



# PLANNING COMMISSION

September 17, 2015

# CITY OF PORTAGE PLANNING COMMISSION

## A G E N D A

September 17, 2015

(7:00 p.m.)

Portage City Hall Council Chambers

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### APPROVAL OF MINUTES:

- \* September 3, 2015

### SITE/FINAL PLANS:

### PUBLIC HEARINGS:

- \* 1. Preliminary Report: Rezoning Application #15/16-1, 710 and 732 East Centre Avenue

### OLD BUSINESS:

### NEW BUSINESS:

### STATEMENT OF CITIZENS:

### ADJOURNMENT:

### MATERIALS TRANSMITTED

August 11, 2015 City Council regular meeting minutes  
August 25, 2015 City Council regular meeting minutes  
July 2015 Summary of Environmental Activity Report

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

## PLANNING COMMISSION

September 3, 2015

The City of Portage Planning Commission meeting of September 3, 2015 was called to order by Chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. No citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

Chairman Welch led the Commission and staff in the Pledge of Allegiance.

### **IN ATTENDANCE:**

Christopher Forth, Deputy Director of Planning, Development & Neighborhood Services and Stacy French, Assistant Fire Chief

### **ROLL CALL:**

Mr. Forth called the roll and the following Commissioners were present: Patterson (yes), Stoffer (yes), Welch (yes), Felicijan (yes), Dargitz (yes), Somers (yes), Schimmel (yes) and Richmond (yes). A motion was made by Commissioner Felicijan, seconded by Commissioner Somers, to approve the roll excusing Commissioner Bosch. The motion was unanimously approved 8-0.

### **APPROVAL OF MINUTES:**

Chairman Welch referred the Commission to the August 20, 2015 meeting minutes contained in the agenda packet. A motion was made by Commissioner Somers, seconded by Commissioner Stoffer, to approve the minutes as submitted. The motion was unanimously approved 8-0.

### **SITE/FINAL PLANS:**

None.

### **PUBLIC HEARINGS:**

None.

### **OLD BUSINESS:**

1. Annual Capital Improvement Program Process Changes - Update. Mr. Forth provided an update concerning the changes being made to the FY 2016-2026 Capital Improvement Program (CIP) process intended to encourage citizen and Commission input earlier in the CIP process. Mr. Forth indicated an article already appeared in the September issue of the Portager, CIP web page on the city website and on-line survey were live and an email communication was sent out to all boards and commissioners earlier today. Mr. Forth discussed the special CIP "Open House" meeting with city staff and the Planning Commission that will be held on Monday, September 28<sup>th</sup> to provide additional opportunity for general public input. The Commission had no further questions or comments.

### **NEW BUSINESS:**

1. FY 2015-2025 Capital Improvement Program Amendments. Mr. Forth summarized the August 31, 2015 Department of Community Development staff report that included communications from Christopher Barnes,

Director of Transportation and Utilities and Richard White, Public Safety Director regarding two proposed amendments to the adopted FY 2015-2025 Capital Improvement Program (CIP). Mr. Forth indicated both amendments were proposed for FY 2015-2016 and referred the Commission to the CIP Project Profiles, Project Expenditures and Project Funding Sources tables included in the agenda materials.

Mr. Forth stated the first amendment involves the completion of safety improvements to the South Westledge Avenue/Romence Road intersection. The second amendment involves the replacement of a fire pumper truck that was involved in an accident in July 2015. Mr. Forth indicated the replacement of the fire pumper is scheduled for FY 2018-2019 but is being advanced as a result of the accident. The city-share funding for both projects is from the general fund that is in excess of the 24% reserve balance. Commissioner Dargitz inquired if the South Westledge Avenue/Romence Road grant funding can only be used at that intersection. Mr. Forth indicated funding is restricted to that intersection. Chairman Welch asked why the intersection project was not currently in the CIP. Mr. Forth stated the award of the grant came after the FY 2015-2025 CIP had been finalized and due to time constraints related to MDOT deadlines, the project needs to be move forward before the FY 2016-2026 CIP is prepared/adopted.

Assistant Fire Chief Stacy French was present to explain and answer questions concerning replacement of the fire pumper. Mr. French explained the amount of damage caused as a result of the accident, age of truck and amount of mileage. Mr. French also indicated arrangements have been made to store the truck for three years and use it for parts on an as-needed basis, which will save the city additional money. The Commission discussed the advantages and disadvantages of repairing the truck versus replacing it.

There being no further discussion concerning the two Capital Improvement Program amendments, a motion was made by Commissioner Felicijan, seconded by Commissioner Stoffer, that the Planning Commission recommend to City Council the FY 2015-2025 Capital Improvement Program be amended to include the proposed South Westledge Avenue/Romence Road intersection safety improvements and purchase of a fire pumper replacement vehicle in FY 2015-2016. The motion was unanimously approved.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 7:25 p.m.

Respectfully submitted,

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

TO: Planning Commission

DATE: September 11, 2015

FROM: Vicki Georgeau, <sup>JA</sup> Director of Community Development

SUBJECT: Preliminary Report: Rezoning Application #15/16-1, 710 and 732 East Centre Avenue

**I. INTRODUCTION:**

An application has been received requesting that 710 and 732 East Centre Avenue be rezoned from B-1, local business and R-1A, one family residential to OS-1, office service. According to the applicant, the rezoning would facilitate construction of an approximate 32,000 square foot memory care facility at the subject properties. As information for the Commission, institutional uses including a memory care facility are not allowed in the B-1 district, however, are allowed in the OS-1 district as a special land use.

Applicant	Property Address	Parcel Number	Zoning	
			Existing	Proposed
Donald Zeimke (Alto Convenience Inc.) and Timothy Dockerty (Woodland Terrace)	710 East Centre Avenue	04680-016-O	B-1/R-1A	OS-1
	732 East Centre Avenue	00022-150-O	B-1	OS-1
Two parcels – 2.2 acre				

**II. EXISTING CONDITIONS:**

Land Use/Zoning	<p><u>Rezoning Site:</u> Vacant land formerly occupied by the Centre Street Market. The approximate 2.2 acre site is zoned B-1, local business with the exception of the west 5-feet of 710 East Centre Avenue which is zoned R-1A, one family residential.</p> <p><u>East:</u> Otis Montessori Academy preschool and child care facility (810 East Centre Avenue) zoned B-1, local business.</p> <p><u>West/South:</u> Single family residences zoned R-1A, one family residential.</p> <p><u>North (across East Centre Avenue):</u> Nonconforming single family residences zoned OS-1, office service.</p>
Zoning/Development History	In 2014, several parcels located along the south side of East Centre Avenue, east of Lakewood Drive, including 710, 732, 810, 830, 906, 912, 916 and 918 East Centre Avenue were rezoned from B-3, general business to B-1, local business with the exception of the west 5-feet of 710 East Centre Avenue which remained zoned R-1A, one family residential (Rezoning Application #14-2).
Historic District/Structures	The subject site is not located within a historic district and does not contain any historic structures.
Public Streets	East Centre Avenue is designated a 5-lane major arterial roadway with 20,233 vehicles per day (2011) and a capacity of 37,100 vehicles per day (level of service "D").
Public Utilities	Municipal water and sewer are available.
Environmental	The City of Portage Sensitive Land Use Inventory Map does not identify wetland and/or floodplain areas on the subject site.

### III. PRELIMINARY ANALYSIS:

The following analysis has been prepared based on general land use considerations, the Comprehensive Plan, traffic conditions and surrounding development patterns. Issues to be considered are consistency with the Future Land Use Plan Map and Development Guidelines, suitability of the existing zoning classification and the impacts of the proposed zoning classification.

Comprehensive Plan/Future Land Use Map Consistency. The 2014 Comprehensive Plan/Future Land Use Map identifies the rezoning site along with properties located east and west, along the north and south sides of East Centre Avenue, as appropriate for office land use. This land use designation dates back to the 1996 Comprehensive Plan and has carried forward with subsequent Plan updates in 2002, 2008 and 2014. This section of East Centre Avenue is also designated as an office corridor with a predominant office, personal service establishment, institutional and residential land use pattern. The Comprehensive Plan identifies the office land use designation and the corresponding OS-1 district as an effective transition zone between residential uses and major arterial roadways since office uses typically have limited hours of operation (weekdays from approximately 8am-5pm), a building style and mass similar to residential structures and less traffic generation.

Development Guidelines. The Development Guidelines are intended to be used by the Commission and staff when reviewing private development proposals, infrastructure improvement programs (i.e. public expenditures on streets, sewers and water mains that influence the location, intensity and timing of development) and public programs that affect the physical environment. The guidelines also provide direction and underpinning for regulations that affect land use (e.g. zoning, subdivision, parking, landscaping and others) and may suggest incentives to influence community development and adjustments to other policies that influence the use of land for consistency with community development objectives. An evaluation of the Development Guidelines will be provided with the staff recommendation.

Suitability of Existing B-1 and R-1A Zones/Impacts of Proposed OS-1 Zone. While the existing B-1 zoning district is still a viable option for the properties, the B-1 zone does not allow institutional land uses such as public/private schools, religious institutions, community recreational centers and facilities for human care, which are allowed as a special land use in the OS-1 district. Consequently, a zoning change is needed to accommodate the proposed memory care facility. The proposed OS-1 zoning district is consistent with the Plan designation. Principal permitted uses allowed in the OS-1 district include administrative/professional offices, medical offices/clinics, banks/credit unions and personal service establishments. These principal permitted uses are also allowed in the B-1 district; however, special land uses listed in the OS-1 do not carry over into the B-1 district.

The west 5-feet of 710 East Centre Avenue was retained in the R-1A zoning classification since the 1998 rezoning of the parcel from R-1A to P-1 to prevent vehicular access to/from Lakewood Drive. City Council reaffirmed and retained this strip of R-1A zoning with the 2014 zoning change from P-1 to B-1.

