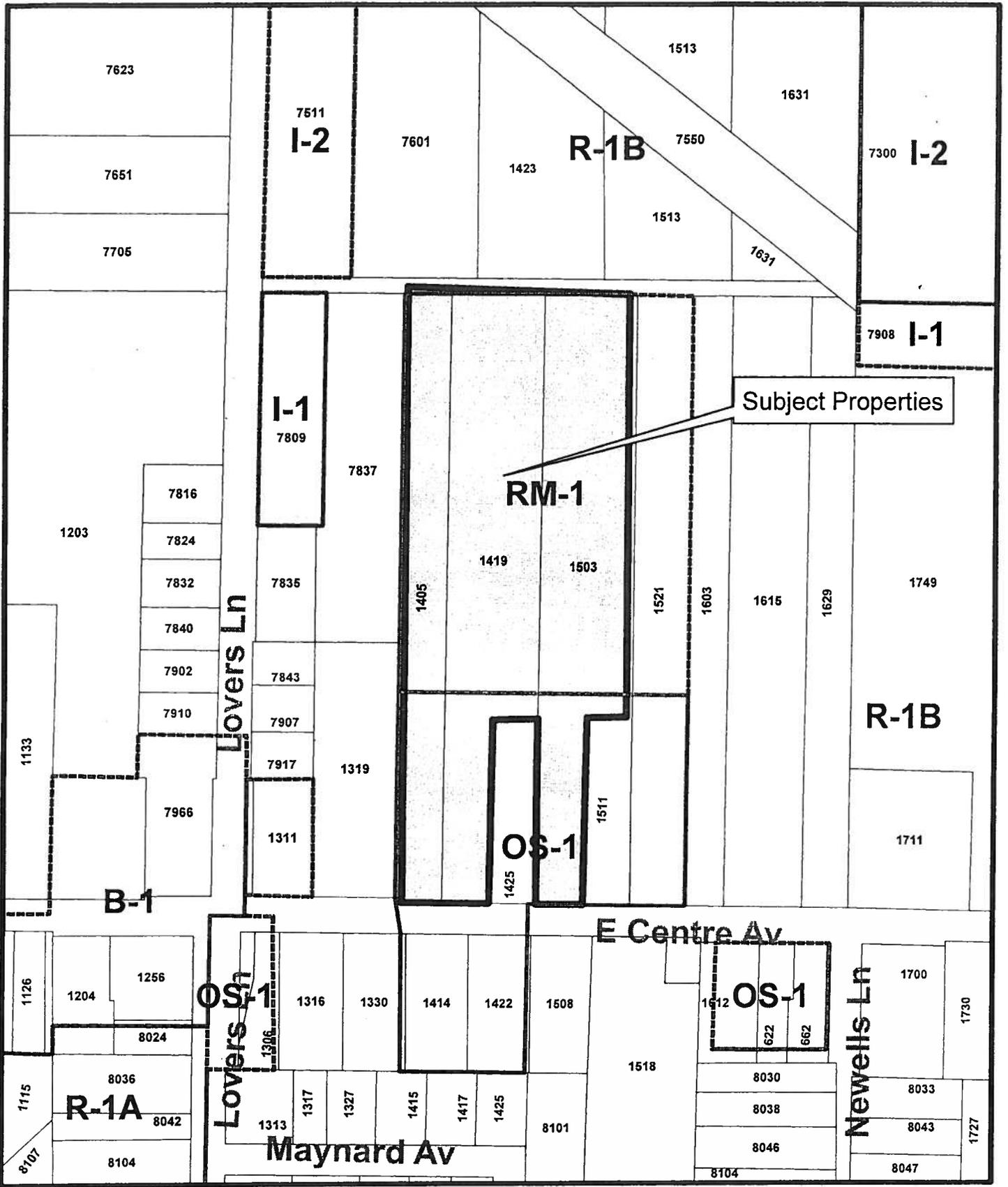
The proposed apartment building will be setback approximately 355 feet from the north property line, 90 feet from the west property line, which abut R-1B zones, 95 feet from the east property line that abuts a RM-1 zone, and 264 feet from the south property line that abuts an OS-1 zone. The apartment building will be situated approximately 350 feet from the nearest single family residential dwelling at 7843 Lovers Lane and will be in excess of 400 feet from Lovers Lane and more than 630 feet from East Centre Avenue.

The natural topography of the subject property and surrounding area will result in the apartment building being situated between 10-16 feet lower in elevation than adjacent single family residences located to the south and southwest, along East Centre Avenue and Lovers Lane. Attached as information is an Aerial Photo/Topographic Overview map with 2009 aerial photography and with existing topography showing the proposed apartment building footprint, access drive and parking areas. In order to mitigate potential adverse impacts of the development on the surrounding single family residences, areas of mature trees/natural vegetation will be preserved along the east and west property lines and along the northern and southern portions of the development. Supplemental tree plantings and landscaping will also be installed within and adjacent the main parking areas and along both sides of the access drive from East Centre Avenue. Additional, specific details including screening/landscaping, parking, storm water management and outdoor lighting will be reviewed as part of the formal site plan consideration.

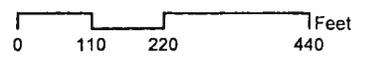
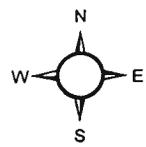
IV. RECOMMENDATION:

Subject to any public comment received and based information provided by the applicant and foregoing analysis, the Planning Commission is advised to approve the Height Modification for Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, to construct a three-story, multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet subject to installation of landscaping treatments along the west, south and east sides of the building that soften and break-up the expanse of the three-story building walls. Specific details regarding landscaping treatments will be reviewed as part of the formal site plan consideration. Furthermore, the Planning Commission is also advised to recommend to City Council that the Height Modification for Centre Meadows Senior Apartments be approved subject to the same condition. The proposed building location/orientation, setback distances, natural topography, preservation of mature trees and supplemental landscaping will help mitigate potential adverse impacts on adjacent single family residential districts consistent with Section 42-350(B)(6) of the Zoning Code.

