

PLANNING COMMISSION

January 17, 2013

The City of Portage Planning Commission meeting of January 17, 2013 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Seven citizens were in attendance.

MEMBERS PRESENT:

Miko Dargitz, Allan Reiff, Bill Patterson, Rick Bosch, James Cheesebro, Paul Welch, and Wayne Stoffer.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Dave Felicijan and Dave Artley.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the January 3, 2013 meeting minutes contained in the agenda packet. A motion was offered by Commissioner Welch, seconded by Commissioner Dargitz, to approve the minutes as submitted. The motion was approved 7-0.

PUBLIC HEARINGS:

1. Final Report: Donation Box Ordinance Amendment. Mr. Forth summarized the final staff report dated January 11, 2013 regarding the proposed donation box ordinance. Mr. Forth discussed the previous Planning Commission review of the proposed ordinance and public comment received during the January 3rd meeting. Mr. Forth also reviewed the four proposed changes requested by the Commission during the January 3rd meeting including increasing the distance separation requirement from 500 feet to 1,000 feet, allowing two donation boxes per site if the boxes are operated by the same company and abut each other, requiring liability insurance and requiring the donation boxes to be made of metal. Mr. Forth indicated staff was supportive of an increased distance separation requirement and requiring metal boxes, but did not believe it necessary to require: 1) both donation boxes on the same site be operated by the same company; and 2) liability insurance. Mr. Forth referred the Commission to the rationale for this position contained in the staff report and the highlighted/strike version of the ordinance that identified changes made since the January 3rd meeting. Lastly, Mr. Forth referred the Commission to the January 11, 2013 e-mail communication received from Mr. Mike Holt of American Textile Recycling Services (ATRS) that was included in the final agenda packet.

The public hearing was reconvened by Chairman Cheesebro. Four citizens spoke in regards to the proposed ordinance amendment: 1) Carlo Cavallaro (attorney representing USAgain), 2) Dan Dalton (attorney representing Planet Aid), 3) Dustin Holland (Vice-President, Better World Books) and 4) Catherine Sutter

(Community Relations Coordinator, American Textile Recycling Services). Mr. Cavallaro again stated support of the ordinance with one suggested change to Section 24-142.C.4 that would allow either the entity owning or leasing the property to provide written permission as part of the application for a permit. Mr. Cavallaro also indicated he has experienced no issues with a USAgain box being situated adjacent to a donation box from another organization. Mr. Dalton also stated support of the ordinance with the same change suggested by Mr. Cavallaro. Mr. Dalton indicated he has experienced no real safety issues associated with the donation boxes other than a very rare incident where a vehicle might drive into a box or a person receiving a minor cut when placing a donated item into the box. Mr. Holland also expressed support of the ordinance and the staff recommended allowance for up to two boxes on a site regardless of the organization affiliation. Mr. Holland again requested a slight change to the ordinance that would reduce the minimum text size for organization information from 2-inch to ½-inch size. Mr. Holland stated Better World Books currently has a ½-inch size print on the boxes and all the information is visible and legible. Ms. Sutter also stated support of the ordinance and referred the Commission to suggestions outlined in the January 11, 2013 e-mail communication from Mr. Mike Holt. Ms. Sutter distributed additional information regarding ATRS including a letter of reference from the Michigan Humane Society, an Internal Revenue Service letter affirming ATRS's exempt status, a certificate of liability insurance and a commitment letter that is provided to all ATRS sponsors. No additional citizens spoke regarding the proposed ordinance language. A motion was made by Commissioner Welch, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved.

The Commission, Mr. Forth and Attorney Brown discussed the proposed ordinance language, including comments from the Planning Commission and public. Commissioners Welch and Cheesebro stated they would be supportive of a reduction in the minimum 2-inch text size referenced in Section 24-143.A.3. Commissioner Patterson concurred stating a one-half inch type size appears to be a standard on existing donation boxes and large enough to convey the necessary information. Commissioner Reiff asked for additional staff explanation on why a requirement for liability insurance is deemed unnecessary. Mr. Forth stated the Planning Commission typically approves a variety of different uses through special land use permit and site plan approvals that are more intensive and inherently have a higher risk of hazard without a requirement for liability insurance. Mr. Forth indicated the issue of liability insurance is a private matter between the property owner and operator and the city has historically not been involved with these issues as a matter of ordinance requirements. Attorney Brown stated the requirement for proof of liability insurance would not further protect the city and would require the city to confirm that insurance was in place for the entire time the donation box was located on a property. Attorney Brown also indicated that he had spoken with the Financial Services Director for the city and an expert in risk management, who concluded requiring submission of proof of liability insurance for placement of donation boxes was not necessary.

After additional discussion, a motion was made by Commissioner Welch, seconded by Commissioner Bosch, to recommend to City Council that the Donation Box Ordinance Amendment be adopted without requiring the same operator to maintain both donation boxes in order to have two boxes on a lot of record and without the private liability insurance requirements. The motion also included a modification to Section 24-143.A.3 to require a minimum text size of one-half inch. The motion was unanimously approved.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 7:50 p.m.

Respectfully submitted,

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