Traffic Considerations. Anticipated traffic generation associated with a zoning change to OS-1 and associated development will likely be less than development under the existing B-1 zoning district and can be accommodated by the surrounding roadway network. Additionally, office and institutional related land uses tend to have less evening and weekend traffic, which is more compatible with the adjacent neighborhood. Specific access related issues including driveway locations, shared/cross access connections, etc. will be reviewed at the site plan stage of redevelopment.

#### IV. RECOMMENDATION:

The Planning Commission policy is to accept public comment at the initial meeting and continue the rezoning consideration at a subsequent meeting. However, the applicant has requested the Planning Commission waive the second public meeting and make a recommendation to City Council following the public hearing at the September 17, 2015 meeting.

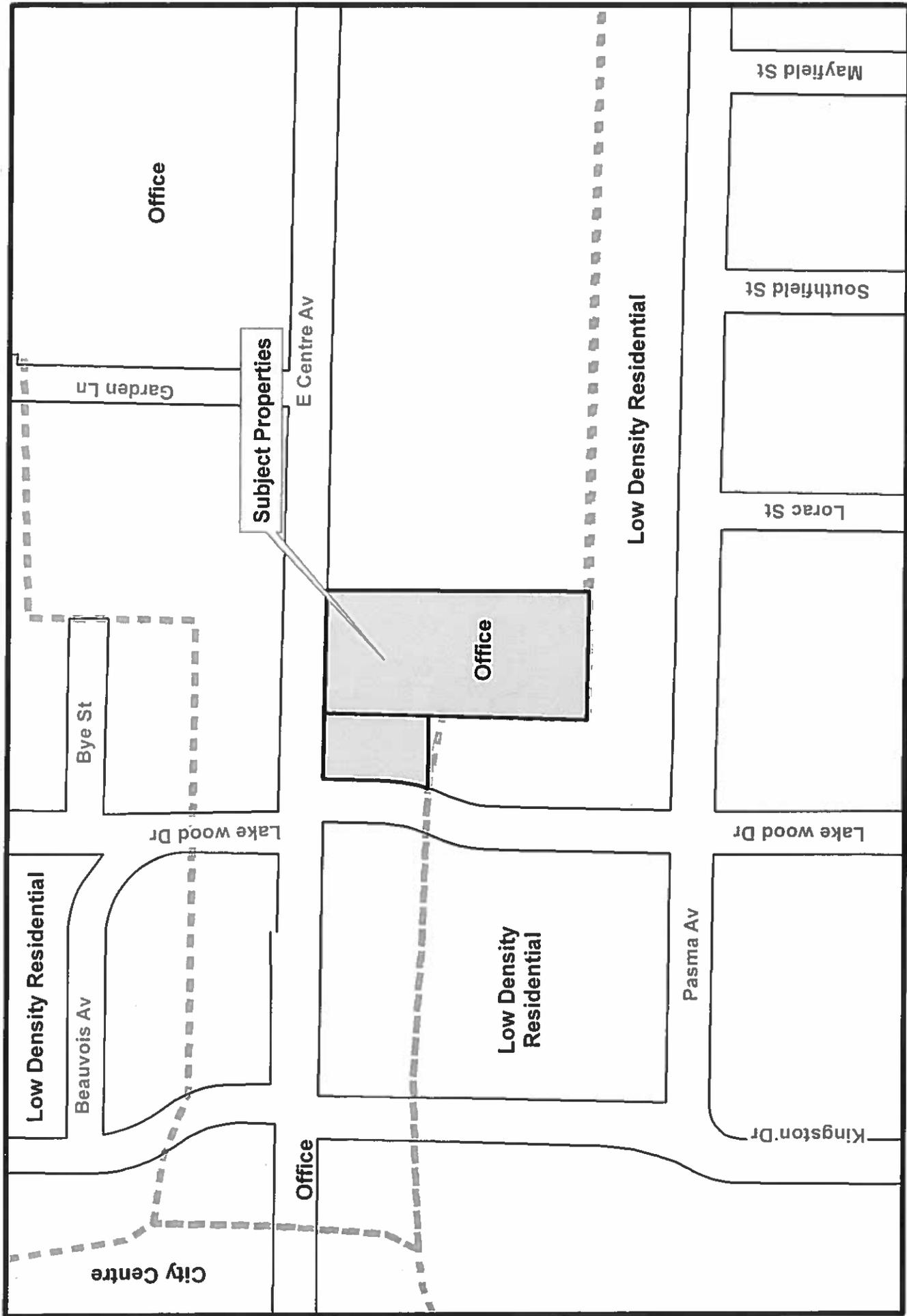
As the Commission is aware, an extensive amount of public input and discussion occurred in 2014 as part of the special land use permit consideration for a proposed gasoline station/convenience store development project at 710 and 732 East Centre Avenue (which was withdrawn by the applicant) and subsequent consideration of Rezoning Application #14-2 where several East Centre Avenue properties, including the subject parcels, were rezoned from B-3 to B-1. While these properties are designated for future office land uses, City Council rezoned the properties to B-1 to afford the property owners a broader range of retail uses and development options. Given this previous discussion and subject to any public comment received during the September 17, 2015 meeting, the Planning Commission should consider the applicant's request to waive the second public meeting. The proposed zoning change from B-1 to OS-1 is consistent with the Comprehensive Plan, Future Land Use Map and land use/zoning pattern along this stretch of East Centre Avenue.

Subject to any public comment received and if the Commission agrees to waive the second public meeting, staff advises that the Planning Commission recommend to City Council that Rezoning Application #15/16-1 be approved and that 710 and 732 East Centre Avenue be rezoned from B-1, local business to OS-1, office service with the exception of the west 5-feet of 710 East Centre Avenue which is to remain zoned R-1A, one family residential.

If the Commission does not agree to waive the second meeting, staff advises that public comment regarding Rezoning Application #15/16-1, 710 and 732 East Centre Avenue, be received during the September 17, 2015 meeting and the public hearing be adjourned to the October 1, 2015 meeting.

Attachments: Zoning/Vicinity Map  
Future Land Use Map  
Aerial Photograph Map  
Rezoning Application and Supporting Materials



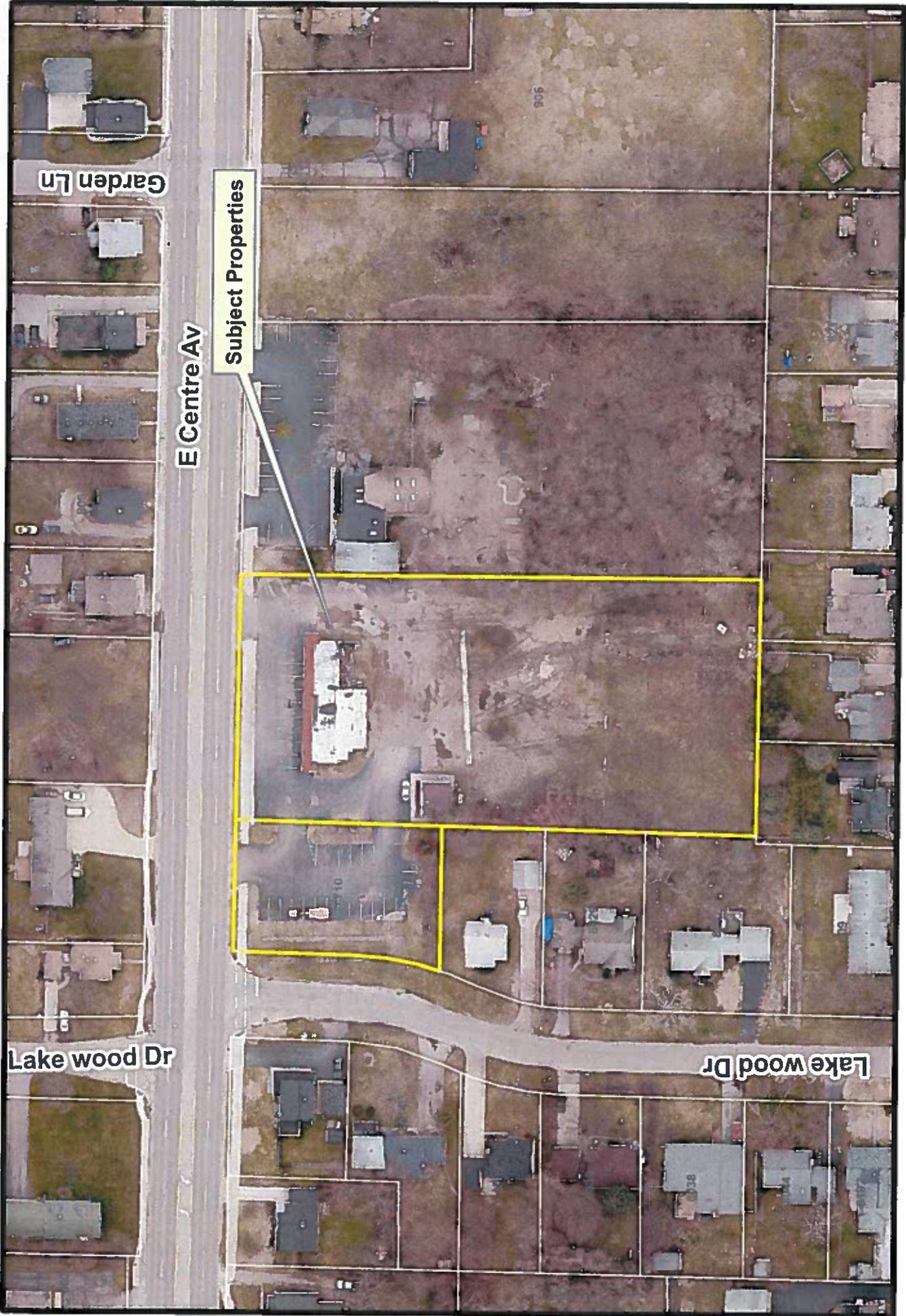


**Rezoning #15/16-01  
710, 732 E Centre Avenue**

Subject Property  
 Future Land Use



1 inch = 200 feet



Garden Ln

E Centre Av

Subject Properties

Lake wood Dr

Lake wood Dr

906



1 inch = 99 feet

# Aerial Photography 710, 732 E Centre Avenue

Subject Property





RECEIVED  
AUG 20 2015  
COMMUNITY DEVELOPMENT

August 18, 2015

Portage City Hall  
7900 South Westnedge Ave.  
Portage, MI 49023

RE: Letter of Intent, Proposed Memory Care Facility

Dear Commission Members,

We are making a request on behalf of the current owner (Alto Convenience, Inc.) and our client, the developer and future owner (Woodland Terrace) for a zoning amendment. Woodland Terrace is currently under contract for the property located at 732 E Centre St. (Parcel #000221500) & 710 E Centre St. (Parcel #046800160) to purchase the property.