Attachments: Vicinity/Zoning Map
Aerial Photo/Topographic Map
Communication from Mr. Timothy Woodhams dated February 22, 2010 (revised March 9, 2010)
Preliminary Site Plan and Building Elevations

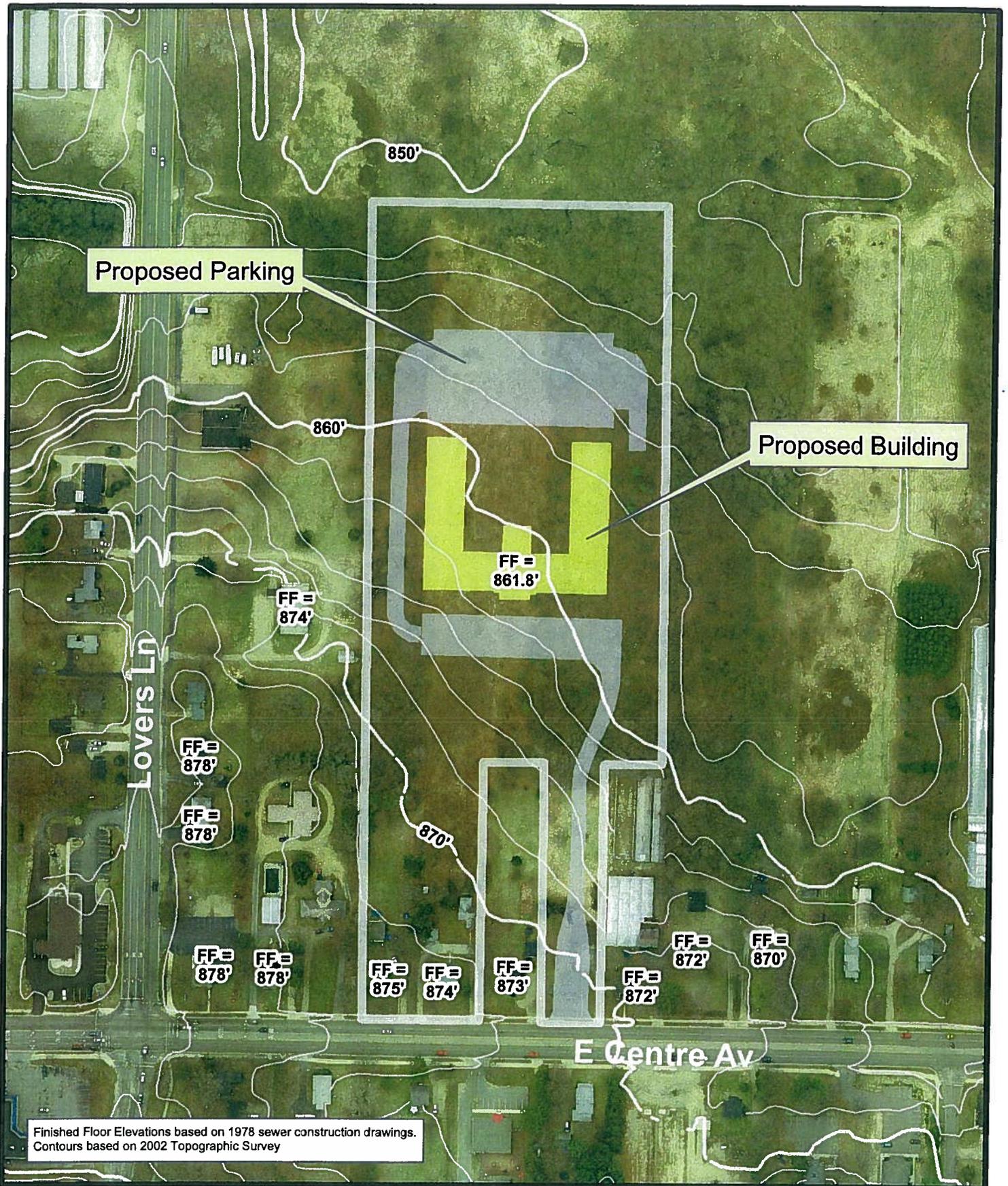


Subject Properties



HEIGHT MODIFICATION

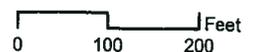
1405, 1419, & 1503 East Centre Avenue



Finished Floor Elevations based on 1978 sewer construction drawings.
 Contours based on 2002 Topographic Survey



Aerial Photo / Topographic Overview 1405, 1419, & 1503 East Centre Avenue



February 22, 2010
(Revised March 9, 2010)

Mr. Mike West, AICP
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

RECEIVED
MAY 12 2010
COMMUNITY DEVELOPMENT

Re: Centre Meadows Senior Apartments
1405, 1419 and 1503 East Centre Avenue

Dear Mr. West:

Please accept this letter as application for a height modification in the RM-1 zone for a three (3) story senior apartment building. The combined site consists of 1503 East Centre and the rear portions of 1405 and 1419 East Centre. A lot line adjustment application has been made to reflect the revised parcel. Also, enclosed please find twelve sets of the architectural elevations as well as an overall site plan with surrounding uses identified. The site plan application has been made.