The proposed project consists of a two phase, approximately 32,000 sft memory care facility. The project will create a local facility that will provide a financially affordable, Christian service to seniors who deserve the highest degree of respect, dignity and quality of life. The campus will create local jobs and will have a positive economic impact on the neighborhood and surrounding area. The development will consist of new building construction, parking lot improvements, storm water retention basin, site lighting, and site landscaping. The facility is architecturally designed with the idea of maintaining a home-like environment in a community setting which will greatly improve the existing lot, while working in harmony with the surrounding neighborhood.

We would greatly appreciate your understanding and assistance in obtaining zoning amendment approval. We understand that many discussions of zoning change from B-3 to OS-1 took place in 2014, and we ask the planning commission to consider waiving the 2<sup>nd</sup> meeting requirement and make recommendation to City Council in order to move forward with this exciting project. Thank you for your assistance on this project. Please let us know if any additional information is needed in order to process this request.

Sincerely,  
HURLEY & STEWART, LLC.

Timothy A. Stewart, P.E.

RECEIVED

AUG 20 2015

### APPLICATION FOR ZONING AMENDMENT

Application number #15/16-1

Date August 18, 2015

#### APPLICATION INFORMATION:

Meetings of the Portage Planning Commission are held on the first and third Thursday of each month at 7:00 p.m. in the Council Chambers of Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan. All zoning amendment applications must be properly filled out and submitted to the Department of Community Development and the zoning amendment fee paid at least 15 working days prior to the meeting at which the public hearing is held. The applicant will be notified in writing of all such public hearing/meetings.

For more detailed information about the zoning amendment process, please refer to Portage Land Development Regulations, Article 4, Division 2, Subdivision 2.

#### TO THE PLANNING COMMISSION:

I (WE), the undersigned, do hereby respectfully make application and petition the Portage Planning Commission to amend the Zoning Ordinance and/or change the Zoning Map as hereinafter requested. In support of this application, the following is submitted:

#### ZONING MAP AMENDMENT

1. a. **Platted Land:**

The property is part of the recorded plat: The property sought to be rezoned is located at \_\_\_\_\_ between \_\_\_\_\_ Street and \_\_\_\_\_ Street on the \_\_\_\_\_ side of the street, and is known as Lot Number(s) \_\_\_\_\_ of \_\_\_\_\_ Plat (Subdivision). It has a frontage of \_\_\_\_\_ feet and a depth of \_\_\_\_\_ feet.

b. **Unplatted Land:**

The property is in acreage, and is not therefore a part of a recorded plat. The property sought to be rezoned is located and described as follows: (Indicate total acreage and parcel number).

Parcel Number 000221500, 1.85 acres & Parcel Number 046800160, .39 acres

(732 E. Centre) (710 E. Centre)

2. a. Do you own the property to be rezoned? Yes \_\_\_\_\_ No X

b. Name of the owner of the property to be rezoned: Alto Convenience, INC

Address 7404 Kettle Lake Dr Alto, MI 49302

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: We have the property under contract for purchase. We intend to develop the property into a two-phased, approximately 32,000 sfl memory care facility with on-site parking facilities and other site amenities.

4. CURRENT ZONING: B-1 PROPOSED ZONING: OS-1

**ZONING TEXT AMENDMENT**

1. The proposed language to be considered is (attach additional sheets as necessary):  
\_\_\_\_\_  
\_\_\_\_\_
2. The Zoning Code Chapter and Section wherein the proposed text would be modified/inserted.  
\_\_\_\_\_
3. My (our) interest in and purpose for submitting the proposed Zoning Ordinance Amendment.  
\_\_\_\_\_  
\_\_\_\_\_

We attach a statement hereto indicating why, in our opinion, the change requested is necessary for the preservation and enjoyment of substantial property rights, and why such amendment will advance the public health, safety and welfare. An assessment of the impact of the proposal on the community and property of other persons in the vicinity of the amendment or affected by the amendment is also attached.

*Timothy D. ...*  
(Signature of Applicant)

*[Signature]*  
(Signature of Applicant)

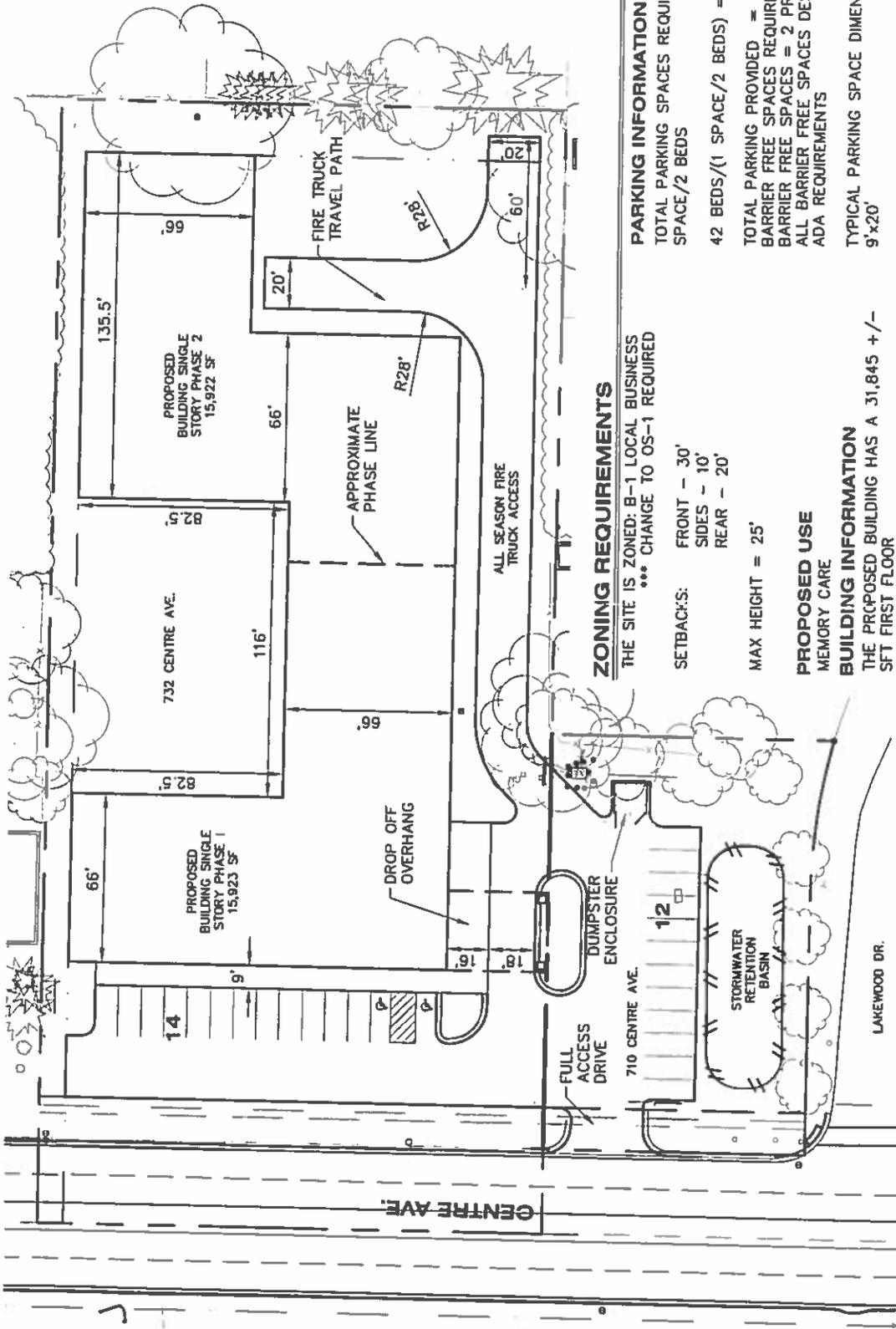
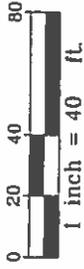
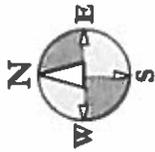
8850 Red Arrow Hwy, Bridgeman, MI 49106  
(Address)

7404 Kettle Lake Drive, ATO MI  
(Address)

269-465-7600  
(Phone)

111-437-7470  
(Phone)

A copy of all actions taken regarding this application shall be attached and shall be considered a part of this application.



THE SITE IS ZONED: B-1 LOCAL BUSINESS  
 \*\*\* CHANGE TO OS-1 REQUIRED

SETBACKS: FRONT - 30'  
 SIDES - 10'  
 REAR - 20'

MAX HEIGHT = 25'

**PROPOSED USE**  
 MEMORY CARE

**BUILDING INFORMATION**  
 THE PROPOSED BUILDING HAS A 31,845 +/- SFT FIRST FLOOR

**PARKING INFORMATION**

TOTAL PARKING SPACES REQUIRED: 1 SPACE/2 BEDS  
 42 BEDS/(1 SPACE/2 BEDS) = 21 SPACES  
 TOTAL PARKING PROVIDED = 26 SPACES  
 BARRIER FREE SPACES REQUIRED = 2  
 BARRIER FREE SPACES = 2 PROVIDED  
 ALL BARRIER FREE SPACES DESIGNED PER ADA REQUIREMENTS  
 TYPICAL PARKING SPACE DIMENSION = 9'x20'

**H/S**  
 hurley & stewart  
 2000 south 11th street  
 kalamazoo, michigan 49009  
 269 552 4960 fax 269 552 4961  
 www.hurleyandstewart.com

Job No: 15-016D  
 Date: 6/20/15  
 Scale: AS NOTED  
 P.M.: TMS  
 LAD  
 DFC  
 QA/QC: 6/20/15

Title: CONCEPTUAL LAYOUT C  
 Project: DOCKERTY MEMORY CARE  
 Client: DOCKERTY MEMORY CARE

Drawing No: 1

# **MATERIALS TRANSMITTED**

## CITY COUNCIL MEETING MINUTES FROM AUGUST 11, 2015

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

At the request of Mayor Strazdas, Father Stan Witek of St. Catherine of Siena Catholic Church of Portage gave the invocation and City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Also in attendance were City Manager Laurence Shaffer, City Attorney Randy Brown and City Clerk James R. Hudson.

**APPROVAL OF MINUTES:** Motion by Ansari, seconded by Reid, to approve the Regular Meeting Minutes of July 21, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Pearson to read the Consent Agenda. Councilmember Reid asked that Item F.1, Complete Streets Policy, L.1, Traffic Signal Maintenance Contract – Bid Tabulation, and L.3, West Centre Avenue Traffic Signals and Roadway Improvements, be removed from the Consent Agenda. Councilmember Urban asked that Item F.4, Marijuana Initiative Petition Responses, be removed from the Consent Agenda.

Motion by Pearson, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 11, 2015:** Motion by Pearson, seconded by Urban, to approve the Accounts Payable Register of August 11, 2015. Upon a roll call vote, motion carried 7 to 0.

### REPORTS FROM THE ADMINISTRATION:

**COMPLETE STREETS POLICY:** Councilmember Reid asked whether all types of transportation were considered as a part of the discussion and concept regarding how to keep Portage streets complete in the winter when there is a need for snow removal. City Manager Shaffer expressed appreciation to the Planning Commission for their work on this policy and deferred to Community Development Director Vicki Georgeau. Ms. Georgeau responded that this was not specifically discussed as it is considered an ongoing maintenance issue and is more applicable to long-term planning, capital improvement projects, private development review projects, etc. However, she said that the Disability Network of Southwest Michigan has reached out to City staff and recently invited Department of Public Services and Community Development to a meeting to try to brainstorm on how to address this issue. Discussion followed.

In answer to Mayor Strazdas, Ms. Georgeau responded instead of spending funds to perform maintenance and repairs, Amendments to State Statute have required the City to consider complete streets elements for a very long time now and explained. Discussion followed.

In answer to Councilmember Randall, Ms. Georgeau indicated that the consideration for bicycles and bike safety in order to obtain state and federal funding for street projects was a policy adopted by the Kalamazoo Area Transportation Study (KATS). Discussion followed.

Mayor Pro Tem Pearson expressed his appreciation for Section IX. Intergovernmental Cooperation, since Portage trails interconnect with other jurisdictions, and thanked Planning Commissioner Miko Dargitz, who advocated traffic calming along Portage Road. He also concurred with Mayor Strazdas that sidewalks on both sides of the road throughout the City may not be warranted, and asked whether adopting the Complete Streets Policy would interfere with the plan to use a portion of the residual \$2.4 million that will be available in the Fall for resurfacing streets.

Ms. Georgeau referred him to Section VII. Non-Motorized Complete Streets Elements, and noted that when it comes to local streets, only the gaps in the sidewalks, a need for a sidewalk where it is illogical to keep it as is, or in those areas where there are pedestrian generators such as a school, park, etc. Discussion followed.

Councilmember Urban acknowledged that KATS did adopt the policy to consider Complete Streets Elements when granting state and federal funds, including a procedure to follow for exceptions. He mentioned that this was the most contentious item discussed during his 15+ year service on KATS, noted that it was not unanimous, and cited exceptions to the KATS Policy, such as the financial exception or the Portage example of a walkway on Oakland Drive south of Centre Avenue.

In answer to Councilmember Ansari, Ms. Georgeau cited the cooperative effort associated with the placement of a sidewalk to accommodate the students who attend the 12<sup>th</sup> Street Elementary School as part of the *Portage A Natural Place to Move* initiative and explained. As further examples of cooperation with Portage Public Schools, Mayor Strazdas cited the Haverhill School and Amberly School sidewalk installations that were made possible through the "Safe Route to Schools" Program.

In answer to Mayor Pro Tem Pearson and his concern that the sidewalk in front of Lake Center Elementary was too close to Portage Road and whether there are plans to move the sidewalk away from the traffic, Ms. Georgeau indicated she had no knowledge of the exact circumstances of that particular sidewalk, and indicated that major thoroughfares in Portage have the same situation which is based upon the width of the right-of-way or the problems obtaining easements, for example. She commented that this policy could definitely affect such an installation in the future.

Motion by Pearson, seconded by Reid, to adopt the resolution approving the Complete Streets Policy. Mayor Strazdas pointed out that the State Superintendent regulates all site plan issues for schools "K-12" and the City does not, so the schools work using their own rules in this regard. Upon a voice vote, motion carried 7 to 0. Resolution recorded on page 25 of City of Portage Resolution Book No. 46.

\* **DELTA DENTAL PLAN OF MICHIGAN INSURANCE:** Motion by Pearson, seconded by Urban, to approve a two-year Contract renewal with Delta Dental Plan of Michigan and authorize the City Manager to execute all documents on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

\* **INVESTMENT POLICY REVISION:** Motion by Pearson, seconded by Urban, to approve a revision of the City Investment Policy as recommended by the Investment Committee. Upon a roll call vote, motion carried 7 to 0.

**MARIJUANA INITIATIVE PETITION RESPONSES:** Councilmember Urban asked whether the language of the Initiative Petition will become part of the *City Charter* if passed, and City Attorney Brown responded that it will become a part of the *City Charter* if passed and explained. Discussion followed.

Motion by Urban, seconded by Ansari, to receive the responses to the Charter Amendment by Initiative Petition from Governor Rick Snyder and Attorney General Bill Schuette through Chief Legal Counsel Matthew Schneider as information only. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

#### **COMMUNICATION:**

\* **MICHIGAN MUNICIPAL LEAGUE ANNUAL MEETING NOTICE:** Motion by Pearson, seconded by Urban, to receive the communication from the Michigan Municipal League regarding the Annual Meeting Notice. Upon a roll call vote, motion carried 7 to 0.

## COUNCIL COMMITTEE REPORTS:

**CITY MANAGER EMPLOYMENT MANUAL COMMITTEE FINAL REPORT AND RECOMMENDATIONS:** Councilmember Ford reviewed the progress of the Committee over the past few months with the task of establishing a procedure for handling complaints against the City Manager. He noted that the Committee engaged in collaboration with Deputy City Manager Rob Boulis and City Attorney Randy Brown and Labor Counsel Kevin McCarthy. He indicated that he, Councilmember Randall and Councilmember Reid, as members of the Committee, reviewed the City Personnel Rules and Regulations and pertinent Administrative Orders as points of reference in the matter. He indicated that the Committee concluded that some of the Administrative Orders do not apply to the City Manager since they are promulgated by the City Manager to enforce some type of directive for the good of the City.

Councilmember Ford indicated that the two solutions settled upon were to create a separate Employee Manual for the City Manager and to add an addendum to the City Manager Contract if the City Manager would agree to an addendum. However, the creation of an Employee Manual for the City Manager proved problematic since the Committee did not have enough substance necessary for such a document, so with the help of the City Attorney, the Committee decided to create a Council Policy instead. He reviewed the proposed policy as presented to City Council and asked for comment. Discussion followed.

Motion by Pearson, seconded by Randall, to receive the Presentation by the City Manager Employment Manual Committee Member Councilmember Ford, and adopt the *City Council Policy with Regard to Employment of City Manager*.

Councilmember Urban asked why City Council has to retain external legal counsel in Section D.iii., if an investigation is warranted and desired, to avoid the perception of a potential conflict of interest by persons with an ongoing relationship with the City, such as Labor Counsel and General Counsel, yet the Council is delegating the review of a complaint against the City Manager to an employee or appointee of the City Manager, the Human Resources Director.

Councilmember Ford responded since the Council cannot delegate responsibilities to an employee because of the *City Charter*, the Committee determined that the Policy should provide guidance regarding how the Administration should handle these issues and explained. Discussion followed.

Deputy City Manager Boulis indicated that the discussion among the Committee Members was that an allegation is only an allegation; for example, it can be an allegation of improper conduct, but that is in the eye of the beholder. For example, he said it might be illegal conduct, or it might be legal conduct; it might be how an employee is addressed, or how an employee is not addressed; moreover, he indicated that the Human Resources Director takes the role as in any organization; he or she takes the complaint, gets all of the facts and decides whether it should go forward, or is just a misunderstanding. He said this was the first step to see if the complaint rises to the level of a formal investigation from an external source versus something that could be resolved internally, if it is a misunderstanding. Furthermore, he indicated that the current Administrative Order directs an employee with such a complaint to go to the Deputy City Manager or the Human Resources Director and explained.