Under the current zoning ordinance, buildings in the RM-1 zoning district are limited to two (2) stories when abutting property zoned single family. Currently the properties to the North and to the West are Zoned R-1. The property to the North is vacant and likely to remain undeveloped. The soils to the North of our site have been classified as Houghton Muck by the Soil Conservation Service. The properties immediately to the West located in the R-1 zoning district are institutional and a non-conforming multi-family development. The nearest conforming residential property to the proposed structure is located 380 feet away along Lovers Lane. The homes along Lovers Lane have first floor elevations of approximately 878 feet. The proposed first floor elevation of the new structure is 861.8.

In approving an increase in structural height, the commission and council shall require that all yards shall be at least equal in their depth to the height of the structure. Based on the proposed site plan the depth of the yards to the north is 355 feet, to the east is 95 feet, to the south is 264 feet and to the west is 90 feet. The structure will be located 442 feet from Lovers Lane and 704 feet from Centre Avenue.

In addition to the modification from two (2) stories to three (3) stories a modification in height will be necessary. The current RM-1 zoning only allows for three (3) story buildings to have a height of thirty (30) feet to the midpoint of the roofline. This is not readily achievable for three-story construction. A typical floor system takes approximately ten (10) feet per floor for a height of twenty nine (29) feet to the eave line; which does not include a roof structure.

Our architect has prepared drawings of the proposed building. They have been able to achieve a midpoint height of thirty six (36) feet with attention to minimizing roof slope and floor system structure. A height modification of an additional six (6) feet is therefore requested. With a

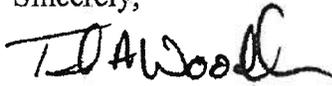
midpoint height of thirty six (36) feet the eave line will be at twenty nine (29) feet and the ridge line of the roof will be at forty three (43) feet with one architectural feature that would be another six (6) feet in height. This architectural feature represents less than 0.02% of the total roof footprint.

The height modification to thirty (36) feet will not create additional impact on the adjoining neighbors beyond that of a traditional market rate multi-family project. It is our opinion that the adjoining properties are impacted less with construction of a single structure in the middle of the property than with multiple two story buildings spread across the site which would likely abut the RM-1 minimum setbacks to achieve density.

The property will be well screened from the existing development to the west. The existing tree rows will remain as a natural buffer. In addition, the finished floor elevation of the building will be sixteen (16) feet lower than the conforming residential properties on Lovers Lane; a story and a half.

We appreciate your continued assistance with this development. Please feel free to contact me at (269) 760-6688 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.A. Woodhams', written in a cursive style.

Timothy A. Woodhams, PE

A3.2

08.071

2008

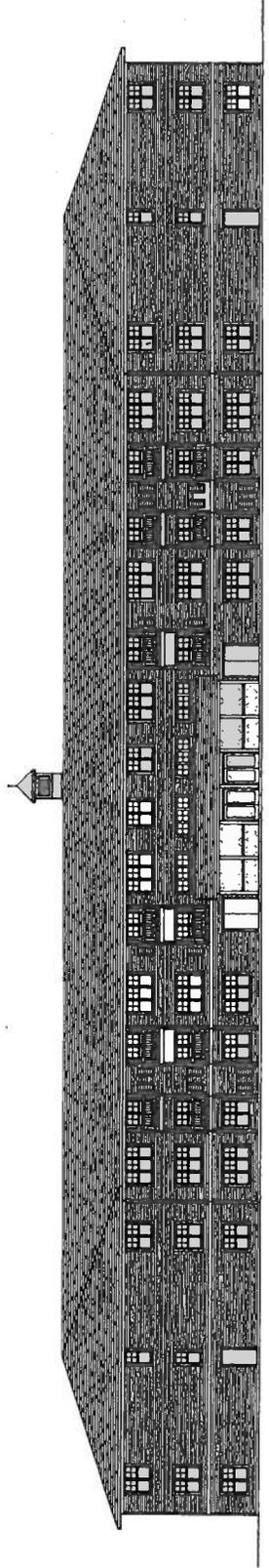
New Building
Portage Senior Living
Portage, Michigan

THE
PROJECT MANAGER:
DRAWN BY:
FOR ALTERNATIVE PURPOSES ONLY.
THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.
THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.
THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

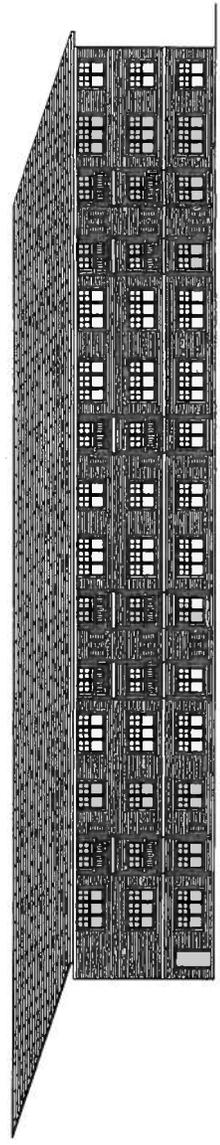
the
peabody
group
ARCHITECTS & INTERIORS

Copyright 2008 the peabody group
www.peabody.com
470 March Road
Chelsea, Michigan 48018
Phone: (313) 348-0822
Fax: (313) 348-0888

CALLAWAY
ARCHITECTS



SOUTH ELEVATION
SCALE: 3/8" = 1'-0"



INNER WEST ELEVATION
SCALE: 3/8" = 1'-0"

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 5, 2010

FROM: James R. Hudson, City Clerk *JA (for)*

SUBJECT: New Entertainment Permit in conjunction with 2009 Class C Licensed Business (Erbelli's Restaurant)

ACTION RECOMMENDED: That City Council grant the request for a new Entertainment Permit to be held in conjunction with 2009 Class C Licensed Business at 8342 Portage Road, Portage (Erbelli's Restaurant).

The Michigan Liquor Control Commission has requested City Council consideration of the attached Resolution to grant the request for a new Entertainment Permit to be held in conjunction with 2009 Class C Licensed Business at 8342 Portage Road, Portage (Erbelli's Restaurant). According to the Michigan Liquor Control Commission, an Entertainment Permit "allows dancing by employees or contract entertainers, or for entertainment including monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing." The permit also requires separate dressing rooms for entertainers should they need to change clothing. The permit does not allow dancing by patrons.

In considering the application in light of city codes and ordinances, favorable reports were received from the Community Development, Finance, Police and Fire departments. Therefore, it is recommended that City Council grant the request.

Attachment: Resolution (two pages)

c: Maurice S. Evans, City Manager



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

FOR MLCC USE ONLY

Request ID # 535978

Business ID # 216321

LOCAL APPROVAL NOTICE

[Authorized by MCL 436.1501]

February 22, 2010

TO: Portage City Council
 Attn: Clerk
 7900 S Westnedge Avenue
 Portage, MI 49002-5160

RAL
3-2-2010
JOL

APPLICANT: ERB Ventures, Inc.

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

Contact: Erbellis95@hotmail.com, B(269) 327-0200

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

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

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

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

RESOLUTION

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

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

The following resolution was offered:

Moved by _____ and supported by _____

That the request from Erb Ventures, Inc. for a New Entertainment Permit to be held in conjunction with 2009 Class C Licensed Business, located at 8342 Portage, Portage, MI 49002, Kalamazoo County.

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

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

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

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

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

meeting held on _____
(Date)

SEAL

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

(Mailing address of Township, City or Village)

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 5, 2010

FROM: Maurice S. Evans, City Manager

MSE (for M. Evans)

SUBJECT: Fiscal Year 2010-11 Proposed Budget Review Schedule

ACTION RECOMMENDED: That City Council establish April 20 from 2-5 p.m. and May 4 from 6-9 p.m. as the dates for review of the proposed Fiscal Year 2010-11 Budget.

Council will receive the proposed Fiscal Year 2010-11 Budget at the regular meeting of April 13, 2010. The budget review schedule has been developed to permit review of all budget aspects. Budget review sessions are proposed for April 20 and May 4 and a tentative schedule of 2010-11 budget review activity is attached.

Budget review sessions will be scheduled from 2-5 p.m. on April 20 and 6-9 p.m. on May 4 in Conference Room #1 of Portage City Hall. Further, a public hearing on the proposed budget will be held during the May 11, 2010 regular meeting of City Council, with formal adoption scheduled for May 25, 2010. As in the past, the review sessions, the public hearing and other Council meetings will provide ample opportunity for public comment on and analysis of the proposed budget.

Attachment

TENTATIVE
FISCAL YEAR 2010-11 BUDGET REVIEW ACTIVITY SCHEDULE

Tuesday, April 20

Budget Overview	2:00 – 2:15 p.m.
Benefit Services	2:15 – 2:30
Purchasing	2:30 – 2:45
City Clerk	2:45 – 3:00
Information/Technology Services	3:00 – 3:15
Streets & Equipment	3:15 – 3:30
Parks & Recreation	3:30 – 3:45
Police Department	3:45 – 4:15
Fire Department	4:15 – 4:45

Tuesday, May 4

Legislative / Human Services	6:00 – 6:30 p.m.
Employee Development	6:30 – 6:45
City Assessor	6:45 – 7:00
Transportation & Utilities	7:00 – 7:15
Community Development	7:15 – 7:30
City Manager	7:30 – 7:45
Finance and Other Fund Activities	7:45 – 8:00
Capital Improvement Program	8:00 – 9:00

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 6, 2010

FROM: James R. Hudson, City Clerk *ADA (for)*

SUBJECT: Special Meeting with Board and Commission Applicants

ACTION RECOMMENDED: That City Council set a Special Meeting on Tuesday, May 11, 2010, beginning at 5:30 p.m., to interview board and commission applicants.

Per the *Policy for Appointments to Citizen Advisory Boards*, applicants for the following boards and commissions and any other vacancies that arise will be interviewed:

Construction Board of Appeals	4 expiring terms/1 vacancy
Environmental Board	1 vacancy
Historic District Commission	1 vacancy
Park Board	1 vacancy
Planning Commission	2 expiring terms/1 vacancy
Public Media Network	3 vacancies

As reflected on the attached Board and Commission Vacancy Summary, applicants are needed at this time to fill vacancies on the Construction Board of Appeals, Environmental Board, Historic District Commission, Park Board, Planning Commission and Public Media Network. It is recommended that City Council set a Special Meeting on Tuesday, May 11, 2010, beginning at 5:30 p.m., to interview board and commission applicants.

Attachment: Vacancy Summary

c Boards/Commissions Chairs
Boards/Commissions Ex Officios

BOARD/COMMISSION VACANCY SUMMARY FOR MAY 11, 2010 SPECIAL MEETING

INTERVIEWS	5:30 pm	pm	pm	pm	pm	pm	pm	STATUS
APPLICANTS	CBA 4 exp terms 1 vacancy	PC 2 exp terms 1 vacancy	ENV 1 vacancy	HDC 1 vacancy	PK 1 vacancy	PMN 3 vacancies		
Ballard, Christine						Applicant		
Burch, Daniel						Applicant		
Caputo, Ruth		Member	Applicant					Appointed 05/11/04
Cheesebro, James			Applicant					
Ehrig, Dorie (Dorothy)		Applicant						
Judge, Andrew		Applicant						
Kerr, Henry								
Koopson, William	Member							Appointed to ZBA 10/06/98
Miller, Bill - 4	Member							Appointed 10/07/03
Ramlow, Donald								Appointed 06/02/98
Ray, Alexander			Applicant					
Schmidt, Lawrence	Member							Appointed 06/01/07
Siegfried, Mark		Applicant						
Slough, Greg A.	Applicant	Applicant						
Stinchcomb, Phil		Applicant						
Tanis, Matthew			Applicant			Applicant		
Vryhof, Jeremy			Applicant			Applicant		
Welch, Paul		Member						Appointed 06/01/07
Wilkinson, Thomas - 5	Member							Appointed 06/01/00

NOTE: Alternate – currently serving as an Alternate Member of a Board or Commission and is seeking appointment or reappointment.