Councilmember Urban explained that for anyone else, the Human Resources Director would be a peer with the exception of the Deputy City Manager, but in this case, it is a complaint against a superior and explained that it is inappropriate to delegate the responsibility of the first arbitration from the City Council as they are the direct supervisor of the City Manager. He further indicted that Section D.ii. is problematic because City Council cannot, other than in our own minds, consider the appropriateness and legal consequences of discussing the allegations publicly because this can only be done in an open meeting. In addition, he said because an allegation has gone through one arbiter and forwarded to City Council as the ultimate supervisor of the City Manager, then an investigation would always be warranted in order to know "what we were dealing with." He asked whether there are some allegations where investigations are required under federal or state law, and requested that the Sexual

Harassment Section of Administrative Order 3.03 that reads, "The City will actively investigate any allegation of sexual harassment" be distinguished.

City Attorney Brown indicated that he thinks an investigation is required, but the extent of the investigation is not specified and deferred to Deputy City Manager Boulis for his input. Mr. Boulis indicated that investigations are conducted in order to solve the problem, correct the problem and make sure it does not occur again. If an organization fails to perform the investigation, it opens itself up to liability. He said he does not think it is a federal law, but if an organization does not conduct an investigation, and the Equal Employment Opportunity Commission (EEOC) or other such agency finds there is an environment that should have been prevented, the consequence is an increase liability and explained. Discussion followed.

City Attorney Brown indicated that the Policy allows the City Council to have a meeting to determine what should be discussed and what should not be discussed; and, since Council cannot hire outside counsel without a vote, it also provides a meeting where City Council discusses and makes the decision. In answer to Councilmember Ansari, Mr. Brown indicated that Council can only discuss an employee in closed session with the permission of the employee involved. He emphasized that Council can discuss an attorney-client communication, but only the legality of the communication. Mayor Strazdas summed up and spoke in agreement with the Committee recommendation.

Councilmember Urban summed up his position by saying that it comes out of Human Resources; is sent to the Mayor and Council is notified; it goes to investigation; and, Council does not discuss it until the investigation is complete.

In answer to Councilmember Urban, Councilmember Randall indicated that this Policy was the result of eight months of work by the Committee, who used the expertise of Legal Counsel and the Human Resources Director. She indicated that the Committee was concerned that all are innocent until proven guilty and some allegations may be made out of anger, so it may not be fair to have the matter rise to the level of City Council. With regard to the suggestion of a retainer, she indicated that the Committee did not want to lock into a firm that may not be the best law firm for this purpose some years from now. She also indicated that any illegal allegations would go immediately to the Police for investigation. She thanked Councilmembers Ford and Reid, Deputy City Manager Boulis and City Attorney Brown for their long hours which culminated in such an excellent document.

Councilmember Reid also pointed out that Administrative Order 3.03 that reads complaints by an employee should be directed to the Deputy City Manager, the Human Resources Director or any city department director, but the employee could approach a Councilmember as well, so all Councilmembers would be then informed. She surmised that an investigation would not have taken place at this juncture, nor determined that one was necessary, and was a scenario where there was a need for the word "If" in D.iii.

Councilmember Ford interjected that another reason for not having a firm on retainer as suggested by Councilmember Urban was that there could also be a conflict of interest that may not be known at the time of the need for an investigation. Discussion followed. Upon a roll call vote, motion carried 6 to 1. Yeas: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall and Claudette Reid, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. No: Councilmember Terry Urban

**PRESENTATION BY MAYOR PRO TEM PEARSON REGARDING A JOINT MEETING OF THE CENTRAL COUNTY TRANSIT AUTHORITY, KALAMAZOO COUNTY TRANSIT AUTHORITY AND THE KALAMAZOO TRANSIT AUTHORITY:** Mayor Pro Tem Pearson indicated that he and Councilmember Urban attended the Central County Transit Authority (CCTA) Meeting on July 27, 2015, which was before the August 4, 2015 Election on the transit millage. He referenced a presentation by Executive Director Sean McBride, who provided a background of the organizational structure to inform all three of these Boards regarding the assets, the liabilities and what this means for the future. He mentioned that the CCTA will meet twice a month because of the work load for the next few months.

Councilmember Urban added that both this meeting and the prior meeting were set for the purpose of educating the members of the CCTA and others regarding the structure of the Authorities and

to proactively inform everyone since there are a number of topics that have to be covered for all of the new people involved. He indicated that a lot of work has to be done now that the millage has passed. Mayor Strazdas asked that any notes pertaining to the meetings be published on the website as they become available to keep Portage citizens informed. Mayor Pro Tem Pearson reminded him that the minutes are not published until a day or two before the next meeting by the CCTA, but are made available on the CCTA website. Mayor Pro Tem Pearson indicated that the CCTA is 50% funded by the state and federal governments, and Councilmember Urban mentioned that these are informational meetings and the minutes are essentially slides from Mr. McBride, but when the Authority begins making decisions, the minutes will reflect that. He also indicated that he and Mayor Pro Tem Pearson would report important decisions before the minutes are released. Discussion followed.

Motion by Ford, seconded by Ansari to receive the report of the CCTA from Mayor Pro Tem Pearson and Councilmember Urban. Upon a voice vote, motion carried 7 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of the following Boards and Commissions:

Portage Human Services Board of April 2, 2015.  
Portage Youth Advisory Committee of July 7, 2015.  
Portage Senior Citizen Advisory Board of July 15, 2015.

#### **BID TABULATIONS:**

**TRAFFIC SIGNAL MAINTENANCE CONTRACT– BID TABULATION:** Since the proposal also provides hourly rates for emergency call-in work during regular hours and after hours, as well as new signal additions to the City system, Councilmember Reid asked if that was a part of the previous contract, or is it a new aspect of this contract. She also asked why the City only received one bid, yet solicited from seven different companies, and it is almost \$12,000 more than the former contract.

City Manager Shaffer deferred to Transportation Director Christopher Barnes, who responded that the emergency call-out rates and new signal additions to the City system were part of the previous contract in 2010, but that it was important to spell it out this time in order to make it clear that it was part of the contract and explained. Also, he said that the City inherited the system in 1963 from Kalamazoo County and the City decided to have the maintenance performed by outside contractors rather than have a separate electrical department. He concurred with Mr. Shaffer that the response time is of a critical nature to a contract such as this and, in order to meet the two-hour call-out time, he said that there are really only two companies capable of doing this. He explained that Severance Electric had performed this contract for many years, but a Wayland company received it the last time which canceled the contract because they lost their qualified person who used to perform the work. Discussion followed.

Motion by Reid, seconded by Randall, to award a contract for the maintenance of the city traffic signal system from September 1, 2015, to June 30, 2018, with the option to renew for one 3-year period to Severance Electric Company, Incorporated, in the base amount of \$173,800 with hourly rates as bid for call-in work, and additional intersections as necessary, and authorize the City Manager to execute all documents related to the contract on behalf of the City. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

\* **PINE VIEW DRIVE SANITARY SEWER PROJECT – BID TABULATION:** Motion by Pearson, seconded by Urban, to award a construction contract for the Pine View Drive Sanitary Sewer Project to Balkema Excavating, Incorporated, of Kalamazoo, Michigan, in the amount not to exceed \$261,328 and authorize the City Manager to execute all documents related to the contract on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

**WEST CENTRE AVENUE TRAFFIC SIGNALS AND ROADWAY IMPROVEMENTS:**

Councilmember Reid indicated that the report reflected that Abonmarche has proven their experience and qualification on similar projects in the City and asked whether the other company that bid was not qualified or did the actual bid not reflect the high level of what was needed and that Abonmarche was the company that did meet that level of need.

City Manager Shaffer responded that this was a Request for Proposal for Professional Services and not a bid process, and only one of the criteria is cost with other considerations being experience in the types of tasks that are part of the expectations and a level of comfort with previous performance. He explained that Abonmarche meets these qualifications and, considering the \$1,860 difference, he reminded them that cost is only one factor. Because of the fiduciary responsibility of Council in these matters, Mayor Strazdas asked that perhaps in future reports, staff could provide a little more information to assist in understanding why there is a need to spend more money for a product or service.

Motion by Reid, seconded by Randall, to award a contract to perform engineering services for the West Centre Avenue Traffic Signals and Roadway Improvements project for the intersections of Old Centre Road/West Centre Avenue and Cooley Drive/West Centre Avenue to Abonmarche Consultants, Incorporated, in the amount not to exceed \$75,160 and authorize the City Manager to execute all documents related to the contract on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

\* **TAX FORM PRINTING:** Motion by Pearson, seconded by Urban, to approve a two-year contract with Specialty Business Forms, Inc., in the estimated amount of \$60,715.58 for tax bill and assessment notice printing, with the option to renew for two additional two-year periods, and authorize the City Manager to execute all documents related to the contract on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

\* **SELF-CONTAINED BREATHING APPARATUS:** Motion by Pearson, seconded by Urban, to approve the purchase of six Self-Contained Breathing Apparatus (SCBA) units and 14 air supply bottles from West Shore Fire of Allendale, Michigan, in the amount not to exceed \$47,726.04 and authorize the City Manager to execute all documents related to the purchase on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

\* **DOCUMENT MICROFILMING, IMAGING AND DESTRUCTION SERVICES:** Motion by Pearson, seconded by Urban, to approve a contract in an estimated annual amount of \$18,775 with Automatic Microfilming Co., Inc., for document microfilming, imaging and destruction services, with the option of four one-year contract renewals, and authorize the City Manager to execute all documents related to this action on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITIZENS:** Kalamazoo County Commissioner Larry Provancher provided an update of County activities for City Council. He indicated that Consolidated Dispatch (911) is moving forward and the Executive Director search is going well, but the Kalamazoo County Administrator is not going as well. He reviewed the Kalamazoo County Local Housing Assistance Fund Millage that is specifically geared toward assisting children from families of low income who are homeless, or who are at risk of becoming homeless, and said that it is a "Vote for kids" campaign. He announced the free picnic at Milham Park from 5 p.m. until 7 p.m., on August 12, 2015, for National Alliance on Mental Illness (NAMI). Mayor Strazdas thanked Commissioner Provancher for his service as a County Commissioner and as a volunteer over the years.

**STATEMENTS OF CITY COUNCIL:** Councilmember Ansari mentioned that he, Mayor Strazdas and Councilmember Ford attended the Ribbon-Cutting Ceremony for Jared's Jewelry, 6307 South Westnedge Avenue, on Saturday, August 1, 2015. Mayor Strazdas concurred and noted the recent

addition of a bank as part of the business growth in the City. Councilmember Ford acknowledged it was a welcomed addition to the business community.

Councilmember Reid highlighted the activities during Teen Movie Night sponsored and put on by the Youth Advisory Council in conjunction with the Optimist Club; she mentioned that the Kalamazoo County Council of Governments (COG) is meeting at the Kalamazoo County Road Commission on Wednesday, August 13, 2015, at 3:30 p.m. where John Pinkster of Life Emergency Services will discuss emergency medical procedures and best practices for municipalities; she announced that the Art Encounters Activity will take place in collaboration with the Senior Center at the Portage District Library, Saturday, August 15, 2015, from 1 p.m. until 3:30 p.m. with a myriad of entertainment offerings. She also indicated that the Library has its "Food for Fine" option where patrons can trade their Library fine with canned food with the focus being the Library list of food for the Thanksgiving baskets for families. She recognized that the Transit Millage passed on August 4, 2015, with a 2:1 margin across the County.

Councilmember Randall recognized John Hilliard and the non-profit organization known as Lending Hands of Michigan, Inc. She mentioned that Mayor Strazdas issued a Proclamation on behalf of City Council proclaiming the Month of May Lending Hands of Michigan Month. She also thanked Councilmember Ansari and Mayor Pro Tem Pearson for obtaining a \$2,000 grant for Lending Hands, whose purpose is to lend medical equipment to patients throughout Southwest Michigan at no charge for up to nine months without regard to age, race, sex, creed, income or disability. Mayor Strazdas concurred.

With regard to the Transit Millage passed on August 4, 2015, Councilmember Urban explained that when the 2000 Census Data was received in 2002, and the City of Kalamazoo and Kalamazoo County disputed the findings. He said some of members of the Kalamazoo Area Transportation Study (KATS) were not pleased with their unwillingness to compromise and decided to withhold 10% of their funds until the dispute was settled, and this resulted in their agreement to consolidate. After some deliberation, he said the two entities presented an aggressive timeline. As a result of the passage of the Transit Millage and State Law, two Authorities, CCTA and KCTA, hopefully with the same membership on both, will work together with one mind to solve issues as they arise. He explained some of the services planned, the expectations and the hard work ahead. He gave a special tribute to Chair Linda Teeter and a special thanks to all who worked on this consolidation.

City Manager Shaffer announced that the South Westnedge Project is substantially completed on time and within budget. He expressed his gratitude on behalf of the Portage citizens to Utilities Engineer Kendra Gwin, who led the Project in the absence of Transportation & Utilities Director Chris Barnes, and the balance of City staff who assisted with the Project. Mayor Strazdas concurred and expressed his hope that the reopening of this major thoroughfare in the Region gets proper media coverage since "Westnedge is Open for Business." He gave special thanks to the businesses in the area for their patience and consideration throughout the progression of the improvements.

Mayor Pro Tem Pearson gave credit to Councilmember Randall for revealing the special work of John Hilliard and Lending Hands of Michigan, Inc., and the subsequent Proclamation on behalf of City Council proclaiming the Month of May as Lending Hands of Michigan Month. He indicated that he asked Councilmember Ansari to write the grant request to the District Rotary for \$1,000, which was matched by Portage Rotary. He said that he was honored as President of Rotary to present the grant two weeks ago to Lending Hands.

Mayor Strazdas indicated that he signed a letter to Linda Eliason with pictures of a recent event enclosed to let her know that the community is enjoying the David J. Eliason Nature Reserve in honor of her late husband. He encouraged everyone to participate in the annual garage and sidewalk sale this Saturday, August 15, 2015, by the Portage Lake Center Businesses on Portage Road south of Centre Avenue. He said he was recently sworn in as President of his Professional Association as an Associate Vice President of Facilities Management of Western Michigan University and mentioned that he showed a couple of his colleagues around the City from Australia, who loved Portage and said it is a great city.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 9:20 p.m.

James R. Hudson, City Clerk

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

## CITY COUNCIL MEETING MINUTES FROM AUGUST 25, 2015

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

At the request of Mayor Strazdas, Councilmember Urban gave an invocation, and City Council and the audience recited the Pledge of Allegiance.

At the request of Mayor Strazdas, the City Clerk called the roll with the following members present: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Also in attendance were City Manager Laurence Shaffer, City Attorney Randy Brown and City Clerk James R. Hudson.

**PROCLAMATION:** Mayor Strazdas, City Council and City Manager Laurence Shaffer issued a Certificate of Recognition Honoring Max Newsome and Alex Hufford for their successful completion of a 1,000 mile bicycle ride a "4 Great Lakes, 1 Great Cause" in an effort to raise \$6,000 for a fresh water well in Poipet, Cambodia, being built by the organization, "Activewater."

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Ansari, to approve the Regular Meeting Minutes of August 11, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember Randall asked that Item H.1, Selection of City Attorney – Authorization to Execute Contract, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 25, 2015:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of August 25, 2015. Upon a roll call vote, motion carried 7 to 0.

### REPORTS FROM THE ADMINISTRATION:

\* **VEHICLE PURCHASE RECOMMENDATION:** Motion by Urban, seconded by Reid, to authorize the purchase of two four-wheel drive three-quarter ton pickup trucks, two hybrid sedans, five four-wheel drive police patrol vehicles, one utility van, one front end loader, one compact track loader, one electric police patrol motorcycle and one compact excavator through the State of Michigan purchasing program (MiDEAL), and the National Joint Purchase Alliance (NJPA) purchasing program at a total cost of \$532,588.76 and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **PURCHASE STREET CRACK SEALING MATERIAL:** Motion by Urban, seconded by Reid, to approve the sole source purchase of 45,000 pounds of crack sealing material in the amount of \$19,993.50 from Maxwell Products, Incorporated, of Salt Lake City, Utah, and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **TRADE CENTRE WAY SHARED SEWER AGREEMENT:** Motion by Urban, seconded by Reid, to approve Contract 15-5154 between the Michigan Department of Transportation and the City of Portage for a shared use sewer agreement along Trade Centre Way; adopt a Resolution authorizing the City Manager to sign Contract 15-5154; and, authorize the City Manager to sign all other documents

related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 27 of City of Portage Resolution Book No. 46.

\* **SOUTH CENTRAL BIKEWAY TRAIL RESOLUTION:** Motion by Urban, seconded by Reid, to adopt the Resolution to obligate funds and commit responsibility for maintenance of the planned South Central Bikeway non-motorized trail in perpetuity and authorize the City Manager to sign all other documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 29 of City of Portage Resolution Book No. 46.

\* **LOCAL OFFICERS COMPENSATION COMMISSION REPORT:** Motion by Urban, seconded by Reid, to receive the report from the Local Officers Compensation Commission. Upon a roll call vote, motion carried 7 to 0.

\* **JULY 2015 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Urban, seconded by Reid, to receive the July 2015 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

\* **DEPARTMENTAL MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Departmental Monthly Reports from the various departments. Upon a roll call vote, motion carried 7 to 0.

#### **COMMUNICATION:**

**CITY MANAGER SALARY REVIEW / EVALUATION COMMITTEE:** Mayor Strazdas introduced this item and explained the process as it has been performed in the past, including his recommendation for re-appointment on the Committee and the option of going into a closed session. Motion by Ansari, seconded by Ford, to appoint Mayor Strazdas, Mayor Pro Tem Pearson and Councilmember Ford to the City Manager Salary Review / Evaluation Committee, convene the City Manager Salary Review / Evaluation Committee and request a recommendation as to compensation for Fiscal Year 2015-2016. Upon a roll call vote, motion carried 7 to 0.

#### **UNFINISHED BUSINESS:**

**SELECTION OF CITY ATTORNEY – AUTHORIZATION TO EXECUTE CONTRACT:** Councilmember Randall stressed that this is the first time she has asked that an item be removed from the Consent Agenda in the six years she has served as a Councilmember. She referred to the spreadsheet that provided a tabulation of the Request for Proposals for Legal Services and indicated that Randall L. Brown & Associates, PLC, was not the low bid as Bauckham, Sparks, Lohrstofer, Thall & Seeber had the low bid and had 100 years of experience with 95% of the practice dedicated to municipal entities, so she concluded that the firm specializes in this type of law. She compared the rates of the two firms and indicated that there is a difference of \$30,728 per year between the two firms which results in \$153,640 over five years, or a difference of 16%. She expressed her admiration for City Council scrutiny of the numbers being paid for items as reflected in the Agenda Packets, but mentioned her confusion owing to an item removed from Consent Agenda at the last Regular Meeting regarding the hiring of traffic signal and roadway improvements that had a differential of 2.5%, or \$1,860. She asked the question, "If this rate is high today, and it has been the same rate for the past fifteen years, how much have we paid a premium for these services?" She indicated that she would be voting "No" for three reasons: a true and competitive bid was never sought, the Request for Proposals (RFP) Process was flawed, only six firms were asked to submit a proposal, and the last time the contract was sent out to bid was 1997, eighteen years ago; the bid administration is requesting Council to accept a 16% higher than the next best bid - she would rather see that the savings go directly to benefiting the citizens; and, if

historical knowledge is the primary reason for going with Brown & Associates, then there is zero succession planning and explained that local attorneys or legal firms have not been allowed to offer legal services to the City in over three decades.