Member – currently serving as a Member of a Board or Commission and is seeking reappointment.

Applicant – new applicant seeking appointment to a Board or Commission.

1 – will attend

2 – unable to attend

3 – no response

4 - Mr. Miller is a mechanical contractor registered in the city with at least five years experience (required) and has served 10 years on this board. If there are no other qualified applicants, Council will have to waive the “ten consecutive years or three consecutive terms” limit to reappoint Mr. Miller.

5 - Mr. Wilkinson is a master electrician registered in the city with at least five years experience (required) and has served 10 years on this board. If there are no other qualified applicants, Council will have to waive the “ten consecutive years or three consecutive terms” limit to reappoint Mr. Wilkinson.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 6, 2010

FROM: Maurice S. Evans, City Manager

SUBJECT: Tree City USA Tree Planting and Proclamation – Information Only

The City of Portage recently received a Tree City USA designation from the National Arbor Day Foundation for the 20th consecutive year. This year, Arbor Day will be celebrated on April 30th in Michigan. In addition to a proclamation and in order to recognize the importance of tree planting and maintenance within the community, the annual Arbor Day tree-planting ceremony will be held at 7:00 p.m. prior to the April 27 City Council meeting. The planting ceremony will occur on the City Hall property and all Council members are invited to attend.

CITY OF PORTAGE

COMMUNICATION

TO: Portage City Council

DATE: April 5, 2010

FROM: Mayor Peter J. Strazdas

SUBJECT: Council Policy on Communication Procedures

ACTION RECOMMENDED: That City Council adopt the Communications Procedure Policy and Communications Flow Chart.

The Portage City Council has not adopted a formal policy that governs the procedure for the City Administration to process communications and inquiries from the City Council. This topic was discussed at the City Council Goal Setting Session held in December 2009. As you may recall, David Wheatley of Humanergy, Inc. guided the Council through a team-building exercise on the Four Choices of Leadership (see attached). Collectively, it was agreed that the “transformative” model of leadership is the best approach for the Council to use, as this model focuses on commitment and care for the greater good.

In order to establish a policy for processing Council communications and to capture key points of the transformative model of leadership, I have worked with the Office of the City Manager to develop the attached Communications Procedure Policy and Communications Flow Chart. The documents present a clear direction for processing communications and providing responses to the Council. It is my recommendation that the Council adopt the Communications Procedure Policy and Communications Flow Chart.

Attachments

Portage City Council Four Choices of Leadership



CITY OF PORTAGE

CITY COUNCIL COMMUNICATIONS PROCEDURE POLICY

1. **Purpose:** To provide a clear procedure for the processing of communications and inquiries from City Councilmembers to the City Administration and for subsequent responses to City Council. In the furtherance of this goal, the following general principles will apply:
 - A. Councilmember requests provided to city staff, regardless of their format (phone call, in person, email or hand-written note), point of contact or topic, will be directed to the City Manager as the chief administrative officer for action and/or response.
 - B. Requests of a policy nature shall be referred to the full Council so that the Administration can receive clear direction as to the wishes of the Council.
 - C. The City Manager shall respond to requests of an administrative / operational nature with a report to the full Council, so that the Council can be equally advised and informed.
 - D. Requests of a legal nature shall be referred to the City Attorney for a report / opinion. If the request is of a policy nature, it shall then be referred to the full Council so that the Administration can receive clear direction as to the wishes of the Council. If the request is of an administrative / operational nature, the City Manager shall respond with a report to the full Council so that the Council can be equally advised and informed.
 - E. The attached Communications Flow Chart shall be used as a guide.

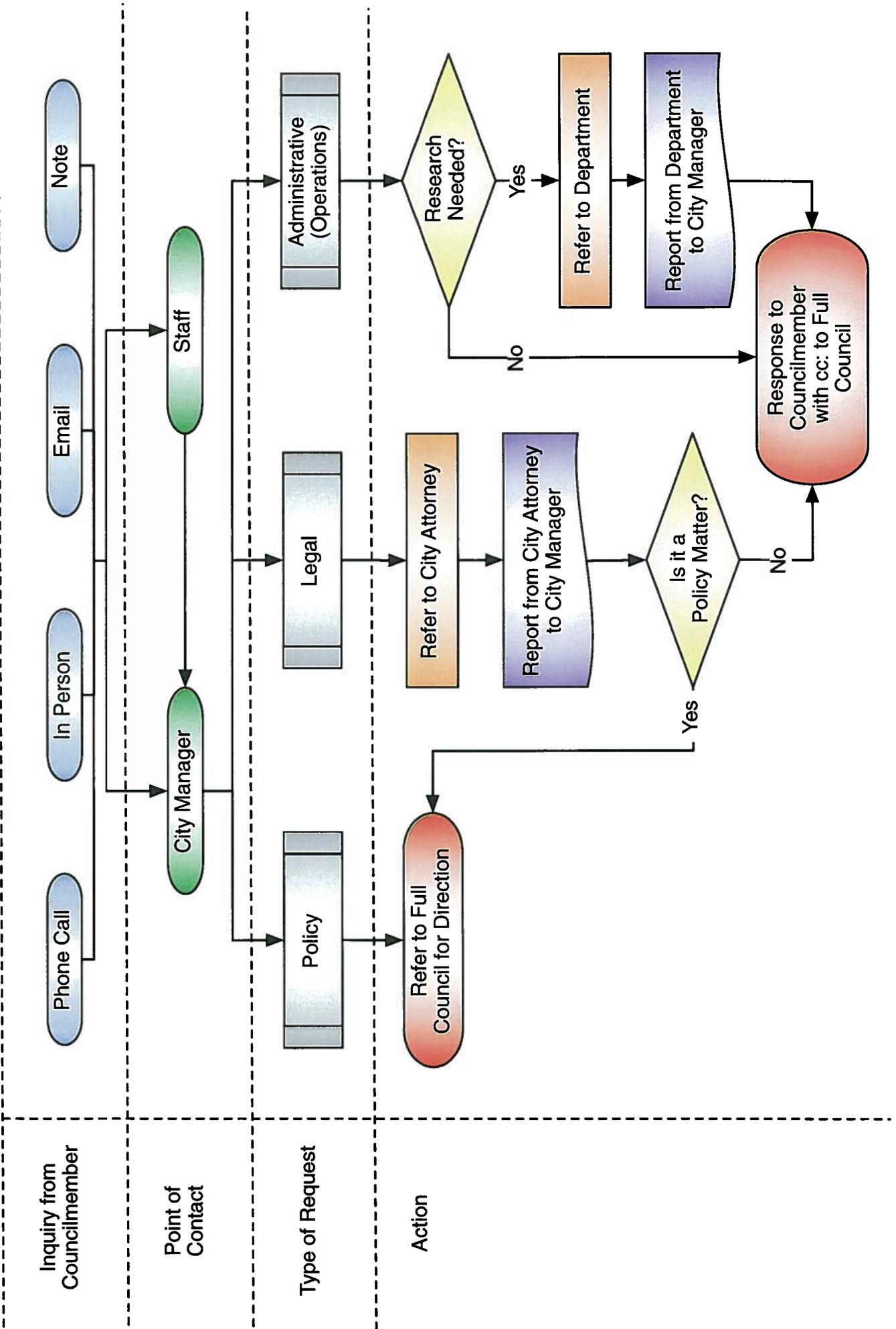
Attachment

Effective date: _____, 20__

Peter J. Strazdas, Mayor

Communications Flow Chart

April 5, 2010



CITY OF PORTAGE

PARK BOARD

7900 SOUTH WESTNEDGE AVENUE, PORTAGE, MI 49002

March 5, 2010

RE: Park Board Initiative – Smoking Ban in Portage Parks

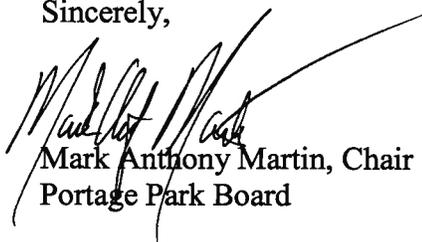
Honorable Mayor & City Council:

During our March 3, 2010 meeting, the Park Board discussed the idea of a total or partial ban of smoking in City of Portage parks. Several communities across the nation have banned smoking in public parks.

Following some initial discussion, the Park Board voted 5-1 to request City Council permission to investigate options for banning smoking in city parks and to provide a recommendation by the fall of 2010.

City Council authorization is so requested.

Sincerely,



Mark Anthony Martin, Chair
Portage Park Board

To: Honorable Mayor and City Council

From: Portage Planning Commission

Date: April 2, 2010

Subject: City of Portage Fiscal Year 2010-2020 Capital Improvement Program

The Planning Commission has thoroughly reviewed the proposed Fiscal Year 2010-2020 Capital Improvement Program (CIP), which is a comprehensive municipal budget and planning document that contains important capital projects to maintain and enhance the health and livability of the community. In order to reflect changes in community needs, service requirements, availability of funding, among other factors, the CIP is annually prepared by the City Administration and presented to the Planning Commission for review and recommendation to City Council.

The Planning Commission remains cognizant of the very weak local, state and national economies and appreciates the efforts of the City Administration, as outlined in the letter from City Manager Evans, to meet the most important capital improvement needs of the community. City staff are again to be commended for their diligence, forethought and ability to work together to produce a quality document that continues to make Portage *"A Place for Opportunities to Grow."*

The Planning Commission carefully reviewed the Fiscal Year 2010-11 CIP that was presented at the March 4 meeting and considered at the March 18 and April 1, 2010 meetings and, in particular, the eight project categories, multiple project profiles and related information. The Planning Commission raised several issues through review of the CIP at the March 18, 2010 meeting and the Commission urges the City Council to review the meeting minutes that are attached with this transmittal. The Planning Commission voted unanimously to recommend the first year budget to the City Council, and conceptually supports the remaining nine years, or planning level projections.