Councilmember Reid agreed that the process is flawed primarily because Mr. Brown was asked to provide a proposal, which he did, and he provided a number; subsequently, other firms were asked to submit a proposal, so they knew what his number was and it is not surprising that all of their numbers were less. She emphasized that that is a flawed process and indicated that none of the numbers should be considered with any validity owing to the firms having Mr. Brown's amount ahead of time. She also pointed out that this was not a bid process and explained that Council has no information on these firms, the numbers are flawed, so Council should consider the proposal presented by Randall L. Brown & Associates and the history of the services to the City that he has submitted.

Mayor Strazdas indicated that the proposal submitted by Bauckham, Sparks, Lohrstofer, Thall & Seeber, took exceptions and objections to the specifications and asked if the amount would be larger if the firm had not taken exceptions or objections to the specifications.

City Manager Larry Shaffer responded that Bauckham, Sparks, Lohrstofer, Thall & Seeber, took exception to the termination clause and the reason that the termination clause is important because the appointment of a City Attorney also requires a contract with the firm with which the City Attorney is engaged. He indicated that should City Council decide to terminate the contract, the relationship with the City Attorney and the firm has to be untangled immediately, so the termination language is absolutely essential in order to maintain the relationship anticipated by the *City Charter*, and it is difficult to place a price tag on it. Secondly, he indicated that the City insurance requirements are standard and have been applied to Mr. Brown and any and all City contracts. He noted that the City is not going to be able to enter into an agreement with an entity if that entity cannot meet these insurance standards, and mentioned that there is an incremental cost associated with meeting these indemnification standards, but said he did not have that figure before him at this time. Lastly, he indicated that there were some issues associated with volunteers and how they were involved and, even those details presumably could have been worked out in a contract situation, it would not be fair not to reference that those were listed in the response from Bauckham, Sparks, Lohrstofer, Thall & Seeber.

Mayor Strazdas wanted to be sure to let the public know that the low bidder made all sorts of exceptions when none of the other participants took exceptions.

Councilmember Ansari spoke in support of Mr. Brown and admired him for his outstanding performance, mentioned that it is difficult to assign a number to institutional knowledge, noted the RFP flaw mentioned by Councilmember Reid, who indicated that none of the numbers should be considered with any validity owing to the firms having Mr. Brown's amount ahead of time.

Consistent with Section 6.2 of the City Charter, motion by Urban, seconded by Reid, to appoint Randall L. Brown as the City Attorney, effective September 1, 2015, and authorize the City Manager to enter into a contract with Randall L. Brown and Associates, PLC, for a term not to exceed five years at an annual rate of \$225,728.

Councilmember Ford indicated that as stewards of City funds, he agreed to the process two months ago to make sure the spending was wise. He pointed out that the process as proposed was more formal than anticipated which lends credence to the accuracy of the amounts proposed. He noted that each firm had low amounts for the first year, then all showed an increase, and Councilmember Randall indicated that it was because the first year was not a full year. He rationalized that because City Council spends very little time with Mr. Brown, and the Administration spends a lot of time with him and recommends him, he agrees with the Administration recommendation.

Mayor Strazdas indicated that he has had the opportunity to work with lots of legal counsel in his capacity as a volunteer and as Associate Vice President of Facilities Management at Western Michigan University, and has always taken great pride in Mr. Brown and the level of professionalism he has offered Council in the many years he has served as he has kept the City out of trouble, has provided sage advice; he has given advice sometimes Council did not want to hear but needed to hear; and he has given Council advice that was necessary. He expressed a concern with the low proposal with exceptions

as that alone is a reason to disqualify the proposal. He asked that the practice of revealing the number in a proposal never happen again since seeking a number as part of a proposal or bid needs to be sought using an open, public, transparent method. When seeking professional services, he indicated that one should never consider a bid or proposal on the basis of low bid or amount. Discussion followed.

Mayor Pro Tem Pearson concurred that Council does want to be transparent with regard to contracts, and this contract has not been bid for thirty years, so he applauded the effort to do this. He concurred with the number flaw mentioned by Councilmember Reid and with Councilmember Randall that Council looks for the best value for the citizens. He agreed with Councilmember Ansari that institutional memory is important. He expressed his appreciation that Mr. Brown was always able to answer his questions when he served on the Planning Commission or as a Councilmember with an example from the past. Upon a roll call vote, motion carried 6 to 1: Yeas: Councilmembers Reid, Urban, Ansari, Ford, Mayor Pro Tem Pearson and mayor Strazdas. No: Councilmember Randall.

#### **COUNCIL COMMITTEE REPORTS:**

**CENTRAL COUNTY DISPATCH AUTHORITY:** Mayor Pro Tem Pearson provided an update regarding the Central County Dispatch Authority (CCDA) and indicated that he is Chair of the Committee that reviewed eighteen applications for Executive Director received on August 13, 2015, who unanimously narrowed the field down to five candidates for interview during the second week of September with the full CCDA. He deferred to Councilmember Reid, who is on the Finance Committee, reported that the Finance Committee was charged to arrange for initial attorney and accounting assistance and the Committee has not met since the CCDA last took action on this.

Motion by Ford, seconded by Ansari, to receive the update from Mayor Pro Tem Pearson regarding the Central County Dispatch Authority. Upon a voice vote, motion carried 7 to 0.

**CENTRAL COUNTY TRANSIT AUTHORITY:** Mayor Pro Tem Pearson and Councilmember Urban provided an update regarding the Central County Transit Authority (CCTA) which met on August 17 and 24, but no decisions were made. Mayor Pro Tem Pearson conveyed that the members of the Authority are still catching up on the tutorials on contracts, the buses, anticipated needs, etc., provided by Executive Director Sean McBride. He said it will probably take a year to have the final execution of the transfer of assets and liabilities from the Kalamazoo County Transit Authority (KCTA) to the CCTA. He reiterated that the minutes will eventually be available on the website, and that he and Councilmember Urban would bring any important decisions to City Council as they arise.

Councilmember Urban indicated that they do expect the agreement that transfers the fleet assets and the physical assets from the City of Kalamazoo to CCTA and provide CCTA "grant recipient status" will be approved by the end of the year and will take another year to actually execute and explained. He mentioned that it is proposed that the metro offices, the garage, the two parking lots and the Transit Center be retained by the City of Kalamazoo with a long-term lease for one dollar to the CCTA. He attempted to list and describe other issues that need to be resolved in the areas of union contracts, benefits and capital acquisition plans, Sean McBride's employment agreement, etc. He described the process as the first example, and a very valuable example, of inter jurisdictional cooperation in the County. Motion by Ford, seconded by Ansari, to receive the report from Mayor Pro Tem Pearson and Councilmember Urban regarding the Central County Transit Authority (CCTA). Upon a voice vote, motion carried 7 to 0.

**ENVIRONMENTAL HEALTH AND ADVISORY COUNCIL:** Councilmember Ford provided an update regarding the Environmental Health and Advisory Council recommending a Groundwater Restriction Zone (GRZ) on KL Avenue, Oshemo Township, at the request of the Kalamazoo County Commission. He said that the landfill was capped on top, but did not have a bladder on the bottom. As nearly all residences within the proposed GRZ have been hooked up to municipal water and their private drinking water supply wells abandoned or disconnected from their domestic

supply, the remaining residents who wish to continue to use their wells must apply to the Department of Environmental Quality (DEQ) for a permit. Motion by Reid, seconded by Ansari, to receive the report from Councilmember Ford regarding the Environmental Health and Advisory Council. Upon a voice vote, motion carried 7 to 0.

#### **BID TABULATIONS:**

\* **PORTAGE ROAD ENGINEERING SERVICES CONTRACT – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract to Wightman & Associates, Incorporated, for Portage Road from Romence Road Parkway to East Milham Avenue in the amount not to exceed \$67,300 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **EAST OSTERHOUT AVENUE RECONSTRUCTION – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract to Abonmarche Consultants, Incorporated, of Benton Harbor, Michigan, for the East Osterhout Avenue (South Westnedge Avenue to Portage Road) street reconstruction project in an amount not to exceed \$62,905 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **ENGINEERING SERVICES CONTRACT FOR THE ZYLMAN LIFT STATION – TABULATION OF PROPOSALS:** Motion by Urban, seconded by Reid, to award an engineering services contract for the Zylman Lift Station Renovations to Jones & Henry Engineers, Ltd., in the amount not to exceed \$48,885 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

#### **OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL CANDIDATE:** Tim Earl, 6862 Shallowford Way, spoke as a candidate for City Council which will be determined at the November 3, 2015 City Election and recounted some of the efforts he would take if elected Councilmember.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Jim Stephanak, 10725 Cora Drive, and owner of Paint Recycling Services, thanked Mayor Strazdas, City Council, City Manager Shaffer and Public Services Director Rod Russell for the opportunity to have the paint recycling event on Saturday. He explained that residents turned in 2,250 gallons of paint, or 26 tons of paint that was kept out of the landfill.

Betty Lee Ongley, 8620 Tozer Court, indicated that August 26<sup>th</sup> celebrates the Nineteenth Amendment (Amendment XIX) to the United States Constitution, ratified August 18, 1920, which prohibits any United States citizen from being denied the right to vote on the basis of sex, giving women the right to vote for the first time in the United States. Discussion followed.

County Commissioner Larry Provancher, 7414 Starbrook Street, spoke about “Welcome Michigan” involving eight cities, counties and townships, which is based upon treating native born and foreign born people with dignity and respect and explained that the program is for businesses, industries and non-profit organizations, also.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Ford asked City Manager Shaffer if staff likes the electronic agenda software, and he responded that there are a few experts on the SuiteOne software that was chosen and staff is in the learning stages or “valley of despair” with the promise of coming out of the valley when proficiency is attained. He indicated once the kinks are worked out, the resultant productivity and transparency should prove terrific and explained. Councilmember Ford encouraged everyone to return their postcards or go to:

[www.portage.gov](http://www.portage.gov)>Departments>Public Services>Curbside Recycling Program to chose a bin provided for single stream recycling.

Councilmember Randall thanked Jim Stephanak and Rod Russell for a successful paint recycling event on Saturday and reviewed the activity. She also spoke favorably about the Senior Health Expo held at St. Catherine's Catholic Church and spoke highly of the efforts of Senior Citizen Services Manager Kim Phillips. She reminded everyone to be careful with children walking, running, riding bicycles or getting on buses with school starting in two weeks.

Councilmember Urban said he was looking forward to the next five years working with Randy Brown in his capacity as City Attorney and reflected his appreciation for the past 30 years working with him in their respective capacities with the City.

Councilmember Reid thanked and recognized Kendall Klingelsmith and his staff, along with Chris Barnes and his staff, for soliciting the \$243,000 of State and Federal Funds from Transportation Alternatives Program Funds that will be used for the South Central Portage Bikeway. She also highlighted the walk and ride trails on each side of Portage Road from Romence Road Parkway to East Milham Avenue that is in alignment with the Complete Streets Policy passed on August 11, 2015. She cited the six site reviews for commercial and industrial development listed in the July 2015 Environmental Activity Report.

City Manager Shaffer expressed appreciation to City Council for recognizing the innovative, creative and energetic city staff for their endeavors and the service they put forth.

Mayor Pro Tem Pearson congratulated City Attorney Randy Brown for being appointed for five more years. He also commented on the reactivation of the City Manager Salary Review / Evaluation Committee and complimented Mr. Shaffer for all he has accomplished in the short time he has "been on the job." Finally, he reminded everyone that the 2025 Visioning Renewal Event is set for Saturday, October 3, 2015, from 9 a.m. until 2 p.m. and encouraged all citizens to attend.

Mayor Strazdas reached out, congratulated City Attorney Randy Brown for the renewal of his five-year contract and indicated he was looking forward to his legal advice. He concurred with Mayor Pro Tem Pearson of the importance of the 2025 Visioning Renewal Event and thanked Former Mayor Betty Lee Ongley, who invited him to assist with the first visioning process of Portage. He reviewed the Portage road projects that continue to be improved despite the difficulties faced by other governmental entities in this respect and he assured everyone that the City investments are very conservative and basically untouched by any market setbacks.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:35 p.m.

James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.

SUMMARY ENVIRONMENTAL ACTIVITY REPORT  
July 2015 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	<p>-Beginning in 1991, South Westnedge Park (landfill) has been monitored for on-site and off-site contamination. On July 23, 2013, City Council approved a three-year contract with American Hydrogeologic Corporation (AHC) to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. Initial groundwater and methane results indicate no off-site impact. AHC currently compiling MDEQ sampling requirement costs necessary for closure at the former landfill site. Weekly methane sampling is continuing on-site to collect base line data. AHC is completing the installation of private methane detection devices at several adjacent properties. Soil boring installation was completed on May 28, 2014. Current methane readings have been below detection levels. The 2<sup>nd</sup> year of AHC's contract is underway with annual report pending.</p>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	<p>-Coordination with property owners and City or State agencies ongoing. -Review of 6 site/building plans and/or plats completed in July 2015.</p>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<p>-Sanitary sewer hookup permits issued in July 2015: 17 residential; 0 commercial.</p>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	<p>-Five Year Lake Management Assessment District process was approved by City Council. Permitting complete for the 2015 season. Treatment to be performed by Aquatic Services, Inc. The Association has selected to use Restorative Lake Sciences, LLC for consulting services for 2015. Treatment application schedule for mid-June. Follow-up inspection of treatment will be done by Restorative Lake. The West Lake Improvement</p>

association has completed a five year plan for a new special assessment district. Special assessment process for 2015-2019 began on August 26, 2014. Resolution No. 5 completing the assessment was adopted October 21, 2014. Year-end report by the consultant is complete. The 2015 weed treatment bids were received on February 24, 2015. *City Council approved weed treatment contract with Professional Lake Management Company on April 10, 2015. Weed treatment was completed in June.*

Retention Basin Sampling Program (Groundwater Elevation)

Investigation regarding potential impact of retention basins on groundwater levels.

-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to storm water infiltration. Alternative road salt practices continue to be considered and evaluated. The 2013 report was received noting minimal impacts. The 2013 report is available on the website for public information. Bids were received for a new four year program on April 16, 2014. The low bidder, Nova Consultants, was awarded a four-year contract by City Council on April 29, 2014. Monitoring performed in July 2014 and October 2014. Monthly sampling at two retention basins continues. *Current findings show a rise in groundwater levels of approximately 12 inches over 2014 levels.*

Wellhead Protection Program (WHPP)

Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

-Current Wellhead Protection was approved March, 2001. Staff has met internally to discuss the future needs to update the plan pending grant opportunities. Staff participated in a MDEQ Water Supply Emergency planning roundtable on June 10, 2013. Update of the program has been initiated as part of the Water Reliability Study in conjunction with Fishbeck, Thompson, Carr & Huber update work currently underway. Wellfield delineation completed. Engineering intern has completed contamination source inventory. Final report preparation was submitted to the Michigan Department of Environmental Quality for review and approval. Letter of approval received from MDEQ on June 15, 2015. Program implementation is ongoing.

Leaf Compost Monitoring Program

Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.

-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi-annual sampling was performed from 2002 to 2008 in June and January. Sampling and

analysis results continue to show negligible groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. Sampling completed in June 2015, with report submitted. No significant change in groundwater impacts.

National Pollution Discharge Elimination System (NPDES) Permit Implementation

Five year plan to implement the current NPDES stormwater permit.

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Storm Water Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) completed December 11, 2009. Received a notice from MDEQ rescinding the 2008 permit due to a recent court case ruling. MDEQ reinstated the 2003 permit for implementation. Information on new permit requirement was received in February 2011. MDEQ expected to issue new permit in 2014. MDEQ scheduled an audit of the program on July 12, 2012. Audit completed with satisfactory results. City website updated in February to provide education of Illicit Storm Water Discharge. Program implementation is ongoing. Annual 2012-13 report was submitted on December 24, 2013. Comments received back have been reviewed by staff and response submitted to MDEQ. MDEQ concurred with city staff response. New permit application process announced in November 2014. New permit application was submitted in March 2015. Implementation is ongoing.

National Pollution Discharge Elimination System (NPDES) Permit Implementation

Kalamazoo River Mainstream Watershed Management Plan

-First meeting was held September 17, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Watershed council completed a watershed update in November, 2011. No new developments.

## Portage River Watershed Management Plan

-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. Interest has been raised by local conservation groups to update the Watershed Plan using grant funds. Grant application submitted by Kalamazoo and Calhoun County Conservation District to update the Watershed Plan in 2012. Grant for watershed update was awarded to Calhoun County Conservation District. First kick-off meeting held December 13, 2012 to introduce working partners and information gathering. A meeting was held on March 12, 2013 to discuss the designated uses of the Portage River/Little Portage Creek watershed, the total maximum daily load of E-coli from samples taken and a review of community ordinances and policies that help protect the Watershed. Meeting held on June 11, 2013 to discuss identified water quality problems in the watershed. Meeting held on December 11, 2013 to inform stakeholders of progress on data collection. Canoe trip inspection was held on September 13, 2014. No new developments.

## Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP) Storm Sewer Outfall Testing.

-On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections." Program implementation is ongoing. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDEQ on June 25, 2010, and part of the SWIPPI. Completed an area-wide brochure to educate the public on Illicit Storm Water Discharges in conjunction with the Kalamazoo County Drain Commissioner. On April 29, 2014 City Council awarded a contract to Nova Consultants, Inc., to perform annual investigations of storm outfalls and investigate all outfalls on a four-year cycle. Investigations scheduled for 2014 were completed in July with summary report received. Report will be submitted to MDEQ as part of the annual report. *Next report due in December 2015.*

Garden Lane Arsenic Removal Facility	<i>Native Prairie Restoration</i>	Staff currently working with the Environmental Board on informative signs and long-term maintenance plans for the native planting landscape design in front of the Garden Lane Treatment Plant. <i>New informational signs are complete and maintenance is ongoing.</i>
Environmental Incident/Spill Clean Up Notification	Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.	Emergency spill response contract for 2014-15 with Terra Contracting has been renewed. <i>The number of environmental incident/spill investigations performed in July – 0. Number of environmental cleanups in July – 0. 2015.</i>
Southwest Michigan Regional Sustainability Covenant	Collaborative effort with local government, academic, and other stakeholders to lead toward environmental, economic and social sustainability.	On May 12, 2009, City Council approved the Southwest Michigan Regional Sustainability Covenant. A sustainability work session was held April 14, 2010, to review elements of the covenant in cooperation with the City of Kalamazoo and the City of Battle Creek. A grant application was made to MDEQ for a greenhouse gas inventory study of the area. Notice received July 15, 2010 that the grant application was not successful. City staff attended a September 10, 2010 meeting in Grand Rapids to discuss sustainable economic, environment, and society programs. No new developments.