If the City Council needs additional information related to the Fiscal Year 2010-2020 CIP and this recommendation, please advise the Planning Commission.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Thomas A. Fox
Chairman

Attachments: March 4 and 18 and April 1, 2010 Planning Commission meeting minutes

Commissioner Cheesebro, was voted upon by the Commission. Upon a roll call vote: Cheesebro (yes), Dargitz (no), Stoffer (no), Welch (yes), Patterson (yes), Bailes (yes) and Fox (yes), the motion was approved 5-2.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. FY 2010-2020 City of Portage Capital Improvement Program. Mr. Forth referred the Commission to the 2010-2020 Capital Improvement Program (CIP) document that was provided to each Commissioner prior to the meeting. Mr. Forth briefly reviewed the March 4, 2010 letter from City Manager Evans and asked the Commission to review the document for further discussion during the March 18, 2010 meeting. Over the course of the next two weeks, Mr. Forth asked the Commission to contact him with any questions or clarifications regarding individual CIP projects so he could research and provide answers prior to, or at the March 18th meeting.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

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

permitted, amount of off-street parking needed and the 2010 project compared to the 2007 project. The public hearing was opened by Chairman Fox. No other citizens spoke in support or opposition to the height modification request. A motion was offered by Commissioner Welch, seconded by Commissioner Bailes, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was offered by Commissioner Pearson, seconded by Commissioner Bailes, to approve the Height Modification request for Centre Meadows Senior Apartments, 1405, 1419 and 1503 East Centre Avenue, to construct a three-story, multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet subject to installation of landscaping treatments along the west, south and east sides of the building that soften and break-up the expanse of the three-story building walls. Specific details regarding landscaping treatments will be reviewed as part of the formal site plan consideration. The Planning Commission also recommends that City Council approve the Height Modification for Centre Meadows Senior Apartments subject to the same condition and submittal of a site plan. The proposed building location/orientation, setback distances, natural topography, preservation of mature trees and supplemental landscaping will help mitigate potential adverse impacts on adjacent single family residential districts. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

7:30 p.m. The Commission took a short recess and reconvened the meeting in Conference Room 1 at 7:35 p.m. to discuss the 2010-2020 Capital Improvement Program.

2010-2020 Capital Improvement Program. Mr. Forth indicated an overview of the 2010-2020 Capital Improvement Program (CIP) was provided during the March 4, 2010 meeting. Mr. Forth also indicated a letter was included in the final agenda from several business owners along Cooley Drive requesting installation of a traffic signal at the West Centre/Cooley Drive intersection as part of the 2010-11 capital improvement projects. Mr. Forth noted that installation of a traffic signal at this intersection was discussed as part of the Greenspire PD, planned development rezoning application. A signal warrant study had been recently completed for this intersection and concluded installation of a signal is not warranted at this time. However, city staff will monitor the intersection as development of the proposed Greenspire expansion project progresses, if approved by City Council.

Chairman Fox suggested the Commission review each section and comment on projects as necessary. With regard to the Streets category, the Commission briefly discussed signalization of the West Centre/Cooley Drive intersection and rollover of CIP funds from one year to the next. Commissioner Dargitz mentioned she thought the cost for the Street Infrastructure Improvement project for Portage Public Schools traffic signalization project appeared high. Mr. Forth indicated the traffic signalization equipment (mast arms, poles, signal heads, etc.) are expensive. Portage Public Schools is also contributing money to fund the projects. Commissioner Cheesbro asked for additional information on the West Milham/12th Street intersection improvement project. Mr. Forth further explained the project.

The Commission next discussed the Sidewalks and Bikeways category. Although not part of the 2010-2020 Capital Improvement Program, Chairman Fox reiterated his concern about the location of the sidewalk that was installed near Lake Center Elementary school. Chairman Fox believed it to be too close to the travel lane of Portage Road. Commissioner Dargitz asked what the city-share portion is for the Portage Public Schools sidewalk project. Mr. Forth stated per City Charter, the city-share is 50 percent.

The Commission had no major comments regarding the Water, Police and Fire categories. With regard to the Sanitary Sewer category, Commissioner Cheesebro noted the Barberry sanitary sewer project was not in the 2009-19 CIP and added to the 2010-20 CIP. Mr. Forth explained it was added to the proposed CIP to address potential ground water contamination.

Discussion involving the Public Facilities category included leasing vs. purchasing computer equipment, demolition/sale of the former PCOC building, Comprehensive Plan Update and City Centre Area improvements. Commissioner Dargitz suggested a CIP project for the city to begin acquiring property in the City Centre Area as a method to encourage and control (re)develop activities. The Commission and staff discussed the proposal including market-driven efforts by the private sector, city regulations as a means to control land use and site development, budgetary constraints, among others. Commissioner Bosch didn't agree the city should acquire property as a means to control land development in the City Centre Area. Commissioner Stoffer emphasized the need to encourage City Centre Area (re)development activities. Mr. Forth indicated the city has been actively involved in City Centre Area (re)development activities such as brownfield and site reclamation redevelopment efforts, infrastructure improvements, municipal facility improvements, property acquisition/sale and partnership with Portage Public Schools.

After a brief discussion, Mr. Forth indicated he would prepare the FY2010-2020 Capital Improvement Program Planning Commission transmittal to City Council. Chairman Fox requested the draft transmittal be forwarded to him.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

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

Commission next discussed the past ZBA actions and the role of the Planning Commission in the review of the Special Land Use Permit.

The public hearing was opened by Chairman Fox. One citizen (Mr. John Kailukaitis, 114 East Westwood, Kalamazoo, MI) spoke in support of the Special Land Use Permit application. A motion was then offered by Commissioner Welch, seconded by Commissioner Cheesebro, to close the public hearing. The motion was unanimously approved. A motion was then offered by Commissioner Pearson, seconded by Commissioner Welch, to approve the Special Land Use Permit for Portage Soccer Club (outdoor soccer facility), 8201 Cox's Drive. The motion was unanimously approved.

2. Rezoning Application #09-02, 9801 Oakland Drive – request to adjourn. Mr. West summarized the staff report dated March 25, 2010 regarding the request received by Hyland Associates, LLC to rezone the east 5.91 acres of 9810 Oakland Drive from R-1C, one family residential to R-1B, one family residential to facilitate Phase II of the Oakland Farms subdivision and provide a transition between the I-1, light industry zoning/land use along the east side of Oakland Drive and the interior land are further west. Mr. West discussed a March 25th meeting with the applicants to discuss an expanded rezoning consideration involving the existing Oakland Farms Phase I subdivision and four additional parcels (9804, 9818, 9832 and 9842 Oakland Drive). Mr. West indicated the expanded rezoning consideration was suggested to facilitate appropriate growth and development and to consider the establishment of a more coherent zoning pattern in this area of the city. Mr. West stated the applicants were supportive of the expanded rezoning consideration.

Mr. Dan Martz (Hyland Associates, LLC) was present to support the rezoning application. Mr. Martz discussed the fragmented zoning pattern in the area of the proposed rezoning and reviewed his March 8th communication that identified supporting reasons for the rezoning request. Mr. Martz stated the delay for consideration of the expanded rezoning request would not affect Hyland Associates construction schedule, however, requested the meeting be adjourned to May 6, 2010, if possible.

The public hearing was opened by Chairman Fox. One citizen (Ms. Marie Mackey, 9636 Oakland Drive) spoke in regards to the proposed rezoning. Ms. Mackey expressed concerns regarding the loss of land area and openness in this portion of the city. A motion was then made by Commissioner Bosch, seconded by Commissioner Welch, to adjourn Rezoning Application #09-02 to the May 6, 2010 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

1. FY 2010-2020 Capital Improvement Program – recommendation to City Council. Chairman Fox summarized the previous Commission discussion of the FY 2010-2020 Capital Improvement Program (CIP) during the March 18th meeting and referred the Commission to a draft transmittal to City Council that was included in the agenda materials. Commissioners Dargitz and Pearson stated that issues were discussed during the March 18th meeting, however, were not referenced in the draft transmittal. Chairman Fox indicated the issues were detailed in the March 18th meeting minutes, which would be attached with the transmittal. The Commission next discussed the draft transmittal and agreed to include a sentence that would reference the issues discussed during the March 18th meeting and urge the City Council to review the meeting minutes. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Dargitz, to recommend to City Council that the FY 2010-2010 CIP be approved (first year budget, and conceptually the remaining nine out-year, planning level projections), along with the draft transmittal with the inclusion of the following sentence in paragraph three of the draft transmittal: "The Planning Commission raised several issues through review of the CIP at the March 18, 2010 meeting and the Commission urges the City Council to review the meeting minutes that are attached with this transmittal." The motion was unanimously approved.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 9, 2010

FROM: City Council Community Survey Committee*

SUBJECT: 2010 Community Survey – Information Only

At the 2009 City Council Goal Setting Session in December, the City Council decided to not conduct a 2010 Portage Community Survey as a means of controlling expenditures. The City Council Community Survey Committee has developed the attached news release to inform residents of this action and the rationale behind the decision. It is anticipated that the Council will discuss resuming the Community Survey at the 2010 City Council Goal Setting Session.

Attachment

- * Councilmember Terry R. Urban, Chair
- Councilmember Patricia Randall
- Councilmember Ed Sackley

NEWS RELEASE

FOR IMMEDIATE RELEASE
April 13, 2010

Contact: Maurice S. Evans, City Manager
(269) 329-4400

City of Portage Cancels 2010 Community Survey

Each year since 1986, the City of Portage has conducted a citizen survey carried out by the Kercher Center for Social Research at Western Michigan University. The survey attempts to measure citizen viewpoints concerning city services and issues. The 2009 Community Survey was conducted at a cost of approximately \$10,000.

While the results of the Community Survey are of great importance to the Portage City Council and City Administration, as a measure to reduce expenditures, the City Council has decided to not complete a 2010 Community Survey, citing the need to control costs and maximize efficiency in the use of available funding. Although the Council hopes to conduct a 2011 Community Survey, a final determination in this regard will be made based on available funding at the time.

The City of Portage values input from citizens and encourages feedback from Portage residents in several ways:

- Take an online Customer Service Questionnaire by visiting:
www.portagemi.gov/government/customer_service.asp.
- Complete and submit a Citizen Comment Card, found at every city office.

- Call the city Complaint Resolution Hotline at 269-329-4404.
- Use the City of Portage online "Report It" tool to report problems like potholes, malfunctioning traffic signals and curbside recycling concerns by visiting: www.portagemi.gov/government/report_it.asp.
- Contact City Councilmembers. Contact information for each Councilmember can be found at: www.portagemi.gov/government/city_council.asp.
- Contact City Manager, Maurice S. Evans at 269-329-4400 or at:

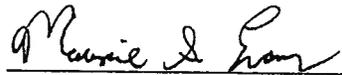
City of Portage
Office of the City Manager
7900 South Westnedge Avenue
Portage, Michigan, 49002

#####

MATERIALS TRANSMITTED

Friday, March 19, 2010

1. Communication from a group of businesses to City Council requesting that the installation of a traffic signal at the Cooley Drive and W. Centre Avenue intersection be included as a 2010-11 Capital Improvement Project – Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

MATERIALS TRANSMITTED

Tuesday, March 23, 2010

1. **AGENDA ITEM F.1:** Communication from the City Manager recommending that City Council adopt the Resolution awarding the bid for the City of Portage Limited Tax General Obligation City Share Refunding Bonds, Series 2010, in the amount of \$2,575,000 to Wells Fargo Advisors at 2.8593 percent.
2. To be added to **AGENDA ITEM F.2:** Communication from the City Manager regarding the Notice of First Reading and Ordinance Amendment for Rezoning Application #09-01.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager