

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
June 14, 2011**

7:30 p.m. Call to Order.

Invocation by Mr. Kyle Douglas of the Life Point Church of Portage.

Pledge of Allegiance.

Roll Call.

Proclamation:

A. Approval of the May 24, 2011 Regular Meeting Minutes.

* B. Approval of Consent Agenda Motions.

* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of June 14, 2011, as presented.

D. Public Hearings:

1. Public Hearing regarding the Rezoning Application #10-01:

- a. subsequent to the public hearing, consider approving Rezoning Application #10-01 and rezone the seven parcels/lots from I-1, light industry and R-1C, one family residential, to OS-1, office service.

E. Petitions and Statements of Citizens:

F. Reports from the Administration:

* 1. Communication from the City Manager recommending that City Council adopt the Resolution awarding the bid for the City of Portage Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000 to Fifth Third Securities, Inc., at 3.752893%.

* 2. Communication from the City Manager recommending that City Council:

- a. approve the revised Community Development Block Grant (CDBG) Program FY 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan in the approved FY 2011-12 budget; and
b. authorize the City Manager to execute and submit the revised documents to the Department of Housing and Urban Development.

* 3. Communication from the City Manager recommending that City Council:

- a. accept Ordinance Amendment 10-C, Medical Marihuana Home Occupation, for first reading and set a public hearing for July 12, 2011; and
b. subsequent to the public hearing, consider approval of Ordinance Amendment 10-C, Medical Marihuana Home Occupation.

* 4. Communication from the City Manager recommending that City Council adopt Resolution No. 4 for the Trade Centre Way Relocation Project #997-R, setting a public hearing on the Assessment Roll for June 28, 2011.

* 5. Communication from the City Manager recommending that City Council order notice to applicable property owners that all water and/or sewer charges remaining unpaid as of June 30, 2011, will be transferred to the 2011 city tax roll and assessed against property for which the services were furnished.

* 6. Communication from the City Manager recommending that City Council approve a one-year extension of the contract with Kal Clean, Inc., (dba Paris Cleaners) for police uniform cleaning services in the amount of up to \$30,000.00, for the period of June 10, 2011, through June 10, 2012, and authorize the City Manager to all documents related to this matter on behalf of the city.

execute

- * 7. Communication from the City Manager recommending that City Council accept the donation of 123 acres of land as a preservation area from Mrs. Linda Eliason, in memoriam, subject to finalization of the donation, memorial, land appraisal, title documentation and a Phase I Environmental Assessment.
- * 8. Communication from the City Clerk recommending that City Council receive the communication from the Local Officers Compensation Commission.
- * 9. Communication from the City Manager recommending that the City Council hold a closed session immediately following the Regular City Council Meeting of June 14, 2011, to discuss a personnel matter.

G. Communications:

1. Communication from the Park Board regarding the *Get Active Portage!* 2011 event.

H. Unfinished Business:

* I. Minutes of Boards and Commissions Meetings:

1. Portage Public Schools Board of Education Special of April 14 and Special and Regular of April 18, 2011.
2. Portage Youth Advisory Committee of April 11 and May 16, 2011.
3. Portage Park Board of May 4, 2011.
4. Portage Historic District Commission of May 4 and May 11, 2011.
5. Portage Planning Commission of May 5 and May 19, 2011.
6. Portage Environmental Board of May 10, 2011.
7. Portage Local Officers Compensation Commission Draft of June 7, 2011.

J. Ad-Hoc Committee Reports:

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council approve the low bid from Too Clean, Incorporated, for cleaning maintenance of park facilities for the period July 1, 2011, through June 30, 2012, in the amount of \$21,630, with an option for a contract renewal up to three years and authorize the City Manager to execute all documents related to this action of behalf of the city.

M. Other City Matters:

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

* 3. Reminder of Meetings:

- a. Thursday, June 16, 7:00 p.m., District Library Board, Portage District Library.
- b. Thursday, June 16, 7:00 p.m., Planning Commission, City Council Chambers.
- c. Monday, June 20, 8:00 a.m., Legislative Roll Call, The Chamber Building, 346 West Michigan Avenue, Kalamazoo.
- d. Wednesday, June 22, 2:30 p.m., Senior Citizen Advisory Board, Senior Center.
- e. Thursday, June 23, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, 3rd Floor.
- f. Monday, June 27, 7:00 p.m., Zoning Board of Appeals, City Council Chambers.

N. Materials Transmitted of May 20, 24 and May 27, 2011.

Adjournment.

CITY COUNCIL MEETING SUMMARY

May 24, 2011

CHECK REGISTER

- ◆ Approved the Check Register of May 24, 2011, as presented.

PUBLIC HEARINGS

- ◆ Accepted the public comments on an ordinance amendment to approve the 2011 Amended Tax Increment Finance Plan for the 2011 Amended Development Plan for development area in the City of Portage Downtown Development Authority, and moved to take final action on the ordinance on June 28, 2011.
- ◆ Adopted Resolution No. 3 for the Trade Centre Way Relocation Project #997-R, directing the preparation of the special assessment roll, and adopted the Resolution of Intent to issue bonds and authorized publication of the Notice of Intent.

PETITIONS AND STATEMENTS OF CITIZENS

- ◆ James Pearson, 3004 East Shore Drive, indicated that 40% of the households in Michigan either lost a job or took a pay cut and asked that City Council consider cutting the salaries of city employees as did the Portage Public Schools Board of Education. City Manager Maurice Evans pointed out that the city employees have not had a pay increase in three years, that the city has done a good job and is not under duress. Mr. Pearson also asked City Council to take a volunteer pay cut, suggested a 50% pay cut and asked for their opinion on this matter.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved the Catholic Family Services Funding Agreement of the Fiscal Year 2011-2012 Human Services Funding Allocations of the General Fund and Community Development Block Grant (CDBG).
- ◆ Approved the Fiscal Year 2011-2012 Budget and adopted the General Appropriations Act Resolution and the Salary and Wage Resolution.
- ◆ Supported the substitution of the West Centre Avenue (Shaver to Oakland) project for the Romence Parkway (Lovers Lane to Sprinkle) project in the 2011-2012 Major Street Reconstruction Program.
- ◆ Confirmed the appointment of Richard White as the City of Portage Director of Public Safety – Police/Fire Chief.
- ◆ Approved the \$35,000 grant amendment to the Michigan State Housing Development Authority for the North Portage Home Buyer Purchase Rehabilitation Program and authorized the Mayor and City Manager to execute all documents related to the amendment in the event the request is awarded.
- ◆ Adopted a Resolution amending the Program Guidelines for the Youth Advisory Committee and Appointments of Youth Participants to City Boards and Commissions.
- ◆ Confirmed the reappointments of the City Manager to the Portage Downtown Development Authority Board of Directors.
- ◆ Received the communication from the City Manager regarding the response to comments of Mr. David McGavin as information only.
- ◆ Received the communication from the City Manager regarding the Lexington Green Drainage Channel/Ditch response as information only.
- ◆ Received the communication from the City Manager regarding the April 2011 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports.

BID TABULATIONS

- ◆ Approved a contract with Michigan Paving and Materials Company to provide reconstruction to selected local streets and asphalt surface repairs to isolated sections of major streets in the not-to-exceed amount of \$638,707.09; the added expenditure of \$156,279.79 for additional street repairs at unit pricing within this contract; and, authorized the City Manager to execute all documents related to this contract on behalf of the city.
- ◆ Approved a three-year contract with Renewed Earth, Incorporated, to provide yard waste recycling services in a total amount not to exceed \$309,000 and authorized the City Manager to execute all documents related to this contract and subsequent renewals on behalf of the city.
- ◆ Awarded a contract to the low bidder, Peters Construction Company, for the construction of the 2011 Storm Drainage Improvements in the not-to-exceed amount of \$134,257.17 and authorized the City Manager to execute all documents on behalf of the city.

STATEMENTS OF CITIZENS

- ◆ State Representative Margaret O'Brien indicated that the State will be adopting the State Budget for the first time before June 1st in 50 years. She indicated she always talks about Portage being proactive at the Capitol Building with the foresight to make hard decisions to privatize services to save money, to be in a very healthy position with no risk of a Fiscal Emergency Manager, to be able to pave streets and to be able to maintain infrastructure. She cited some of the shortcomings of the early 1990's when the State spent down the Fund Balance, the increase in the number of State employees and said once you do a one-time gimmick such as spending down the Fund Balance, there is structural deficiency in your budget that will be extremely hard to overcome. She praised the floating dedicated millage as many cities across the state wished they had one where you only levy the amount needed to provide the service. She recognized that hard decisions are never popular, but that City Council is not here to be popular, only to be proper stewards of the tax dollars of

the City of Portage; and, she thanked them for their service and recognized the importance of diversity of opinions as an opportunity to learn valuable lessons.

- ◆ In response to James Pearson, 3004 East Shore Drive, Mayor Strazdas indicated that he would be assisting members of City Council to work through any conflicts they may have.
- ◆ David McGavin, 611 South Shore Drive, objected to having a third leaf pick-up as this was not approved by the voters, only two pick-ups and objected to the reference to the average increases being six and seven dollars as those with more expensive homes will pay more. He agreed with Mayor Pro Tem Sackley, as did Mayor Strazdas, that this discussion should have taken place earlier in the process and that citizens with financial expertise do live in Portage and could come forward to contribute. Mayor Strazdas reminded him that the budget sessions are advertised, but if there are no issues, people do not typically attend the detailed budget work sessions. Mayor Strazdas agreed that citizens should be involved early on in the process and thanked him for that comment.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ City Council and Mayor Strazdas expressed condolences and heartfelt sorrow to the family, friends and colleagues of recently deceased City of Kalamazoo Public Safety Officer Eric Zapata.
- ◆ Councilmember Randall extended congratulations to all graduating students, reminded everyone of the upcoming Memorial Day Parade and wished everyone a safe and happy holiday weekend.
- ◆ Councilmember Bailes offered respect to his neighbor, 20-year Air Force Veteran, Master Sergeant Mike Raversky, and recognized the services of all who fought for the freedom of this country and that they not be forgotten in commemoration of Memorial Day.
- ◆ Councilmember Urban commented on Item F.2, the substitution of the West Centre Avenue (Shaver to Oakland) project for the Romence Parkway (Lovers Lane to Sprinkle) project, and congratulated Richard White and his appointment as the City of Portage Director of Public Safety – Police/Fire Chief. Also, as an example of good stewardship of the public money, he cited the fact that the City of Portage will spend fewer dollars on health benefits in Fiscal Year 2011-2012 than in Fiscal Year 2004-2005, which reflects a 13% increase per employee over the last six years, and he complimented Benefit Services Director Patti Thompson for her work in this area.
- ◆ City Manager Evans complimented State Representative Margaret O'Brien for her work in Lansing and for the State presenting an early budget for approval and the tough decisions and work being done at the State level. He commended those from the Administration who helped him with the work for the last nine months on the budget, specifically, Deputy City Manager Brian Bowling, Finance Director Daniel Foecking and Deputy Finance Director Pat Fitnitch. He thanked City Council for their support on confirming Richard White and his appointment as the City of Portage Director of Public Safety – Police/Fire Chief and for their support on the budget. Discussion followed.
- ◆ Mayor Pro Tem Sackley indicated he has lived in the City of Portage for thirty-three years, loves this city and is very passionate about the City of Portage. He said it can be easy to characterize passion for anger. He reflected that Margaret O'Brien has only been in office for four months, but knows she has been a participant in the budget process, and elected officials are expected to be quick learners. He acknowledged that there is always the opportunity to amend the budget and that there are learned people in the community who could help with the process. He referred Mr. David McGavin to Item F.7, and confirmed that Mr. McGavin received the supplemental information provided to City Council regarding his questions. He pointed out that City Council can also amend the budget and welcomed any suggestions to reduce the General Fund expenditures as the other funds are off of the table, realizing that some of the rhetoric may have something to do with this being an election year for City Council. He thanked everyone for all of their participation in the budget process this year, apologized that there was not a unanimous vote on the approval of the budget and indicated that consensus is not a "dirty" word. He referred to State Representative O'Brien and the times she moved him to vote with her on matters that were important to her. He applauded her ability to bring people of diversity together and for her passion that hopefully has never been construed as anger.
- ◆ Mayor Strazdas focused on the 9.5 mills as a herculean task to not move that rate up and still provide the services with fewer employees and complimented City Council and the Administration for making this possible. He expressed best wishes to Councilmember Reid as she is on her honeymoon in northern Michigan and congratulated Councilmember Campbell on her speaking engagement with the graduating Community Education students. He polled City Council regarding which of the Councilmembers would be attending the Memorial Day Parade and who wished to walk and who wished to ride on a surrey.

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

The Regular Meeting was called to order by Mayor Strazdas at 7:31 p.m.

At the request of Mayor Strazdas, Rabbi Harvey Spivak of the Congregation of Moses of Kalamazoo gave the invocation. Mayor Strazdas invited the Adult Boy Scout Leader Bob Everett and Boy Scouts Tom Lee and Nate Barts of Troop 244 to lead City Council and the audience in reciting the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Cory A. Bailes, Patricia M. Randall and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Councilmembers Elizabeth A. Campbell and Claudette S. Reid were absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Sackley, seconded by Urban, to approve the May 10, 2011 Special and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Bailes to read the Consent Agenda. Motion by Urban, seconded by Sackley, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 5 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF MAY 24, 2011:** Motion by Urban, seconded by Sackley, to approve the Accounts Payable Register of May 24, 2011. Upon a roll call vote, motion carried 5 to 0.

PUBLIC HEARINGS:

2011 AMENDED TAX INCREMENT FINANCE PLAN / 2011 AMENDED DEVELOPMENT PLAN: Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson, who provided a history of the process thus far and summarized the report from the City Manager dated April 14, 2011. He explained the Trade Center Area as it relates to the South Westnedge Enhancement Projects (SWEPS) of the Downtown Development Authority (DDA) and discussion followed. Mayor Strazdas opened the public hearing for comment from the public.

Harry Hewitt, 18690 Inglewood, Cleveland, Ohio, representing the MIDAS Muffler Shop, expressed appreciation for City Council efforts to expand economic development. He asked for consideration for the MIDAS Muffler Shop with regards to the infrastructure as this is the only service location on South Westnedge without access from both the northbound and southbound traffic. He praised the boulevard for its aesthetics, but indicated that it has put a cramp on business and introduced Bob Morris, the Franchisee of the MIDAS Muffler Shop.

Mr. Erickson described the location of the proposed development and pointed out that the MIDAS Muffler Shop is along the boulevard that was constructed to provide better traffic control and safety some years ago. He indicated that the impact on MIDAS Muffler Shop is some years in the future with SWEPS Projects in 2018 according to the schedule provided by the Planning Commission. Discussion followed and Mr. Erickson referred Mr. Hewitt to the Director of Transportation & Utilities for more details. Discussion followed.

Mayor Pro Tem Sackley referred to the right-of-way acquisition on the west side of South Westnedge necessary to increase the number of lanes and asked whether the developer would be required to provide cross access in business zones or Commercial Planned Developments. Mr. Erickson responded that city ordinances and the Planning Commission encourage shared access to ensure safe traffic flows. Discussion followed.

Motion by Sackley, seconded by Urban, to close the public hearing. Upon a voice vote, motion carried 5 to 0.

Motion by Urban, seconded by Sackley, to accept the public comments on an ordinance amendment to approve the 2011 Amended Tax Increment Finance Plan for the 2011 Amended Development Plan for development area in the City of Portage Downtown Development Authority, and take final action on the ordinance on June 28, 2011. Discussion followed regarding the significance of the investment; that it marks a restart of economic development; and special appreciation for the efforts of Roger Hinman and Joseph Gesmundo for their efforts in this matter. Upon a roll call vote, motion carried 5 to 0.

TRADE CENTRE WAY RELOCATION PROJECT #997-R: Mayor Strazdas opened the public hearing and introduced Transportation & Utilities Director Chris Barnes, who summarized the description of the project as provided to City Council in the Agenda Packet. He highlighted the realignment and improvement of Trade Centre Way from South Westnedge Avenue west 900 feet to just west of West Fork Crossing; the reconstruction of a portion of South Westnedge Avenue south of Trade Centre Way to facilitate left turn-in and right turn-in movements from South Westnedge Avenue to Trade Centre Way and right turn-out movements from Trade Centre Way to South Westnedge Avenue; and the inclusion of curb and gutter, storm sewer, utility relocation, boulevards, first class road landscaping, lighting, fencing and related construction. He also reported that the entire project would be 100% paid by private parties. Discussion followed.

Motion by Sackley, seconded by Bailes, to close the public hearing. Upon a voice vote, motion carried 5 to 0.

Mayor Strazdas opened the public hearing for public comment. There being no further discussion, motion by Sackley, seconded by Urban, to adopt Resolution No. 3 for the Trade Centre Way Relocation Project #997-R, directing the preparation of the special assessment roll, and adopt the Resolution of Intent to issue bonds and authorize publication of the Notice of Intent. At the request of Mayor Strazdas, Mr. Barnes explained the five Resolutions necessary for a Special Assessment Project. Discussion followed. Upon a roll call vote, motion carried 5 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: James Pearson, 3004 East Shore Drive, indicated that 40% of the households in Michigan either lost a job or took a pay cut and asked that City Council consider cutting the salaries of city employees as did the Portage Public Schools Board of Education. City Manager Maurice Evans pointed out that the city employees have not had a pay increase in three years, that the city has done a good job and is not under duress. Discussion followed. He also asked City Council to also take a volunteer pay cut, suggested a 50% pay cut and asked for their opinion on this matter. Mayor Strazdas responded.

REPORTS FROM THE ADMINISTRATION:

HUMAN SERVICES FUNDING ALLOCATIONS OF THE FISCAL YEAR 2011-2012 BUDGET: Mayor Strazdas pointed out that Councilmember Randall graciously serves on the Catholic Family Services Board, but this creates a potential conflict of interest, so she would be abstaining from voting on this portion of the Budget. In response to Mayor Strazdas, Councilmember Randall indicated that she is not benefitting directly from Catholic Family Services. Discussion followed. City Attorney Brown assured City Council that he had had a conversation with Councilmember Randall and had advised her to abstain based on the Michigan Statute. Discussion followed.

Motion by Sackley, seconded by Bailes, to approve the Catholic Family Services Funding Agreement of the Fiscal Year 2011-2012 Human Services Funding Allocations of the General Fund and Community Development Block Grant (CDBG). Upon a roll call vote, motion carried 4 to 0 with Councilmember Randall Abstaining.

FISCAL YEAR 2011-2012 BUDGET APPROVAL: At the request of Mayor Strazdas, City Manager Evans indicated that the Proposed City Budget is a sound, conservative financial plan that does several different things: it accommodates curbside recycling and leaf pick-up funding needs; it maintains the 13% fund balance as prescribed by City Council; it supports adequate economic development with \$8.48 million in infrastructure improvements through the Capital Improvement Program (CIP); and, it continues an efficient cost containment approach by providing a high level of both municipal and privatized services.

Mr. Evans introduced Financial Director Daniel Foecking, who provided a presentation on the General Operating Fund millage and expenditures, Capital Improvement Program (CIP) millage, Curbside Recycling Fund millage, Leaf Pickup / Spring Cleanup Fund millage, and the Municipal Streets Fund millage. Discussion followed. In response to Mayor Pro Tem Sackley, Mr. Foecking spoke briefly about reductions in revenue sharing, volunteer budget cuts, many savings in operational costs, the loss of Act 51 funds used for maintaining roads, and other losses. Discussion followed regarding the importance of the 13% Fund Balance and the fact that employees are contributing 20% toward their benefits.

Councilmember Randall expressed her appreciation for the efforts made by Mr. Foecking. She indicated that she would be voting “no” on the 2011-2012 Budget because she did not believe that increasing taxes at this time is in the best interest of the citizens of Portage, or that every possible deduction has been made. She indicated that land values have declined, hundreds of Portage taxpayers lost their homes and foreclosures are at an all time high with a total of 1,045 homes in the County of Kalamazoo over the year 2010 which exceeds all other foreclosure numbers in preceding years.

Councilmember Randall indicated that Portage Public Schools report that the number of students qualifying for free or reduced hot lunch has soared to 23.8% of the total student population and staff believes that this number is considerably lower than the actual number who could qualify as several Portage Elementary schools are at or near 40% of their student population in free or reduced lunch program. She said that the levels of students using this program declined for students entering into higher grades as many are not comfortable seeking assistance for a variety of reasons. She stated that unemployment in the City of Portage is 8%; that city employees have not received a raise for three consecutive years; yet, the budget asks city employees for more tax revenues.

Councilmember Randall said that the City has increased water and sewer rates by over 70% in the past five years which has been shouldered by our citizens, and she advocated that the city set up a fund to assist the residents who can least afford these staggering increases.

Councilmember Randall said that over the past five year period, the City has increased taxes four times to balance the budget; that the city has pledged to reduce staff through attrition, yet the Deputy City Assessor position was filled in July with another full time employee, and costs budgeted for this department alone under operations has more than doubled since 2009 to this year’s proposed budget. Finally, she indicated that in 1985 City Council prescribed a 13% Fund Balance, but economic conditions were entirely different 26 years ago than they are today with investments earning less than 1/2% while borrowing costs range between 2.85 and 6%. She advocated using the Reserve Fund Balance to cover the current deficit making an increase in taxes not necessary. Discussion followed.

Since the only millage rates proposed for increase were the Curbside Recycling and the Leaf Pick-up millage, Mayor Strazdas asked Councilmember Randall for specific areas she had as targets for cuts, but she responded that that was not her area of expertise and had none, but she offered the suggestion of fewer pick-ups, drop off centers, and people who specialize in these areas could provide some options. Discussion followed. Councilmember Urban asked Councilmember Randall if she was recommending reducing these services and she answered, “Yes, whatever it takes to balance the budget without increasing taxes.” Councilmember Urban indicated that he brought his budget materials with him, that he is willing to do what it takes tonight to balance the budget, but there was a need to find \$300,000 to do that. Councilmember Randall indicated that she was “willing to take it out of the extra 13% funding.” Mayor Strazdas deferred to City Manager Maurice Evans, who indicated that City

Council really should not get into the practice of using the fund balance of one fund to save another fund; and, by having a higher Fund Balance, the bond rating is better which saves the city a lot of money on bond interest. Further, he stated that if the City Council should choose to make cuts from a voter-approved (dedicated) millage because that is where the proposed increases are. When he asked Mr. Foecking if the budget for the Assessor had been doubled, both agreed it had not. Discussion followed.

Mr. Foecking indicated that the State of Michigan has a new Emergency Manager Fiscal Act and a coding scheme where they evaluate cities and counties on a scale of one to ten, the lower the score the better. One question the State asks is does the city have a Fund Balance of 13% or more? If the answer is yes, no points are assigned; otherwise, the city receives a point. Once the city has accumulated enough points, the State has the option of sending in a Fiscal Emergency Manager to run the city, which Mr. Foecking advised was not at all desirable.

Mayor Strazdas summarized the wishes of Councilmember Randall not to increase the cost to the average homeowner of \$6.15 for Curbside Recycling and \$7.50 for Spring Clean-up/Leaf Pick-up, and take the needed funds out of the 13% Fund Balance. He asked if there was another City Councilmember interested in cutting the fund balance below the desirable 13% level, and asked for comments from City Council regarding lowering the fund balance of the City and to have a conversation about cutting leaf pick-up and recycling services. As a point of order, Mayor Pro Tem Sackley asked if it was legal and proper to draw money from the Fund Balance in order to transfer it to a fund derived from dedicated millage for specific services. Mr. Foecking indicated that the fund can lend the money to the fund, but it is must be paid back or it is considered poor practice. Discussion followed.

In response to Councilmember Randall, Mr. Foecking indicated that the Water & Sewer Fund has a negative working capital value balance, but has a positive net asset value, unlike any of the other funds, and these funds are fungible with cash in one bank account. He stated that the working capital in the water fund is in a deficit position, and Portage has submitted a plan with the State of Michigan to bring it out of a deficit position as is required. Discussion followed. Mayor Strazdas summed up and asked for comments from City Council regarding lowering the fund balance of the City and to have a conversation about cutting leaf pick-up and recycling.

In response to the concern of Mayor Pro Tem Sackley of whether it was legal and proper to draw money from the Fund Balance in order to transfer it to a fund derived from dedicated millage for specific services, Councilmember Urban opined that it was not illegal, but the city could not afford to pay for these services any longer from the General Fund and Portage citizens voted in favor of a dedicated millage to pay for each of these services. Discussion followed.

Mayor Pro Tem Sackley noted that the \$300,000 would have to be found in the General Fund because the State of Michigan Treasury Department considers the 13% Fund Balance to be a minimum for a city to be considered a healthy city. He then expressed a desire to have Portage be a healthy city and to be viewed in a positive manner for those who want to invest in Portage, for those who wish to buy Portage municipal bonds and for those who want to do business with the City of Portage. He concluded that taking from the Fund Balance to pay for services funded through a voter-approved dedicated millage would be irresponsible and was not interested in doing this. Discussion followed.

Mayor Pro Tem Sackley and Mr. Foecking distinguished the fact that a significant portion of the approximate \$3-3.5 million and the \$700,000 Delta money in the Fund Balance is derived mostly from interest on investments; and, that transferring Fund Balance money to another fund where it is then spent makes it not available the next budget year. Mayor Pro Tem Sackley expressed his appreciation for the discussion as he considered it healthy, but wished it had taken place at the public hearing two weeks ago instead of at the approval stage.

Mayor Pro Tem Sackley questioned his understanding of Councilmember Randall's position by asking for a discussion with her regarding whether she objected to the increase in the dedicated millage approved by the voters or whether she objected to what the increase was going to fund. He expressed an interest in not splitting the issue inappropriately as Councilmember Randall may not have

wanted that. Mayor Strazdas asked Mayor Pro Tem Sackley whether he was interested in lowering the Fund Balance or not, and Mayor Pro Tem Sackley indicated it was not a prudent or responsible fiduciary act.

Councilmember Randall quoted page 84 of the Proposed Fiscal Year 2011-2012 Budget, "Bond rating agencies consider a 10% fund balance to be more than adequate reserve against unexpected contingencies and to make debt payments if regular revenue sources are not sufficient." "With the exception of fiscal 2001/2002 (i.e., the fiscal year in which the major October 2001 windstorm damage and restoration occurred), the fund balance of the General Fund has remained well above the 13% level prescribed by the City Council." She referred to the graph on the page to reinforce her position that 3% of the reserve fund balance should be considered. Mr. Foecking explained and discussion followed. Mr. Foecking emphasized the position of the State of Michigan that a 13% fund balance be retained and pointed out that this has been the budget goal of City Council since 1985. Discussion followed. Mayor Strazdas asked if any Councilmember besides Councilmember Randall wished to spend down the fund balance below the 13%, and each Councilmember answered in the negative, especially because the bond rating of the city would go down and payments would go up and any savings realized by using the fund balance in a voter-approved millage would become nothing more than the well-known short term gimmick. Mayor Strazdas concurred.

Mayor Strazdas then asked if City Council was interested in reducing recycling services and/or the spring clean-up, leaf pick-up services to the citizens. In answer to Councilmember Urban, Mr. Foecking indicated that the fund balance was taken down to \$4.00 to pay for the ice storm damage clean up, that no money was borrowed from the fund and that the expenses were accommodated in the spring clean-up, leaf pick-up fund. He indicated that the millage request in the spring clean-up, leaf pick-up fund is to repay the \$117,000 utilized for the clean-up and to build that fund back up in order to maintain the current service level, to accommodate the new composting procedure requirement and to establish a reasonable 13% fund balance in the spring clean-up, leaf pick-up fund. He emphasized that no money was borrowed for the ice storm damage clean up. Discussion followed.

In response to Mayor Strazdas, Councilmember Urban indicated that Leaf Pick-up Number Three was set up by City Council to accommodate the unpredictable weather and leaf fall in Michigan. He expressed his amazement with the efficiencies and cost containment created over time as the City became more experienced with the program; that this was a time when City Council was considering increasing, not decreasing, the recycling services; and, he questioned whether fewer pick-ups is possible under the current contract.

In response to Mayor Strazdas, Councilmember Bailes expressed his appreciation as a Portage resident for the third pick-up as it would cost more than the millage increase to take care of the leaves that would fall after the second pick-up; therefore, he did not favor reducing the spring clean-up, leaf pick-up services and did favor the current recycling service as his neighbors take advantage of it.

Councilmember Randall asked for feedback on the Pilot Program in Moorsbridge where larger capacity bins were utilized that could contain the recyclables on windy days and could mean fewer pick-ups and a reduction in labor costs. City Manager Evans indicated that the program is very promising, but wanted to give the Environmental Committee a chance to review the program before bringing it to City Council for consideration. In answer to Mayor Strazdas, Deputy City Manager Brian Bowling said that Republic Services has not indicated any cost savings and no cost savings that would be passed on to the City. Discussion followed.

In response to Councilmember Randall's referring to money in the Fund Balance as not being taxpayer dollars, Mayor Pro Tem Sackley emphasized that the money in the Fund Balance is taxpayer dollars. In response to Councilmember Randall's comment that she is not a specialist, Mayor Pro Tem Sackley expressed disbelief because of the many hours spent by City Council for the last two years while she was in office for the retreat, for budget preparation, actual budget work sessions, the budget presentation and the public hearing on the budget with all of the information provided. He stressed that the dedicated millage was voted on by the voters who voted to have the City provide these services; that

a reduction in these services means the homeowner has to pay for them above and beyond the millage; and, that over 50% of the cost for recycling, leaf and brush pick-up are already subsidized by commercial, industrial and apartment complexes that can not even benefit from them. Finally, he asked for specific areas where taxes can be cut instead of “playing games” to be able to say “I voted against a tax increase” because if there’s going to be a tax increase, it is going to be a decision in which all Portage citizens will participate.

In response to Councilmember Randall’s request to provide the poor with water and sewer assistance, Mayor Pro Tem Sackley reminded her that she voted in favor of the water and sewer rate increase and pondered what fund she would want to utilize for assistance to the poor. He then asked for concrete proposals from her. Finally, he stated that he advocated no decrease in services that the voters have requested, and that these services have been funded for a long period time.

Mayor Strazdas characterized the approach of City Council with regard to the dedicated millage has been a good, permissive approach. He indicated that if City Council had levied the maximum amount each year, the fund would have more than enough money to fund these services, but City Council has only levied what was needed each year. He congratulated City Council for not ever having to levy the full amount possible for either funds as cost effective and prudent and indicated he has not heard citizens who are willing to reduce the leaf pick-up or branch pick-up. Discussion followed. He summed up by saying he is not in favor of cutting services, is very much in favor of having a permissive millage and is not in favor of hitting the ceiling to preserve the fund balance. Discussion followed.

Motion by Urban, seconded by Bailes, to approve the Fiscal Year 2011-2012 Budget and adopt the General Appropriations Act Resolution and the Salary and Wage Resolution. Discussion followed and Mayor Pro Tem Sackley stressed that a unanimous vote on the budget is important and he is willing to stay as long as necessary to get a unanimous vote on the budget. He then said that better preparation is necessary so last minute discussions of what might or might not happen are not presented at the last minute because that just corrupts the process. Mayor Strazdas asked for further discussion.

Councilmember Randall complained that she did not believe Mayor Pro Tem Sackley has treated her with the same respect and courtesy as he has treated other Councilmembers, accused him of bullying her and indicated she feels his anger. She indicated that citizens have contacted her privately and stopped her in public about this, then told Mayor Strazdas he has never stepped in to say anything. She stated that diversity is good; different opinions are healthy; and, this is what we were elected to do. She said Mayor Pro Tem Sackley talks about consensus almost as a threat and asked Mayor Strazdas for support as her Mayor.

Mayor Strazdas indicated he appreciates and respects her position and every Councilmember’s opinion. He stated because we live in a Democracy, City Council can respectfully disagree in a professional manner and move forward. He said that elected leaders all believe we should be doing the right thing; we speak our minds, vote the way we think we should vote and the majority rules. He concurred with Mayor Pro Tem Sackley that it would have been better to get into the details months in advance rather than wait until tonight and he sensed the frustration. Mayor Strazdas indicated he was in favor of the motion, but respected Councilmember Randall’s opinion and asked for comments specifically on the motion.

Mayor Pro Tem Sackley reiterated that his comments to Councilmember Randall were specific to the process and that he stood by his willingness to work as long as necessary to explore opportunities to satisfy Councilmember Randall’s desire to see no increase in the millage rate. He expressed disappointment that his comment on the process was instead met with a personal attack that was not specific to the request of what can be done to satisfy the desire to see no increase in the millage rate. He indicated that the straw poll was that the funds were not going to come out of recycling or leaf pick-up and asked, “If not that, then what?” He reminded City Council that they had spent hundreds of hours and tens of thousands of dollars pursuing initiatives brought by Councilmember Randall to City Council with regards to assessments and the millions of data points analyzed in the Randall Report. He implored

Councilmember Randall to bring forth a recommendation this evening and offered to stay as long as necessary; and, he asked for anything, anything specific. He noted that the funds are not going to come from leaf pick-up, nor recycling, nor from the Fund Balance. He also recognized that if there is nothing else open for conversation, then it will just have to be left at that. He offered the idea that if Councilmember Randall could find any thing else that can be cut from the General Fund budget to reduce the General Fund millage below 7.5 mills, that would be an alternative that could be accomplished through a budget amendment. He expressed an interest in finding common good as the voters elected City Council to do the work without excuses.

Mayor Strazdas called the question. Upon a roll call vote, motion carried 4 to 1. Yeas: Councilmembers Bailes and Urban, Mayor Pro Tem Sackley and Mayor Strazdas. No: Councilmember Randall. Discussion followed.

- * **MAJOR STREET RECONSTRUCTION PROGRAM:** Motion by Urban, seconded by Sackley, to support the substitution of the West Centre Avenue (Shaver to Oakland) project for the Romence Parkway (Lovers Lane to Sprinkle) project in the 2011-2012 Major Street Reconstruction Program. Upon a roll call vote, motion carried 5 to 0.
- * **DIRECTOR OF PUBLIC SAFETY – POLICE/FIRE CHIEF:** Motion by Urban, seconded by Sackley, to confirm the appointment of Richard White as the City of Portage Director of Public Safety – Police/Fire Chief. Upon a roll call vote, motion carried 5 to 0.
- * **MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY - HOME BUYER PURCHASE:** Motion by Urban, seconded by Sackley, to approve the \$35,000 grant amendment to the Michigan State Housing Development Authority for the North Portage Home Buyer Purchase Rehabilitation Program and authorize the Mayor and City Manager to execute all documents related to the amendment in the event the request is awarded. Upon a roll call vote, motion carried 5 to 0.
- * **MEMBERSHIP OF YOUTH INVOLVEMENT PROGRAMS:** Motion by Urban, seconded by Sackley, to adopt a Resolution amending the Program Guidelines for the Youth Advisory Committee and Appointments of Youth Participants to City Boards and Commissions. Upon a roll call vote, motion carried 5 to 0.
- * **DOWNTOWN DEVELOPMENT AUTHORITY – REAPPOINTMENTS AND CONFIRMATION OF TERMS:** Motion by Urban, seconded by Sackley, to confirm the reappointments of the City Manager to the Portage Downtown Development Authority Board of Directors. Upon a roll call vote, motion carried 5 to 0.
- * **RESPONSE TO COMMENTS OF MR. DAVID MCGAVIN - INFORMATION ONLY:** Motion by Urban, seconded by Sackley, to receive the communication from the City Manager regarding the response to comments of Mr. David McGavin as information only. Upon a roll call vote, motion carried 5 to 0.
- * **LEXINGTON GREEN DRAINAGE CHANNEL/DITCH RESPONSE – INFORMATION ONLY:** Motion by Urban, seconded by Sackley, to receive the communication from the City Manager regarding the Lexington Green Drainage Channel/Ditch response as information only. Upon a roll call vote, motion carried 5 to 0.

*** APRIL 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT –**

INFORMATION ONLY: Motion by Urban, seconded by Sackley, to receive the communication from the City Manager regarding the April 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 5 to 0.

*** DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Sackley, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 5 to 0.

*** MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Zoning Board of Appeals of April 11, 2011.
Portage Environmental Board of April 13, 2011.

BID TABULATIONS:

*** STREET PAVING RECONSTRUCTION/REPAIRS - RECOMMENDATION:** Motion by Urban, seconded by Sackley, to approve a contract with Michigan Paving and Materials Company to provide reconstruction to selected local streets and asphalt surface repairs to isolated sections of major streets in the not-to-exceed amount of \$638,707.09; approve the added expenditure of \$156,279.79 for additional street repairs at unit pricing within this contract; and, authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

*** LEAF COMPOST SITE MANAGEMENT AND PROCESSING - RECOMMENDATION:** Motion by Urban, seconded by Sackley, to approve a three-year contract with Renewed Earth, Incorporated, to provide yard waste recycling services in a total amount not to exceed \$309,000 and authorize the City Manager to execute all documents related to this contract and subsequent renewals on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

*** 2011 STORM DRAINAGE IMPROVEMENTS PROGRAM:** Motion by Urban, seconded by Sackley, to award a contract to the low bidder, Peters Construction Company, for the construction of the 2011 Storm Drainage Improvements in the not-to exceed amount of \$134,257.17 and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: State Representative Margaret O'Brien indicated that the State will be adopting the State Budget for the first time before June 1st in 50 years. She indicated she always talks about Portage being proactive at the Capitol Building with the foresight to make hard decisions to privatize services to save money, to be in a very healthy position with no risk of a Fiscal Emergency Manager, to be able to pave streets and to be able to maintain infrastructure. She cited some of the shortcomings of the early 1990's when the State spent down the Fund Balance, the increase in the number of State employees and said once you do a one-time gimmick such as spending down the Fund Balance, there is structural deficiency in your budget that will be extremely hard to overcome. She praised the floating dedicated millage as many cities across the state wished they had one where you only levy the amount needed to provide the service. She recognized that hard decisions are never popular, but that City Council is not here to be popular, only to be proper stewards of the tax dollars of the City of Portage; and, she thanked them for their service and recognized the importance of diversity of opinions as an opportunity to learn valuable lessons. Discussion followed.

In response to James Pearson, 3004 East Shore Drive, Mayor Strazdas indicated that he would be assisting members of City Council to work through any conflicts they may have.

David McGavin, 611 South Shore Drive, objected to having a third leaf pick-up as this was not approved by the voters, only two pick-ups and objected to the reference to the average increases being six and seven dollars as those with more expensive homes will pay more. He agreed with Mayor Pro Tem Sackley, as did Mayor Strazdas, that this discussion should have taken place earlier in the process and that citizens with financial expertise do live in Portage and could come forward to contribute. Mayor Strazdas reminded him that the budget sessions are advertised, but if there are no issues, people do not typically attend the detailed budget work sessions. Mayor Strazdas agreed that citizens should be involved early on in the process and thanked him for that comment.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Randall extended congratulations to all graduating students, reminded everyone of the upcoming Memorial Day Parade and wished everyone a safe and happy holiday weekend.

Councilmember Bailes offered respect to his neighbor, 20-year Air Force Veteran, Master Sergeant Mike Reverski, and recognized the services of all who fought for the freedom of this country and that they not be forgotten in commemoration of Memorial Day.

Councilmember Urban commented on Item F.2, the substitution of the West Centre Avenue (Shaver to Oakland) project for the Romence Parkway (Lovers Lane to Sprinkle) project, and congratulated Richard White and his appointment as the City of Portage Director of Public Safety – Police/Fire Chief. Also, as an example of good stewardship of the public money, he cited the fact that the City of Portage will spend fewer dollars on health benefits in Fiscal Year 2011-2012 than in Fiscal Year 2004-2005, which reflects a 13% increase per employee over the last six years, and he complimented Benefit Services Director Patti Thompson for her work in this area.

City Manager Evans complimented State Representative Margaret O'Brien for her work in Lansing and for the State presenting an early budget for approval and the tough decisions and work being done at the State level. He commended those from the Administration who helped him with the work for the last nine months on the budget, specifically, Deputy City Manager Brian Bowling, Finance Director Daniel Foecking and Deputy Finance Director Pat Fitnitch. He thanked City Council for their support on confirming Richard White and his appointment as the City of Portage Director of Public Safety – Police/Fire Chief and for their support on the budget. Discussion followed.

Mayor Pro Tem Sackley indicated he has lived in the City of Portage for thirty-three years, loves this city and is very passionate about the City of Portage. He said it can be easy to characterize passion for anger. He reflected that Margaret O'Brien has only been in office for four months, but knows she has been a participant in the budget process, and elected officials are expected to be quick learners.

He acknowledged that there is always the opportunity to amend the budget and that there are learned people in the community who could help with the process. He referred Mr. David McGavin to Item F.7, and confirmed that Mr. McGavin received the supplemental information provided to City Council regarding his questions. He pointed out that City Council can also amend the budget and welcomed any suggestions to reduce the General Fund expenditures as the other funds are off of the table, realizing that some of the rhetoric may have something to do with this being an election year for City Council. He thanked everyone for all of their participation in the budget process this year, apologized that there was not a unanimous vote on the approval of the budget and indicated that consensus is not a "dirty" word. He referred to State Representative O'Brien and the times she moved him to vote with her on matters that were important to her. He applauded her ability to bring people of diversity together and for her passion that hopefully has never been construed as anger.

Mayor Strazdas focused on the 9.5 mills as a herculean task to not move that rate up and still provide the services with fewer employees and complimented City Council and the Administration for making this possible. He expressed best wishes to Councilmember Reid as she is on her honeymoon in northern Michigan and congratulated Councilmember Campbell on her speaking engagement with the graduating Community Education students. He polled City Council regarding which of the Councilmembers would be attending the Memorial Day Parade and who wished to walk and who wished to ride on a surrency.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 10:36 p.m.

James R. Hudson, City Clerk

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

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 6, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of June 14, 2011 as presented.

Attached please find the Accounts Payable Register for the period May 15, 2011 through June 5, 2011, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/18/2011	276253	GORNO FORD	2967		92,155.00
05/18/2011	276254	U S POSTMASTER	392		6,000.00
05/27/2011	276255	A I S CONSTRUCTION EQUIP. CO.	640		190.00
05/27/2011	276256	A M LEONARD	1382		325.86
05/27/2011	276257	A T & T ADVERTISING SOLUTIONS	999999		239.45
05/27/2011	276258	AT&T	849		1,695.58
05/27/2011	276259	AIRGAS GREAT LAKES	106		22.80
05/27/2011	276260	ALFIERI, LAUREN A.	999999		42.00
05/27/2011	276261	AMERICAN HYDROGEOLOGY CORP.	114		12,640.90
05/27/2011	276262	AMERICAN PLANNING ASSOCIATION	804		450.00
05/27/2011	276263	ANALYTICAL TESTING & CONSULTIN	2136		1,000.00
05/27/2011	276264	ANY CUTTING & WELDING	3347		230.00
05/27/2011	276265	TODD ARBANAS ENTERPRISES INC.	1704		2,565.00
05/27/2011	276266	AUMACK, MICHAEL	670		235.00
05/27/2011	276267	AUTOMATIC DATA PROCESSING	3305		1,332.29
05/27/2011	276268	BANK OF NEW YORK MELLON	3939		450.00
05/27/2011	276269	BELL EQUIPMENT COMPANY	3844		809.00
05/27/2011	276270	BLUE CROSS/BLUE SHIELD OF MICH	642		118,765.15
05/27/2011	276271	BOOTH NEWSPAPERS INC	89		1,599.43
05/27/2011	276272	BOOTH NEWSPAPERS INC	89		45.57
05/27/2011	276273	BOITZUM, VALERIE M.	999999		42.00
05/27/2011	276274	BRONSON METHODIST HOSPITAL	156		75.00
05/27/2011	276275	C A L E A	1080		575.00
05/27/2011	276276	C T ELECTRICAL SERVICES, INC.	2407		564.85
05/27/2011	276278	CAPITAL ADVANTAGE LEASING	994		28,190.65
05/27/2011	276279	CARLETON EQUIPMENT CO.	168		581.15
05/27/2011	276280	CD PUBLICATIONS	999999		364.00
05/27/2011	276281	CHARTER COMMUNICATIONS	3080		124.66
05/27/2011	276282	CHICAGO TITLE	999999		40.44
05/27/2011	276283	CINTAS CORP.	2206		516.97
05/27/2011	276284	CITY OF KALAMAZOO TREASURER	540		213,444.90
05/27/2011	276285	CLEAN EARTH ENVIRONMENTAL SERV	1821		750.00
05/27/2011	276286	COASTAL TRAINING TECHNOLOGIES	1116		187.15
05/27/2011	276287	COCHRAN GLASS AND DOOR, LLC	4547		455.97
05/27/2011	276288	COFFINGER, RICHARD	999999		100.00
05/27/2011	276289	CONSUMERS CONCRETE CORP.	187		108.90
05/27/2011	276290	CONSUMERS ENERGY	4063		1,000.00
05/27/2011	276293	CONSUMERS ENERGY-BILL PMT CNT	189		43,382.55
05/27/2011	276294	CROSSROADS CAR WASH	195		160.00
05/27/2011	276295	CROSSROADS EXPERT AUTO SERVICE	4109		2,868.74
05/27/2011	276296	D & R SPORTS CENTER, INC.	4222		15.00
05/27/2011	276297	DAVIS, CHRISTOPHER	532		100.00
05/27/2011	276298	DEPATIE FLUID POWER CO., INC.	211		350.69
05/27/2011	276299	DIAMOND DRILLING & SUPPLY CO.	2430		1,174.00
05/27/2011	276300	DIESEL INJECTION SERVICE, LLC	1874		983.49
05/27/2011	276301	DONALD A. SHAPIRO AS COURT	9999999		1,040.00
05/27/2011	276302	DRENTH, JACOB	4542		211.50
05/27/2011	276303	DRIESENGA & ASSOCIATES, INC.	3277		5,947.00
05/27/2011	276304	EAST JORDAN IRON WORKS	226		2,441.00
05/27/2011	276305	EDWARDS INDUSTRIAL SALES, INC.	228		220.76
05/27/2011	276307	EMERGENCY VEHICLE PRODUCTS	2948		24,832.76

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/27/2011	276308	FARM N GARDEN	833		984.00
05/27/2011	276309	FAWLEY OVERHEAD DOOR, INC.	690		91.00
05/27/2011	276310	GALL'S, AN ARAMARK COMPANY	25		4.61
05/27/2011	276311	GALLOWAY, TAYLOR A.	9999999		42.00
05/27/2011	276312	GORDON FOOD SERVICE	502		55.03
05/27/2011	276313	GORDON WATER SYSTEMS	517		363.75
05/27/2011	276314	GOTTA GO PORTABLES	3465		95.00
05/27/2011	276315	GRAHAM FORESTRY SERVICE, INC.	464		680.00
05/27/2011	276316	GREATER KALAMAZOO FOP LODGE 98	623		780.00
05/27/2011	276317	GREATER KALAMAZOO FOP LODGE 98	623		3,900.00
05/27/2011	276318	GREATER KALAMAZOO UNITED WAY	628		1,158.62
05/27/2011	276319	GRIFFIN PEST CONTROL, INC.	598		104.00
05/27/2011	276320	HABITAT FOR HUMANITY	1666		5,000.00
05/27/2011	276321	HANDLEY'S TREE SERVICE	48		5,425.00
05/27/2011	276322	HEARTLAND SERVICES, INC.	3179		245.47
05/27/2011	276323	HEMPHILL, BARBARA	9999999		50.00
05/27/2011	276324	HOADLEY, LEO	4228		180.00
05/27/2011	276325	HOEKSTRA ROOFING CO.	1186		488.17
05/27/2011	276326	HOLDORF, ERIC	9999999		100.00
05/27/2011	276327	HOME DEPOT	651		3,394.77
05/27/2011	276328	IERVOLINA, SUSAN	2074		140.00
05/27/2011	276329	INDIANA WIPING CLOTH, INC.	61		641.50
05/27/2011	276330	INTERSECT TECHNOLOGIES	379		332.00
05/27/2011	276331	IP CONSULTING, INC.	4642		165.00
05/27/2011	276332	J B PRINTING COMPANY	1595		3,019.00
05/27/2011	276333	J-AD GRAPHICS, INC	4444		746.00
05/27/2011	276334	JOHN E. CHRISTIAN FAMILY	9999999		270.00
05/27/2011	276335	JOHNS, STEVE	532		100.00
05/27/2011	276336	JOHNSON OUTDOORS INC	3261		169.44
05/27/2011	276337	JONS TO GO PORTABLE RESTROOM	3201		330.00
05/27/2011	276338	KAL CO MEDICAL CONTROL AUTH	735		68.60
05/27/2011	276339	KALAMAZOO CONSERVATION SERVICE	1414		203.00
05/27/2011	276340	KALAMAZOO COUNTY HEALTH & COMM	84		1,773.89
05/27/2011	276341	KALAMAZOO COUNTY TREASURER	514		332.50
05/27/2011	276342	KALAMAZOO LANDSCAPE SUPPLIES	90		360.45
05/27/2011	276343	KANDU INDUSTRIES, INC.	951		611.35
05/27/2011	276344	KIRBY BUILT PRODUCTS INC	4171		972.52
05/27/2011	276345	KLINE, ERIC	532		500.00
05/27/2011	276346	KOPEC, CASEY	4409		132.00
05/27/2011	276347	KROLL, KELLY	9999999		50.00
05/27/2011	276348	KUIPER BROTHERS MOVING INC.	1066		156.60
05/27/2011	276349	KZOO TIRE COMPANY	564		755.00
05/27/2011	276350	LD VENTURES LLC	9999999		39.85
05/27/2011	276351	LEWIS, ALENE	9999999		150.00
05/27/2011	276352	LEXISNEXIS/MATTHEW BENDER	2701		159.50
05/27/2011	276353	THE LIFEGUARD STORE	1878		758.00
05/27/2011	276354	LILEK, MICHAEL	532		94.45
05/27/2011	276355	LOCEY SWIM POOL CO.	243		87.70
05/27/2011	276356	LOMASON, CRAIG	4691		117.50
05/27/2011	276357	LOWE'S HOME CENTER	2630		178.94
05/27/2011	276358	MARSHALL & SWIFT	1509		724.15

BANK CODE

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
05/27/2011	276359	MATER HOME IMPROVEMENT LTD	4559	9,829.00
05/27/2011	276360	MCDONALD'S TOWING & RESCUE, IN	728	289.00
05/27/2011	276361	MEDEMA, TIMOTHY	4406	156.50
05/27/2011	276362	MENARDS, INC	258	20.97
05/27/2011	276363	MICH AMATEUR SOFTBALL ASSOC	1435	5,250.00
05/27/2011	276364	MICHIGAN ASSOC. OF PLANNING	649	625.00
05/27/2011	276365	MICHIGAN FIRE INSPECTOR'S SOCI	3525	90.00
05/27/2011	276366	MIDWEST CUSTOM EMBROIDERY COMP	613	754.50
05/27/2011	276367	MIDWEST ENERGY COOPERATIVE	2030	220.35
05/27/2011	276368	MOORS GOLF CLUB	1440	4,965.11
05/27/2011	276369	MORELAND, DONNA	999999	110.00
05/27/2011	276370	T MORGAN INC.	376	643.54
05/27/2011	276371	MUNICIPAL CODE CORPORATION	981	550.00
05/27/2011	276372	NATIONS TITLE AGENCY	4687	150.00
05/27/2011	276373	NATIONS TITLE AGENCY OF MI	999999	63.76
05/27/2011	276374	NESBITT JR, FRED	532	84.79
05/27/2011	276375	NEW FRESH CLEANING SERVICE	4351	33.75
05/27/2011	276376	NOVAK, ROBERT	532	100.00
05/27/2011	276378	OFFICE DEPOT, INC.	1721	1,698.23
05/27/2011	276379	OFFICEMAX INCORPORATED	301	35.38
05/27/2011	276380	ONE WAY PRODUCTS	440	1,245.60
05/27/2011	276381	PATESEL, TERRY	4455	227.00
05/27/2011	276382	PETERMAN CONCRETE CO.	310	110.00
05/27/2011	276383	PETTY CASH-DFS	538	219.87
05/27/2011	276384	PETTY CASH-FIRE	610	217.35
05/27/2011	276385	PETTY CASH-PARKS	536	277.88
05/27/2011	276386	PETTY CASH-POLICE DEPT.	890	301.86
05/27/2011	276387	PLANNING & ZONING NEWS	999999	350.00
05/27/2011	276388	PORTAGE FIREFIGHTERS	625	1,491.76
05/27/2011	276389	PORTAGE ON-CALL FIREFIGHTERS	504	124.74
05/27/2011	276390	PORTAGE POLICE OFFICERS ASSOC	624	485.00
05/27/2011	276391	PORTAGE ROAD INVESTMENTS, LLC	999999	4,944.00
05/27/2011	276392	THE POSTMAN	2633	4,855.00
05/27/2011	276393	PRIORITY HEALTH	4254	21,974.99
05/27/2011	276394	PRO-FLEET	3209	1,840.60
05/27/2011	276395	PUBLIC MEDIA NETWORK	4582	91,335.85
05/27/2011	276396	QUADRANT II MARKETING, LLC	3139	2,268.08
05/27/2011	276397	RATHCO SAFETY SUPPLY, INC.	327	2,186.90
05/27/2011	276398	REID, CLAUDETE	999999	100.00
05/27/2011	276399	REPUBLIC WASTE SERVICES OF W M	4443	.00
05/27/2011	276400	RIDGE AUTO NAPA	438	1,141.45
05/27/2011	276401	RIETH-RILEY CONSTRUCTION CO.,	4386	1,655.48
05/27/2011	276402	ROAD EQUIPMENT PARTS CENTER	339	10.99
05/27/2011	276403	ROMENCE GARDENS, INC	343	141.64
05/27/2011	276404	SALERNO, MIKE	999999	50.00
05/27/2011	276405	SCARE, SCOTT	4692	70.50
05/27/2011	276406	SCHAEFFER MANUFACTURING COMPAN	4635	163.12
05/27/2011	276407	SCHIRA, SAMUEL R.	999999	42.00
05/27/2011	276408	SCHULTE, JOSEPH E.	999999	42.00
05/27/2011	276409	SCHWARTZ'S HEATING & COOLING	4347	3,803.00
05/27/2011	276410	ROD SCOTT	2625	8,000.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
05/27/2011	276411	SHAHREN CHEVROLET INC.	1743		547.40
05/27/2011	276412	SHERWIN WILLIAMS	356		103.64
05/27/2011	276413	SINCLAIR RECREATION, LLC	3149		255.06
05/27/2011	276414	SLAVIN, NATHAN	532		500.00
05/27/2011	276415	SOCIETY FOR HUMAN RESOURCE MGM	3581		180.00
05/27/2011	276416	SFAULDING MFG. CORP.	1929		266.00
05/27/2011	276417	SPRINT	3721		1,833.23
05/27/2011	276418	ST CATHERINE OF SIENA	999999		100.00
05/27/2011	276419	STANLEY STEEMER GREAT LAKES LL	2520		350.00
05/27/2011	276420	STATE OF MICHIGAN	9999999		183.54
05/27/2011	276421	STATE OF MICHIGAN (DOT)	368		1,200.00
05/27/2011	276422	STATE OF MICHIGAN (IT DEPT)	4034		500.00
05/27/2011	276423	STATE SYSTEMS RADIO, INC	369		500.00
05/27/2011	276424	STEENMA LAWN & POWER EQUIPMEN	3222		1,313.90
05/27/2011	276425	C. STODDARD & SONS INC.	1444		324.28
05/27/2011	276426	STROMQUIST, BETTY	999999		55.00
05/27/2011	276427	NATHAN STUBBLEFIELD	4689		36.00
05/27/2011	276428	SUITS U TAILOR SHOP INC	4237		100.00
05/27/2011	276429	TAYLOR, JEFF	4436		110.00
05/27/2011	276430	TELVENT DTN, INC.	4657		258.50
05/27/2011	276431	TERMINAL SUPPLY CO.	380		549.75
05/27/2011	276432	JOHANNA THOMPSON	4682		877.17
05/27/2011	276433	TRACKING PRODUCTS, INC.	4251		2,795.00
05/27/2011	276434	TRACTOR SUPPLY CORP.	2817		324.00
05/27/2011	276435	TRACY TIME SYSTEMS	387		436.66
05/27/2011	276436	TRIGO BREAD CO., LLC	4158		276.95
05/27/2011	276437	TRUGREEN	390		67.64
05/27/2011	276438	U A W, LOCAL 2290	1862		217.00
05/27/2011	276439	UNITED PARCEL SERVICE	545		510.70
05/27/2011	276440	UNITED PARTY & EVENT SERVICES	2177		150.66
05/27/2011	276441	VANDER VEEN, DONALD	4230		2,355.00
05/27/2011	276442	VANDERBILT, JOHN	668		184.00
05/27/2011	276443	VERIZON WIRELESS SERVICES, LLC	4653		258.50
05/27/2011	276444	VICKSBURG CHRYSLER DODGE JEEP	2721		130.51
05/27/2011	276445	WEDEL'S INC.	410		41.40
05/27/2011	276446	WEESIES, MEGAN E.	999999		20.99
05/27/2011	276447	WEST MICHIGAN REALTORS	9999999		42.00
05/27/2011	276448	WEST MICHIGAN REALTORS TITLE	9999999		102.46
05/27/2011	276449	WESTERN MICHIGAN INT'L TRUCKS	4306		296.15
05/27/2011	276450	WOLVERINE POWER SYSTEMS	4322		145.91
05/27/2011	276451	WOODWARD, CAROLYN	9999999		1,452.44
05/27/2011	276452	WORDEN, CLARENCE	532		38.00
05/27/2011	276453	WYOMING ASPHALT PAVING CO. INC	1222		92.18
05/26/2011	276454	BEST BUY CO, INC	1573		199.98
06/03/2011	276455	SEARS	1315		863.98

DATE RANGE TOTAL * 805,038.62 *

PAYMENT NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE		BANK	
				NUMBER	EFT	BATCH	CODE
258	ANIMAL REMOVAL SERVICE, LLC	05/27/2011	150.00	072000320000001	0000001	00	00
259	B & B YARDSCAPE	05/27/2011	2,933.00	072000320000002	0000001	00	00
260	BEEBE, RON	05/27/2011	258.50	072000320000003	0000001	00	00
261	BEVERIN, TYLER	05/27/2011	273.00	072000320000004	0000001	00	00
262	BLUE CARE NETWORK-GREAT LAKES	05/27/2011	67,347.51	072000320000005	0000001	00	00
263	CROWN TROPHY	05/27/2011	106.00	072000320000006	0000001	00	00
264	D & D PRINTING CO.	05/27/2011	1,149.31	072000320000007	0000001	00	00
265	DELTA DENTAL PLAN OF MI	05/27/2011	20,247.07	072000320000008	0000001	00	00
266	EMPLOYMENT GROUP, INC.	05/27/2011	616.00	072000320000009	0000001	00	00
267	ENGINEERED PROTECTION SYSTEMS, INC.	05/27/2011	10,968.13	072000320000010	0000001	00	00
268	ETNA SUPPLY, INC.	05/27/2011	418.05	072000320000011	0000001	00	00
269	GRAINGER INC, W W	05/27/2011	140.64	072000320000012	0000001	00	00
270	HARTFORD LIFE INSURANCE COMPANY	05/27/2011	8,028.47	072000320000013	0000001	00	00
271	HI-TECH ELECTRIC CO.	05/27/2011	4,248.31	072000320000014	0000001	00	00
272	INDUSCO SUPPLY CO., INC.	05/27/2011	134.75	072000320000015	0000001	00	00
273	KALAMAZOO ELECTRIC MOTORS	05/27/2011	134.36	072000320000016	0000001	00	00
274	KNAPP ENERGY, INC.	05/27/2011	7,190.00	072000320000017	0000001	00	00
275	KUSHNER & COMPANY, INC.	05/27/2011	377.62	072000320000018	0000001	00	00
276	PARKER, ROBERT	05/27/2011	188.00	072000320000019	0000001	00	00
277	PLEUNE SERVICE COMPANY	05/27/2011	126.00	072000320000020	0000001	00	00
278	PRECISION PRINTER SERVICES INC	05/27/2011	862.05	072000320000021	0000001	00	00
279	PREIN & NEWHOF	05/27/2011	2,300.00	072000320000022	0000001	00	00
280	QUALITY AIR HEATING & COOLING, INC.	05/27/2011	832.33	072000320000023	0000001	00	00
281	ROBERTS, CHARLES D	05/27/2011	141.00	072000320000024	0000001	00	00
282	SARCOM, INC	05/27/2011	39,511.93	072000320000025	0000001	00	00
283	SIMMONS, DAN	05/27/2011	160.00	072000320000026	0000001	00	00
284	SNELL, DEBRA	05/27/2011	194.00	072000320000027	0000001	00	00
285	WEST, STEVE	05/27/2011	188.00	072000320000028	0000001	00	00
286	360 SERVICES, INC.	05/27/2011	2,319.97	072000320000029	0000001	00	00

GRAND TOTAL:

171,534.00 NO. OF CHECKS:

29

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 4, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Rezoning Application #10-01, Portage Road and Fairlane Avenue

ACTION RECOMMENDED: That City Council:

- a. accept Rezoning Application #10-01 for first reading and set a public hearing for June 14, 2011; and
- b. subsequent to the public hearing, consider approving Rezoning Application #10-01 and rezone the seven parcels/lots from I-1, light industry and R-1C, one family residential, to OS-1, office service.

Residential Opportunities, Inc. (ROI) has requested that a 7.74 acre tract of land consisting of seven parcels located near the southwest corner of Portage Road and South Shore Drive be rezoned from I-1, light industry and R-1C, one family residential to OS-1, office service. Attached is a report from the Community Development Department that explains the application. The rezoning is being requested to reuse the former Moose Lodge property for The Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic for children with autism.

In a report dated April 15, 2011, the Department of Community Development recommended the properties be rezoned to OS-1. The proposed OS-1 zone would provide an effective transition area between Portage Road and industrial land uses to the south and adjacent single family residences along South Shore Drive to the north the Sterling Oaks condominiums to the west.

The Planning Commission held a public hearing at the April 7 and 21, 2011 meetings. After considering the proposed rezoning and public comments, the Commission voted unanimously to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: April 29, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #10-01, Portage Road and Fairlane Avenue

A rezoning application has been received from Residential Opportunities, Inc. (ROI) requesting that 9616 and 9602 Portage Road, 1704 South Shore Drive, 1712, 1720, 1726 and 1806 Fairlane Avenue be rezoned from I-1, light industry and R-1C, one family residential to OS-1, office service. The rezoning is being requested to facilitate reuse of the former Moose Lodge building/site for The Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic for children with autism. The proposal is a joint venture between ROI and the Western Michigan University Psychology Department. If rezoned, ROI has indicated a special land use permit and site plan to establish the use would be submitted.

In a report dated April 15, 2011, the Department of Community Development recommended the seven properties be rezoned to OS-1. The Comprehensive Plan recognizes the OS-1 district can provide an effective transition between higher intensity uses and major streets and interior residential neighborhoods. The proposed OS-1 zone would provide an effective transition area between Portage Road and industrial land uses to the south and adjacent single family residences to the north (along South Shore) and west (Sterling Oaks condominiums). Additionally and since reuse of the former Moose Lodge building by a traditional light industrial user is limited given the nature of the building design (configuration, one-story, low ceilings, etc), redevelopment under the existing I-1 zoning designation would more likely necessitate demolition of the existing building and construction of a new industrial facility. Depending upon the type of industrial user(s), impacts on adjacent residential land uses to the north and west would likely be much greater under the existing I-1 zone.

The Planning Commission convened a public hearing during the April 7th and 21st, 2011 meetings. Three citizens spoke during the April 7th meeting and inquired about the age of the children, nature of the inpatient treatment facility and any plans for future development at the site. No citizens spoke during the April 21st meeting. A correspondence from Ken and Suzanne Andres was received on April 19, 2011 and this letter, along with an April 21, 2011 response from the Department of Community Development, were considered by the Commission. After careful consideration, the Commission voted unanimously to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service.

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

Attachments: Planning Commission transmittal dated April 29, 2011
Planning Commission Minutes dated April 7 and 21, 2011
Department of Community Development report dated April 15, 2011
Department of Community Development supplemental report dated April 21, 2011

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: April 29, 2011

SUBJECT: Rezoning Application #10-01, Portage Road and Fairlane Avenue

The Planning Commission convened a public hearing during the April 7, 2011 meeting. Mr. Scott Schrum of Residential Opportunities, Inc. (ROI), applicant, was present to support the rezoning application and explain the planned reuse of the former Moose Lodge building and site. Three citizens spoke in regards to the proposed rezoning: 1) Sue Andres (1816 South Shore Drive); 2) Ed Jamerson, 9553 Sebring Drive and 3) Nancy Lowry, 9604 Bonita Court. These citizens asked several questions regarding the age of the children, nature of the inpatient treatment facility, any plans for future development at the site, traffic in the area and whether a traffic signal would be installed at the Portage Road/South Shore Drive intersection.

The Planning Commission reconvened the public hearing during the April 21, 2011 meeting. Mr. Tom Ihling of ROI, applicant, was present to support the rezoning application and discuss the planned reuse of the site. While no citizens spoke during the meeting, a letter from Ms. Ken and Suzanne Andres (received April 19, 2011), along with a response from the Department of Community Development (dated April 21, 2011) was reviewed and considered by the Commission.

After a careful consideration, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service. The motion was approved 7-0.

Sincerely,



James Cheesebro, Chairman
City of Portage Planning Commission

Bellflower Drive); 4) Russell Fomusa (5428 West Circlewood Drive); 5) Inger Thoen (513 North Circlewood Drive) and 6) Damion Smith (3612 Pristine Avenue). Mr. Corner spoke in support of his wife's application and assured the neighbors that the group child care home not adversely impact the neighborhood. Ms. King and Mr. Smith also spoke in support of the group child care home. Ms. Muha, Mr. Fomusa and Ms. Thoen spoke in opposition to the group child care home and expressed concerns regarding traffic and safety impacts, lack of sidewalks and increased noise. No additional citizens spoke in regard to the proposed group child care home. A motion was then made by Commissioner Bosch, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved.

After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to approve the Special Land Use Permit for Ms. Geraldine Corner (group child care home), 5419 West Circlewood Drive subject to installation of a 6-foot tall privacy fence within the backyard play area within 60 days (June 7, 2011) and before opening the group child care home. The motion was unanimously approved.

2. Preliminary Report: Rezoning Application #10-01, Portage Road and Fairlane Avenue. Prior to discussion of the agenda item, Commissioner Reiff indicated he has a professional and personal relationship with Keystone Bank, the current owner of the subject property, and asked Attorney Brown whether he should abstain from discussion and voting on the proposed rezoning due to a potential conflict of interest. Attorney Brown stated he had spoken with Commissioner Reiff, prior to the meeting, and given the circumstances believes it would be appropriate that Commissioner Reiff abstain from discussion and voting on the rezoning application. Commissioner Reiff then indicated that he would be abstaining due to a potential conflict of interested and excused himself from the Council Chambers.

Mr. West then summarized the preliminary staff report dated March 31, 2010 regarding the request received from Residential Opportunities, Inc. (ROI) to rezone 9616 and 9602 Portage Road, 1704 South Shore Drive and 1712, 1720, 1726 and 1806 Fairlane Avenue from I-1, light industrial and R-1C, one family residential to OS-1, office service. According to the applicant, Mr. West stated the rezoning was being requested to facilitate reuse of the former Moose Lodge building/site for the Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic. Mr. West reviewed the surrounding zoning/land use pattern, differences between the I-1/R-1C and OS-1 districts and the impacts of the proposed zoning change.

Mr. Scott Schrum (Residential Opportunities, Inc. - ROI) was present to support the rezoning application and explain the planned reuse of the former Moose Lodge building and site. Mr. Schrum discussed the mission of ROI and the other existing residential facilities owned and operated by ROI in the City of Portage. Mr. Schrum stated the planned Great Lakes Center for Autism Treatment and Research represents a two-year planning partnership with Western Michigan University. If rezoned, Mr. Schrum stated the interior of the existing building would be renovated and divided into two sections with the north wing being utilized as a 24-hour inpatient treatment/research facility for severely autistic children, while the south wing would be utilized as an outpatient clinic. Mr. Schrum indicated only minor exterior building changes were planned (no building expansion at this time) and the vacant land to the north would be utilized as an outdoor recreation area for the children.

The public hearing was opened by Chairman Cheesebro. Three citizens spoke in regards to the proposed rezoning: 1) Sue Andres (1816 South Shore Drive); 2) Ed Jamerson, 9553 Sebring Drive and 3) Nancy Lowry, 9604 Bonita Court. Ms. Andres and Mr. Jamerson had several questions regarding the age of the children, nature of the inpatient treatment facility and any plans for future development at the site. Ms. Lowry expressed concerns regarding traffic in the area and whether a traffic signal would be installed at the Portage Road/South Shore Drive intersection. No additional citizens spoke in regards to the proposed rezoning. Mr. Schrum provided additional information regarding the proposed inpatient treatment facility and the nature of the development disabilities experienced by the children receiving treatment. Mr. West stated there were no short-term or long-term plans to install a traffic signal at the Portage Road/South Shore Drive intersection. After a brief discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Dargitz, to adjourn the public hearing for Rezoning Application #10-01 to the April 21, 2011 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Farmland and Open Space Preservation Application, 7905 West RS Avenue, Texas Township. Mr. West summarized the March 31, 2011 staff report involving the notification provided by Texas Township regarding a Farmland and Open Space Preservation application for an approximate 20 acre tract of land located at 7905 West RS Avenue. Mr. West indicated the statute stipulates that communities located within three miles of subject property are afforded an opportunity to comment on the application. Mr. West stated that Farmland and Open Space agreements grant property owners certain income or property tax benefits in return for ensuring that the land remains in agriculture or open space for a specified period or time. After a short discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Reiff, to accept and support the Farmland and Open Space Preservation application for 7905 West RS Avenue, Texas Township. The motion was unanimously approved.

2. Proposed 2011 Oshtemo Township Master Plan. Mr. West summarized the staff report dated March 29, 2011 regarding the draft Oshtemo Township Master Plan. In accordance with the Michigan Planning Enabling Act, Oshtemo Township is requesting that adjacent communities and other required agencies review and comment on the draft plan. Mr. West briefly summarized major components of the Oshtemo Township Master Plan and Future Land Use Map designation consistencies along South 12th Street near the southeast corner of Oshtemo Township and the northwest corner of the City of Portage. Following a brief discussion, a motion was offered by Commissioner Reiff, seconded by Commissioner Bosch, to accept the Proposed 2011 Oshtemo Township Master Plan with no comments. The motion was unanimously approved. Mr. West stated a letter will be forwarded to Oshtemo Township on behalf of the Planning Commission.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Michael West, AICP
Assistant City Planner

Avenue was appropriate. Mr. Forth summarized the zoning history at the southeast corner of West Milham Avenue and South 12th Street, discussed the Comprehensive Plan designations and the differences between the B-2 and B-3 districts in regards to building height, setbacks and permitted/special land uses. Finally, Mr. Forth referred the Commission to an April 20, 2011 email communication from Mr. Terry Patterson of Treystar requesting the rezoning consideration be tabled.

Commissioner Dargitz asked if the existing B-2 zoning is consistent with the Future Land Use Plan designation of general business. Mr. Forth stated "yes" and then discussed the three business designations contained in the Comprehensive Plan (local business, regional business and general business) along with the primary and secondary commercial node designations.

The public hearing was opened by Chairman Cheesebro. Two citizens spoke in regards to the proposed rezoning: 1) Dave Szybala (4836 Golden Ridge Trail) and 2) Mr. Aaron Conant (4670 Golden Ridge Trail). Mr. Szybala read a statement into the record expressing concerns with the proposed B-3, general business zone and the wider variety of uses that are allowed. Mr. Szybala indicated a major concern was a possible gas station at the corner if the property was rezoned to B-3. Mr. Szybala stated many others in the Andover Woods subdivision oppose the rezoning and asked that the Commission and City Council protect the neighborhood and retain the existing B-2 zoning designation for these properties. Mr. Conant stated the neighborhood opposes the proposed zoning change and questioned the possible expanded rezoning consideration. The Commission, staff and Attorney Brown next discussed the proposed rezoning and related impacts, the three "concept" rezoning scenarios included in the staff report and whether to expand the rezoning consideration to include the additional three properties also zoned B-2. Commissioner Reiff stated the report indicates that staff suggested Treystar contact these three additional property owners, however, Treystar did not make this contact. Commissioner Reiff asked if staff knew why Treystar chose not to contact these adjacent property owners. Mr. Forth indicated staff had suggested on more than one occasion that Treystar initiate contact with these adjacent property owners regarding an expanded rezoning consideration and was unaware why Treystar chose not to make these contacts. Mr. Forth stated the owners of the three adjacent properties also zoned B-2 have been provided notice of the rezoning, however, have not contacted the Department of Community Development. The Commission then asked that staff contact these three adjacent property owners directly to obtain input regarding a possible expanded rezoning consideration. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Welch, to adjourn the public hearing for Rezoning Application #10-02 to the May 5, 2011 meeting. The motion was unanimously approved.

2. Final Report: Rezoning Application #10-01, Portage Road and Fairlane Avenue. Prior to discussion of the agenda item, Commissioner Reiff indicated he would be abstaining due to a potential conflict of interest and excused himself from the Council Chambers.

Mr. West then summarized the final staff report dated April 15, 2011 regarding the request received from Residential Opportunities, Inc. (ROI) to rezone 9616 and 9602 Portage Road, 1704 South Shore Drive and 1712, 1720, 1726 and 1806 Fairlane Avenue from I-1, light industrial and R-1C, one family residential to OS-1, office service. According to the applicant, Mr. West stated the rezoning was being requested to facilitate reuse of the former Moose Lodge building/site for the Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic. Mr. West reviewed the Comprehensive Plan and Future Land Use Map designations, surrounding zoning/land use pattern, differences between the I-1/R-1C and OS-1 districts and the impacts of the proposed zoning change. Mr. West stated that staff was supportive of the proposed zoning change to OS-1, office service. Mr. West then referred the Commission to a letter from Ken and Suzanne Andres received on April 19, 2011 and a short response from the Department of Community Development that were included in the final agenda packet.

Mr. Tom Ihling (Residential Opportunities, Inc. - ROI) was present to support the rezoning application and explain the planned reuse of the former Moose Lodge building and site. Mr. Ihling stated ROI would ensure the facility is secured and the children were confined to the building and site at all times. Mr. Ihling also indicated that ROI would retain the existing mature trees that were present along the west and southwest portions of the site. The public hearing was then reconvened by Chairman Cheesebro. No citizens spoke in regards to the

proposed rezoning. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service. The motion was approved 7-0.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Proposed Medical Marihuana Home Occupation Ordinance (referral from City Council). Mr. Forth reviewed the April 15, 2011 staff report and the April 4, 2011 transmittals to City Council regarding the proposed medical marihuana home occupation ordinance as referred by City Council. Mr. Forth summarized the major provisions of the proposed ordinance that would allow a caregiver to operate from a dwelling unit as a home occupation and provide medical marihuana for up to five patients. Mr. Forth indicated the proposed ordinance is consistent with the State Act and retains the caregiver/client relationship and confidentiality and privacy provisions. Mr. Forth stated the Commission is advised to review and discuss the proposed ordinance and set a public hearing for the May 19, 2011 meeting: A recommendation from the Planning Commission to City Council was needed by June 3, 2011.

Commissioner Welch inquired as to whether the home occupation approval would follow the caregiver or the address of the caregiver operation. Attorney Brown stated that as currently written the ordinance does not require a permit or registration, however, additional consideration may be given to a registration process to ensure distance requirements of the ordinance are satisfied. Commissioner Welch asked if a caregiver established the medical marihuana home occupation at a particular location and a public pool was established next door, would the caregiver need to discontinue the home occupation. Attorney Brown indicated the caregiver would be allowed to continue if the caregiver use was established prior to the public pool. Commissioner Patterson stated he believes a registration process, at a minimum, should be considered to allow the city to know where these caregivers are located. Attorney Brown indicated the City Administration committee decided not to require a permit or use a registration element to preserve confidentiality clauses of the State Act, but additional discussion could occur. Commissioner Pearson and Attorney Brown next discussed the confidentiality clauses of the State Act the permit requirement, FOIA issue, penalties in the statute and the requirement for any local ordinance to maintain the privacy and confidentiality of the caregivers and patients per the intent of the Act. Commissioner Pearson asked if the "white paper" referenced in the agenda materials was available for Commission review. Attorney Brown stated the "white paper" is very lengthy and he believes is available on-line.

Commissioner Dargitz stated she was having difficulties understanding the differences between dispensaries, which are prohibited in the ordinance, and the dispensing of marihuana between a caregiver and a patient. Also, Commissioner Dargitz asked why sales of marihuana was allowed under the proposed ordinance, but was removed from the recently adopted passive/active home occupation ordinance. There was a discussion of retail sales and the prior home occupation ordinance as approved by Council. Attorney Brown stated the issue of dispensaries and the dispensing of marihuana to people other than qualified patients was still not resolved in the court system. Attorney Brown stated the State Act prohibits the "sale" of marihuana, but does allow a caregiver to be compensated for costs incurred. Commissioner Dargitz asked why the ordinance could not restrict the exchange between a caregiver and a patient to a commercial district and prohibit in residential districts. Attorney Brown stated some communities have and further commented the courts have not yet decided on the dispensing aspects of the Act. However, he does not believe that restricting the activity to commercial districts is consistent with the intent of the Act. The Act is silent with regard to roll of municipalities and that creates difficulties. In his opinion,

TO: Planning Commission **DATE:** April 15, 2011
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: Final Report: Rezoning Application #10-01, Portage Road and Fairfield Avenue.

I. INTRODUCTION:

An application has been received from Residential Opportunities, Inc. (ROI) requesting that the following properties be rezoned from I-1, light industry and R-1C, one family residential to OS-1, office service:

Property Address	Owner of Record	Parcel Number	Zoning	
			Existing	Proposed
9616 Portage Road	T.I. Sub, LLC/Keystone Bank	00026-070-A	I-1	OS-1
9602 Portage Road	T.I. Sub, LLC/Keystone Bank	05100-024-O	I-1	OS-1
1704 South Shore Drive	T.I. Sub, LLC/Keystone Bank	05100-001-B	R-1C	OS-1
1712 Fairlane Avenue	T.I. Sub, LLC/Keystone Bank	05100-017-O	R-1C	OS-1
1720 Fairlane Avenue	T.I. Sub, LLC/Keystone Bank	05100-018-O	R-1C	OS-1
1726 Fairlane Avenue	T.I. Sub, LLC/Keystone Bank	05100-019-O	R-1C	OS-1
1806 Fairlane Avenue	T.I. Sub, LLC/Keystone Bank	05100-020-O	R-1C	OS-1
Total: Seven parcels/lots (7.74 acres)				

The rezoning is being requested to facilitate reuse of the former Moose Lodge building/site for The Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic for children with autism. The proposal is a joint venture between ROI and Western Michigan University Psychology Department. If rezoned, a special land use permit/site plan to establish the use at the site under the OS-1, office service zoning designation will be submitted. The existing building and parking lot are located at 9616 and 9602 Portage Road. The applicant has indicated the vacant lots to the north, along the south side of Fairlane Avenue (a private/undeveloped street), may be fenced and used as an outdoor exercise area for the children and staff. In addition to the properties requested for rezoning, the buy/sell agreement between Keystone Bank and ROI also includes the four vacant lots located along the north side of Fairlane Avenue (1711, 1719, 1725 and 1803 Fairlane Avenue).

II. EXISTING CONDITIONS:

Land Use/Zoning	<p><u>Rezoning Site:</u> Former Moose Lodge building (approximately 18,500 square feet) and associated parking lot occupy 9616 and 9602 Portage Road and zoned I-1, light industry, while the remaining lots along the south side of Fairlane Avenue are vacant, undeveloped land zoned R-1C, one family residential.</p> <p><u>South:</u> Various industrial uses zoned I-1, light industry.</p> <p><u>West:</u> Single family attached residential condominiums located within the Sterling Oaks Planned Development zoned PD, planned development.</p> <p><u>North:</u> Vacant land and single-family residences located along South Shore Drive and zoned R-1C, one family residential.</p> <p><u>East:</u> Across Portage Road, commercial building site and vacant land zoned B-3, general business.</p>
-----------------	--

Zoning/Development History	<ul style="list-style-type: none"> On August 4, 1994, the Planning Commission approved a site plan that authorized the construction of the approximate 18,500 square foot Moose Lodge building and associated site improvements. At the time, the Zoning Code allowed "<i>Fraternities, clubs, lodge, social or recreational buildings or properties not operated for profit</i>" as permitted uses in the I-1, light industry district. This provision was removed from the Zoning Code with the 2003 Zoning Code Update. There have been no rezoning of properties in the surrounding area since adoption of the 2008 Comprehensive Plan.
Historic District/Structures	The subject site is not located within a historic district and does not contain any historic structures.
Public Streets	Portage Road is designated as a 4-5 lane minor arterial with approximately 22,300 vehicles per day (2010); capacity of 32,500 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 any potential wetland or floodplain areas near the rezoning site.

III. PUBLIC REVIEW/COMMENT

The Planning Commission convened a public hearing during the April 7, 2011 meeting. Mr. Scott Schrum (Residential Opportunities, Inc. - ROI) was present to support the rezoning application and explain the planned reuse of the former Moose Lodge building and site. Three citizens spoke in regards to the proposed rezoning: 1) Sue Andres (1816 South Shore Drive); 2) Ed Jamerson, 9553 Sebring Drive and 3) Nancy Lowry, 9604 Bonita Court. Ms. Andres and Mr. Jamerson had several questions regarding the age of the children, nature of the inpatient treatment facility and any plans for future development at the site. Ms. Lowry expressed concerns regarding traffic in the area and whether a traffic signal would be installed at the Portage Road/South Shore Drive intersection.

IV. FINAL 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

Prior to recommending a zoning change, a determination that the proposed change is consistent with the Comprehensive Plan is appropriate. In the case of a rezoning, consistency is evaluated based on the Future Land Use Plan Map and also the Development Guidelines.

Future Land Use Plan Map -- The Future Land Use Plan Map component of the Comprehensive Plan indicates the majority of the property being considered for rezoning, along with adjacent properties situated to the south and to the east (across Portage Road) are appropriate for general industrial land use. Importantly, this portion of the rezoning site is situated along the northern edge of the general industrial land use designation, as identified on the Future Land Use Map. The northern portion of the rezoning site and adjacent properties to the north, are identified for low density residential land use, while adjacent properties to the west are designated for medium density residential.

The Comprehensive Plan recognizes that the OS-1 district can provide an effective transition between higher intensity uses and major streets and interior residential neighborhoods. The proposed OS-1 zone would provide an effective transition area between Portage Road and industrial land uses to the south and adjacent single family residences to the north (along South Shore) and west (Sterling Oaks condominiums).

Development Guidelines -- The Development Guidelines are intended to be used by the Commission and staff when reviewing private development projects, infrastructure improvement programs (i.e. public expenditures on streets, sewers, water mains and others 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), may suggest incentives to influence community development and preservation and may suggest adjustments to other policies which influence the use of land for consistency with community development and preservation objectives. As an appropriate transition area, the proposed OS-1 district can be considered generally consistent with applicable development guidelines contained in the Comprehensive Plan (attached).

Suitability of Existing I-1 and R-1C Zones/Impacts of Proposed OS-1 Zone

Reuse of the former Moose Lodge building by a traditional light industrial user is limited given the nature of the building design (configuration, one-story, low ceilings, etc). More likely, redevelopment under the existing I-1 zoning designation would necessitate demolition of the existing building and construction of a new industrial facility. Depending upon the type of industrial user(s), impacts on adjacent residential land uses to the north and west would likely be much greater under the existing I-1 zone. Also, the OS-1 district would not impact remaining industrial properties to the south in regard to additional setbacks and/or screening requirements.

The R-1C zoned lots that are part of this rezoning application and located along the south side of Fairlane Avenue (1704 South Shore Drive and 1712, 1720, 1726 and 1806 Fairlane Avenue) are part of the Supervisor's Plat of McCamley's Gardens that was platted in 1951. Although never built, Fairlane Avenue is listed as a private street on the recorded plat document. Only the perimeter lots located along Portage Road and South Shore Drive are developed with homes. Although not identified for development by the applicant at this time, rezoning these lots would allow for additional building and/or parking lot expansion use and related impacts. Any future development of these lots under the proposed OS-1 zone would require site plan review, retention and/or installation of appropriate screening and vehicular access would be prohibited from using Fairlane Avenue per Section 42-521.E, Zoning Code.

TRAFFIC CONSIDERATIONS

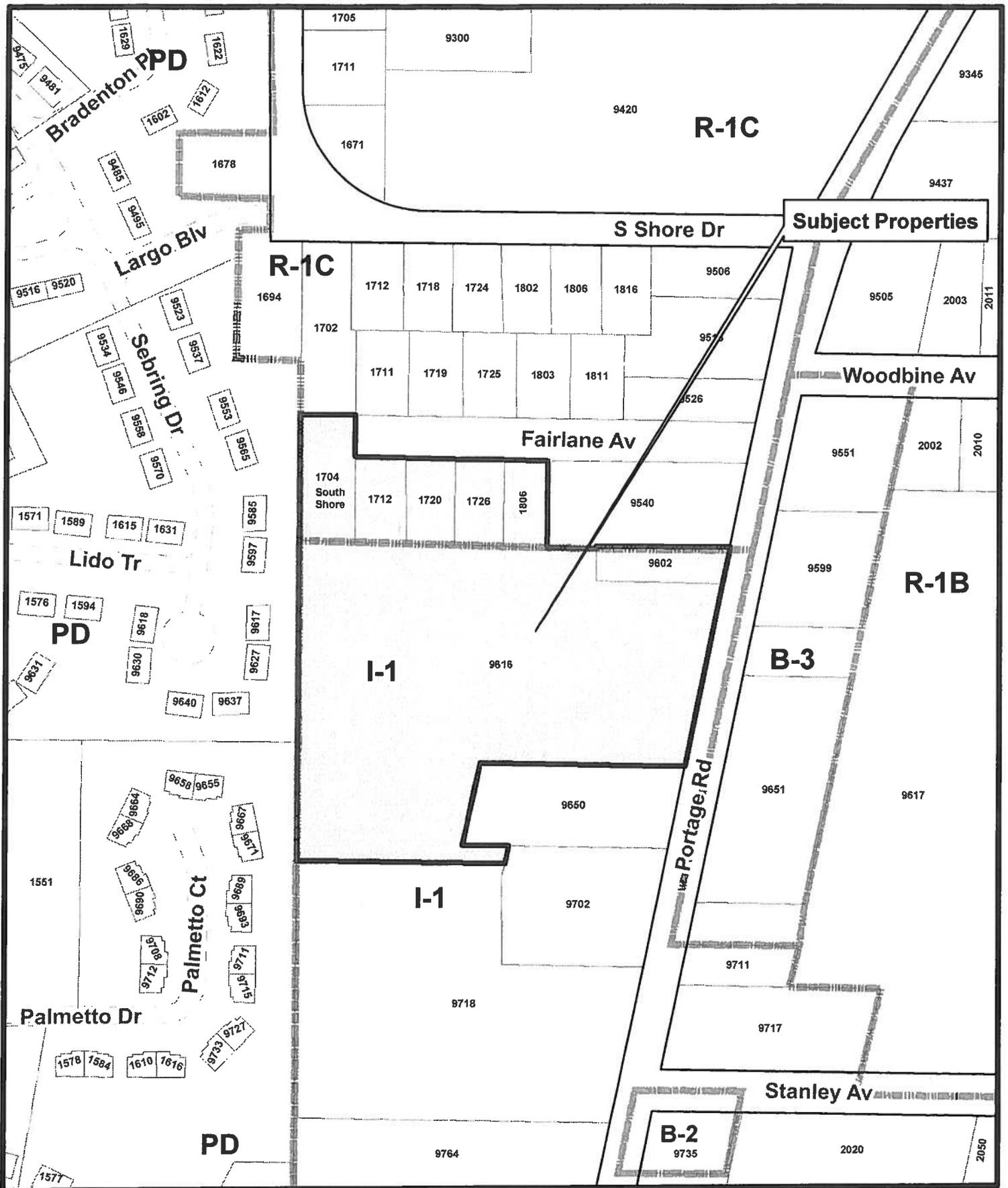
A change in zoning from I-1, light industry and R-1C, one family residential to OS-1, office service and the proposed reuse of the former Moose Lodge site is not anticipated to add any significant traffic volume to the adjacent roadway system. Portage Road is a 4-5 lane minor arterial street and traffic generation from the rezoning site can be accommodated.

IV. RECOMMENDATION:

The Planning Commission is advised to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service.

To ensure consistency with the Comprehensive Plan and Future Land Use Plan Map, should the rezoning be approved by City Council, it is further recommended in the planned update of the Comprehensive Plan beginning in FY 2012 that the Plan show the office land use designation as a transition area and be formally considered by the Planning Commission.

Attachments: Zoning/Vicinity Map
Future Land Use Map
Aerial Photograph (rezoning site and surrounding area)
Development Guideline Table (OS-1, Office Service)
Rezoning Application and supporting materials



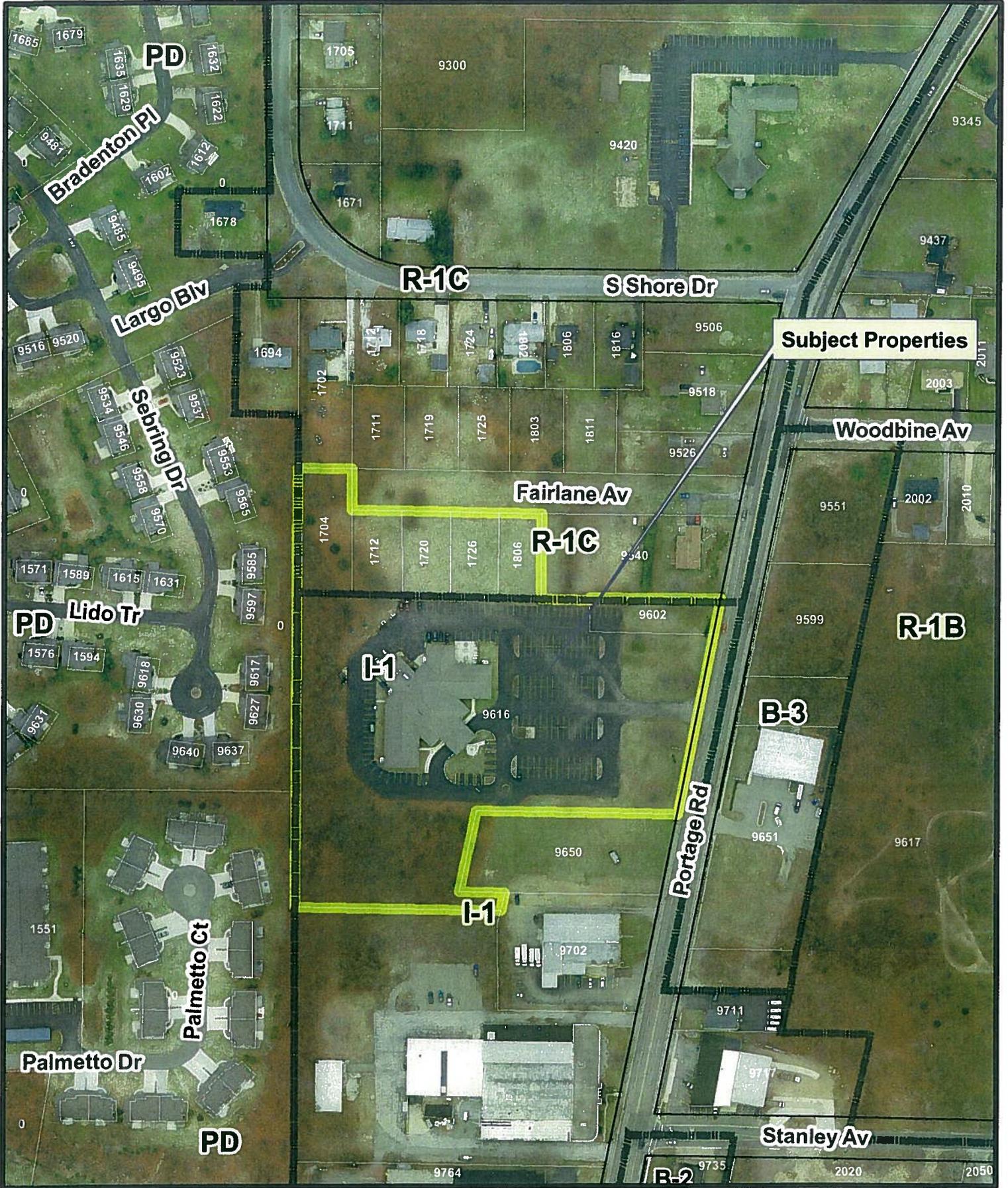
1 inch = 200 feet

Rezoning #10-01

9602, 9616 Portage Road,

1704 South Shore Drive & 1712, 1720, 1726, 1806 Fairlane Avenue

	Zoning Boundary
	Subject Properties

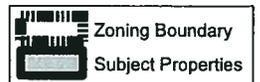


1 inch = 200 feet

Rezoning #10-01

9602, 9616 Portage Road,

1704 South Shore Drive & 1712.1720.1726.1806 Fairlane Avenue



DEVELOPMENT GUIDELINES
Rezoning Application #10-01 (Office Service, OS-1)

Guideline	Description	Consistent	Comments
Rezoning Request – Z-1	Consistency with Future Land Use Plan	See comment	Future Land Use Map designates the majority of the rezoning site, and properties to south and east, as appropriate for general industrial land use. This portion of rezoning site is situated on northern edge of general industrial land use designation. The remaining portion of the rezoning site, and properties to north, are identified for low density residential land use, while properties to the west are medium density residential. The Comprehensive Plan recognizes the OS-1 district provides an effective transition between higher intensity uses and major streets and interior residential neighborhoods. The proposed OS-1 zone would provide an effective transition area between Portage Road and industrial land use to the south and adjacent single family residences to the north and west.
Commercial – 1	Coordinated Development	Yes	Applicant proposes reuse and conversion of former Moose Lodge building and site to accommodate proposed inpatient/outpatient treatment and research center.
Commercial – 2	Commercial/Office Uses in General	Yes	Rezoning site is located along Portage Road, a minor arterial road, with ingress/egress from this major thoroughfare. Also, see Rezoning Z-1 above.
Commercial – 6	Office/Commercial Site Design	Yes	Conflicting land use screening would be required where adjacent to single family residential zoning and/or land use. Issues associated with screening, buffering, landscaping, access, sidewalks, etc would be reviewed when a site plan is submitted.
Natural & Historic Resources - 1	Environmental Protection	Yes	Rezoning site is not characterized by environmentally sensitive areas (wetlands, floodplain, etc).
Natural & Historic Resources - 2	Floodplain	Yes	Rezoning site is not situated within the 100-year floodplain.
Natural & Historic Resources - 3	Water Quality	Yes	Existing facility. Any proposed changes would be reviewed as part of a site plan submittal.
Natural & Historic Resources – 4	Noise	Yes	Existing facility. Any proposed changes would be reviewed as part of a site plan submittal.
Natural & Historic Resources – 5	Historic Resource Preservation	N/A	Historic buildings are not present at the rezoning site.
Transportation – 1	Transportation Systems	Yes	Portage Road is a 4-5 lane minor arterial with 22,300 vehicles per day (2010); and a capacity of 32,500 vehicles per day (level of service “D”). Anticipated traffic can be accommodated.
Transportation – 2	Street Design	Yes	Rezoning site has frontage and existing access from Portage Road (minor arterial). Any proposed changes would be reviewed as part of a site plan submittal.
Transportation – 3	Access Management	Yes	See Transportation – 1 and Transportation – 2 above.
Transportation – 4	Non Motorized Travel	Yes	Specifics associated with the inclusion of walkways and pathways will be reviewed at the site plan stage of development.
Transportation – 5	Right-of-Way Preservation	Yes	Existing facility. Any proposed changes would be reviewed as part of a site plan submittal.
Transportation – 6	Parking	Yes	Existing facility. Any proposed changes would be reviewed as part of a site plan submittal.
Municipal Facilities & Services – 2	Sanitary Service	Yes	Sanitary sewer is available.
Municipal Facilities & Services –3	Underground Utilities	Yes	Existing facility. Any proposed changes would be reviewed as part of a site plan submittal.

APPLICATION FOR ZONING AMENDMENT

Application number 10-1

Date March 3, 2011

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 partly platted and partly unplatted. See legal description attached under tab 1.
The property is part of the recorded plat: The property sought to be rezoned is located at 9616 Portage Road between Woodbine Street and Bacon Street on the west side of the street, and is known as Lot Number(s) _____ of _____ Plat (Subdivision). It has a frontage of approx. 361 feet and a depth of approx. 667 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).

See tab 1 for parcel numbers. Acreage is 8.727 according to tax records.

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

b. Name of the owner of the property to be rezoned: Keystone T.I., Sub, LLC

Address 107 W. Michigan Avenue, Kalamazoo, MI
Keystone approves of the rezoning. Please see tab 2.

7900 South Westnedge Avenue ♦ Portage, Michigan 49002 ♦ (269) 329-4477
www.portagemi.gov

RECEIVED

MAR 02 2011

COMMUNITY DEVELOPMENT

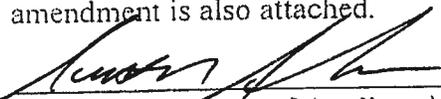
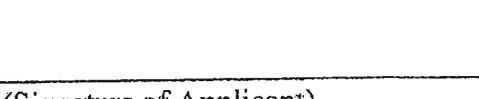
3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Prospective buyer under an executed Buy and Sell Agreement

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

ZONING TEXT AMENDMENT

1. The proposed language to be considered is (attach additional sheets as necessary):
Not applicable; zoning classification change to the zoning map for the subject property.
2. The Zoning Code Chapter and Section wherein the proposed text would be modified/inserted.
N/A
3. My (our) interest in and purpose for submitting the proposed Zoning Ordinance Amendment.
See attached tabs

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.

	
(Signature of Applicant)	(Signature of Applicant)
<u>Residential Opportunities, Inc.</u>	
<u>1100 S. Rose St., Kalama 200, MI 49001</u>	
(Address)	(Address)
<u>269-343-3731, ext. 223</u>	
(Phone)	(Phone)

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



RESIDENTIAL OPPORTUNITIES, INC.

1100 SOUTH ROSE STREET • KALAMAZOO, MI 49001 • 269-343-3731 • 269-343-2940 (FAX) • WWW.RESIDENTIALOPPORTUNITIES.ORG

March 8, 2011

Mike West, AICP
Assistant City Planner
Community Development Department
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

Dear Mr. West:

Residential Opportunities, Inc. would like to amend our application for rezoning the Moose Lodge property. The original application included four residential lots on the north side of Fairlane Avenue (1711, 1719, 1725, & 1803), which we would like to remove from our request for rezoning. We would like for those lots to remain zoned as residential. Please find attached: a revised list of legal descriptions for the rezoning request (tab 1 in the original application).

Sincerely,



Scott Schrum
CEO

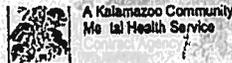
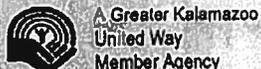
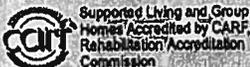


EXHIBIT C
Parcel Chart
Moose Lodge-Portage, MI
Property Included in Sale

Address	Parcel ID#	Legal Description
9616 Portage Road	00026-070-A	SECT ON 26-3-11 BEG AT A PT 500.9 FT NELY OF INT OF STANLEY & PORTAGE RD, TH W 335.44 FT, TH SWLY PAR @L PORTAGE RD 132 FT, TH E 71.91 FT, TH SWLY 28.9 FT, TH W 331.61 FT TO W LI OF SEC 26, TH N ALG SD LI TO S LI MCCAMLEY GARDENS PLAT, TH E ALG SD LI TO NW COR OF LOT 24, TH S 70 FT, TH E TO CL OF PORTAGE RD, TH SWLY 290 FT TO P.O.B.
9602 Portage Road	05100-024-O	Supervisors Plat of McCamley's Gardens Lot #24
1712 Fairlane Avenue	05100-017-O	Supervisors Plat of McCamley's Gardens Lot #17
1720 Fairlane Avenue	05100-018-O	Supervisors Plat of McCamley's Gardens Lot #18
1726 Fairlane Avenue	05100-019-O	Supervisors Plat of McCamley's Gardens Lot #19
1806 Fairlane Avenue	05100-020-O	Supervisors Plat of McCamley's Gardens Lot #2
1704 South Shore Drive	05100-001-B	Supervisors Plat of McCamley's Gardens Lot #1



February 22, 2011

Vicki Georgeau, AICP
Deputy Director of Neighborhood Services
Department of Community Development
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49002

**RE: LETTER OF AUTHORIZATION
RE-ZONING APPLICATION – FORMER MOOSE LODGE**

Dear Ms. Georgeau,

Keystone Community Bank currently owns The Former Moose Lodge (and surrounding property) at 9616 Portage Road. We currently have a signed purchase agreement with Residential Opportunities Inc. (ROI). Keystone Community Bank is in full support of ROI's application to re-zone this property to the OS-1 zone to operate a residential treatment and out patient clinic.

Sincerely,

A handwritten signature in black ink, appearing to read "Brendan P. Byford".

Brendan Byford
Assistant Vice President
Keystone Community Bank

STATEMENT REGARDING REZONING & IMPACT

The Great Lakes Center for Autism Treatment and Research (GLCATR) is an anticipated residential treatment center for up to twelve children, combined with an outpatient clinic for children, with autism. It is a joint venture between Residential Opportunities, Inc., and Western Michigan University's Psychology Department. The requested OS-1 zoning designation, combined with a special use permit, would allow this property (the site of the old Moose Lodge) to be used for this purpose.

The proposed use of the property is equivalent or possibly less intensive than the use as the former Moose Lodge.

The site currently has a zoning classification of I-1 (light industrial), and is designated as General Industrial on the future land use plan. This property is the northern most property in these designation areas, and is directly adjacent to a planned unit development to the west, and single family residential to the north. We believe rezoning to the OS-1 designation will, among other matters, provide an additional buffer between these residential neighborhoods, and the current and future planned use as industrial properties. The businesses allowed in the OS-1 zoning will be quieter, and should result in less heavy traffic than those allowed in industrial zoning. Overall, the rezoning would allow for a positive transition from industrial to other nearby uses. As a "transition area", the rezoned site would reduce the impact of industrial noise, traffic, etc., on the residential neighborhoods. This seems to the applicant to be a positive impact on the community and property of other persons in the vicinity of the site.

The applicant believes that the rezoning is necessary to preserve and enjoy a substantial property right because the anticipated facility will not otherwise be able to be located on this site, leaving the site vacant. Ultimately, a use similar to the old Moose Lodge or a light industrial use could be made at the site, which seems possibly more detrimental and/or inconsistent with surrounding property uses.

For the above reasons, the rezoning will advance the public health, safety and welfare.

The applicant is also willing to consider conditional rezoning if deemed appropriate or necessary to the Planning Commission or City Council.

TO: Planning Commission

DATE: April 21, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #10-01, Portage Road and Fairfield Avenue – response to letter received on April 19, 2011 from Ken and Suzanne Andres, 1816 South Shore Drive

Attached is a letter regarding the above captioned rezoning application. Several statements/comments contained in the correspondence require clarification.

Statement: “The City Planner commented that the ceilings in the building were ‘low’ and not suitable for multiple floors. The ceilings at the ‘high point’ are 25 foot high, and at the low point are 15 to 20 feet.”

Response: The former Moose Lodge building is a one-story structure. While the overall height of the building may range from 15-25 feet (exterior eave-peak), interior ceiling heights are limited to the one-story design of the structure (8-14 feet) with interior offices, hallways, corridors and rooms. Reuse of the building by a traditional industrial user with manufacturing, assembly and warehousing activities is limited and unlikely.

Statement: “It was noted that Fairlane Avenue is only a “road on paper”. My husband Ken, has lived here since 1950 and he ‘saw’ the city put in a road bed and crown in the early 1960’s. It IS a road, just not surfaced.”

Response: Fairlane Avenue is referenced on the 1951 recorded plat document for Supervisor’s Plat of McCamley Gardens as a “private street”. With the exception of a driveway that serves the single family residence located 9540 Portage Road, this private street is undeveloped. As information for the Commission, Portage Road was under the jurisdiction of the Kalamazoo County Road Commission until 2000.

Statement: “We request, not just a privacy fence, but a ‘Security Fence’ surround the proposed ROI Inc. property.”

Response: Fencing associated with proposed reuse of the site by ROI is a special land use permit/site plan issue and not a rezoning consideration. Should the property be rezoned and the ROI development project proceed, site development issues would then be properly coordinated.

Statement: “We feel the City failed to calculate the increase in traffic from the Sterling Oaks Condo’s that were built a very few years ago. Since that development, the traffic on South Shore Drive has increased at least 100 fold. It can take up to 10 to 12 minutes just to get onto Portage Road. **We request a traffic light be installed at Portage and South Shore Drive.**”

Response: Portage Road traffic counts referenced in the staff report were taken in 2010. Current traffic counts are not available for South Shore Drive, since it is a local residential street. As information for the Commission, the first four phases of the Sterling Oaks condominium development included 128 homes with access from South Shore Drive and were constructed between 1993-2001. The two phases of the Sterling Oaks South condominium development that included 88 homes plus a senior apartment building with an additional access to Bacon Road were constructed between 2002-2007. As advised by the Department of Transportation and Utilities, installation of a traffic signal at the Portage Road/South Shore Drive is not warranted. The Department of Transportation and Utilities will continue to monitor this area and recommend appropriate action. Importantly, rezoning of the subject properties from I-1, light industrial and R-1C, one family residential to OS-1, office service is not anticipated to add any significant traffic volume to Portage Road.

Attachment: Correspondence from Ken and Suzanne Andres (received April 19, 2011)

RECEIVED

APR 19 2011

COMMUNITY DEVELOPMENT

Portage City Planning Commission:

Re: Meeting 4/7/2011 and set meeting 4/21/2011.

This letter is regarding the Request by ROI Inc request to Rezone #10-01.

As stated in the meeting of 4/7/2011, My husband and I live at 1816 South Shore Drive and we own the lot 1811 Fairlane Avenue.

First, there are just a couple items that we'd like to correct for the record.

#1) The City Planner commented that the ceilings in the building were 'low' and not suitable for multiple floors. The ceilings at the 'high point' are 25 foot high, and at the low point are 15 to 20 feet. Perhaps The Commission should view the interior of the building for themselves.

#2) It was stated that Fairlane Avenue is only a "road on paper". My husband, Ken, has lived here since 1950 and he 'saw' the city put in a road bed and crown, in the early 1960's. It IS a road, just not surfaced.

Comments regarding ROI, Inc.

I, Suzanne, have worked in the medical field for 19 years and have had the opportunity to work with ROI Staff and their patients. I have always known them to be of 'highest' esteem and handle their patients with love and care. They are a FINE organization, of which I have nothing negative to say.

However, we 'do' have grave concerns for our Neighborhood and our safety when it comes to having the facility in our back yard. **We request**, not just a privacy fence, but a '**Security Fence**' surround the proposed ROI Inc property.

Another concern is regarding the traffic.

It was stated that 'The Moose Lodge' had high traffic and that ROI would not increase from that level of traffic.

We were Moose Members and can confirm that the traffic was minimal, thus the very reason that the Lodge went broke. We feel the ROI, Inc would definitely increase traffic flow onto Portage/South Shore roads.

We feel that the City failed to calculate the increase of traffic from the Sterling Oaks Condo's that were built a very few years ago. Since that development, the traffic on South Shore Drive has increased at least 100 fold. It can take up to 10 to 12 minutes just to get onto Portage Road.

We request a traffic light be installed at Portage and South Shore Drive.

We have no doubt that this would be a State of the Art facility, but we also feel as Citizens, we have a right to request that we be provided with Safety in our Property and roadway.

Please accept this letter for consideration.

Sincerely,

Ken & Suzanne Andres
1816 South Shore Drive
Portage, Michigan 49002
327-7539

**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

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

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 (Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2011, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2011, at 7:30 p.m. or as soon thereafter as may be heard.

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

THE CITY OF PORTAGE ORDAINS:

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

Parcel of land described as follows:

Tract of land located in Section 26, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
9616 Portage Road	00026-070-A
9602 Portage Road	05100-024-O
1704 South Shore Drive	05100-001-B
1712 Fairlane Avenue	05100-017-O
1720 Fairlane Avenue	05100-018-O
1726 Fairlane Avenue	05100-019-O
1806 Fairlane Avenue	05100-020-O

From R-1C, one family residential and I-1, light industry to OS-1, office service, or any other classification allowed by law.

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

Dated: _____

James R. Hudson, City Clerk

(App #10-01)

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF
PORTAGE, MICHIGAN BY AMENDING ARTICLE 4 OF CHAPTER 42,
LAND DEVELOPMENT REGULATIONS OF THE CODIFIED ORDINANCES
OF PORTAGE, MICHIGAN**

THE CITY OF PORTAGE ORDAINS:

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

Parcel of land described as follows:

Tract of land located in Section 26, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

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1712 Fairlane Avenue	05100-017-O
1720 Fairlane Avenue	05100-018-O
1726 Fairlane Avenue	05100-019-O
1806 Fairlane Avenue	05100-020-O

From R-1C, one family residential and I-1, light industry to OS-1, office service.

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

Peter J. Strazdas, Mayor

STATE OF MICHIGAN)
) SS
COUNTY OF KALAMAZOO)

I do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

James R. Hudson, City Clerk

(App #10-01)

Approved as to Form:

Date: 3/16/11

By: [Signature]

City Attorney

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 14, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: Resolution Awarding Bid

ACTION RECOMMENDED: That the City Council adopt the Resolution awarding the bid for City of Portage Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000 to Fifth Third Securities, Inc. at 3.752893%.

Bid proposals for bonds were received and opened in Detroit at 11:00 a.m. on June 14, 2011.

The City Finance Director and Mr. John Axe, the City Bond Counsel, tabulated bids received from individual bidders. Interest rates associated with bids were favorable and ranged between 3.752893 and 3.908012 percent. The recommendation for the award of bid is to the lowest bidder which is Fifth Third Securities, Inc. at 3.752893%.

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

c: Daniel S. Foecking, Finance Director

Capital Improvement Bonds Series 2011

\$ 1,700,000

Bidder:

Fifth Third Securities, Inc.

Stifel, Nicolaus & Co., Inc.

Robert W. Baird & Co., Inc.

Raymond James & Associates, Inc.

Interest rate:

3.752893%

3.773398%

3.812642%

3.908012%

Bids opened at 11:00 on June 14, 2011

CITY OF PORTAGE

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan (the "City") held at the City Hall in Portage, Michigan, on June 14, 2011 at 7:30 p.m. Eastern Daylight Savings Time, there were

PRESENT: _____

ABSENT: _____

The City Finance Director announced that this meeting was scheduled to confirm the appointment of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan as bond registrar and paying agent and to award the purchase of the \$1,700,000 aggregate principal amount, City of Portage Capital Improvement Bonds, Series 2011, dated July 1, 2011 (the "Bonds"), which were offered for sale at a price of not less than 98% of the face amount thereof, as circulated in the Request for Proposal. The City Finance Director next reported that the proposals summarized in the *EXHIBIT A* appended hereto have been received at or prior to 11:30 a.m., Eastern Daylight Savings Time, on June 14, 2011 at the Office of the City Finance Director, 7900 South Westnedge Ave., Portage, Michigan 49002 or at the Municipal Advisory Council of Michigan, Buhl Building, 535 Griswold, Suite 1850, Detroit, Michigan 48226.

The following resolution was offered by Council Member _____ and seconded by Council Member _____.

**AWARD RESOLUTION
City of Portage
Capital Improvement Bonds, Series 2011**

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

1. The actions of the City Finance Director in dating the Bonds July 1, 2011, in fixing this date of sale of the above-referenced Bonds, in establishing the final amount of the Bonds to be delivered at \$1,700,000, and in circulating the Request for Proposal as heretofore provided, are hereby ratified and confirmed.

2. The content of the aforementioned Request for Proposal (a copy of which is attached hereto) and the content of the Nearly Final Official Statement, dated June 1, 2011 and distributed in connection with the solicitation of proposals for the purchase of the Bonds, are each hereby ratified and confirmed and the Final

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

3. The proposal of FIFTH THIRD SECURTIES, INC. to purchase the \$1,700,000 aggregate principal amount of the Bonds in the maturities set forth in EXHIBIT A at par plus accrued interest to date of delivery, less a discount of \$15,094.40 and bearing interest per annum as shown on EXHIBIT A with a true interest rate of 3.752893% which proposal produces the lowest true interest cost to the City, is hereby accepted, and all other proposals (as set forth on EXHIBIT A) are hereby rejected and the checks of the unsuccessful proposers are ordered to be returned.

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

5. All resolutions and parts of resolutions, insofar as, the same may be in conflict herewith, are hereby rescinded.

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

YES: _____

NO: _____

ABSTAIN: _____

The Resolution was declared adopted.

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CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of the City of Portage, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the City Council at a regular meeting held on the 14th day of June, 2011, at which meeting a quorum was present and remained throughout; (2) the original thereof is on file in the records of the proceedings of the City Council in my office; (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended) and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

James R. Hudson
City Clerk

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EXHIBIT A
\$1,700,000
CITY OF PORTAGE
Capital Improvement Bonds, Series 2011

Sale Date:	June 14, 2011	Good Faith Check:	\$34,000
Time:	11:00 a.m., EDST	Discount:	\$34,000
Dated:	July 1, 2011	Maximum Interest:	7%

Maturities - Due July 1

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2013	\$155,000	2020	\$80,000	2027	\$50,000
2014	155,000	2021	80,000	2028	50,000
2015	160,000	2022	85,000	2029	50,000
2016	160,000	2023	50,000	2030	55,000
2017	160,000	2024	50,000	2031	55,000
2018	75,000	2025	50,000	2032	55,000
2019	75,000	2026	50,000		

Proposer: **FIFTH THIRD SECURITIES, INC.**

2013	2.000%	2023	4.250%*		
2014	2.000%	2024	4.250%*	Discount:	\$15,094.40
2015	2.000%	2025	4.250%*		
2016	2.000%	2026	4.250%*		
2017	2.500%	2027	4.250%*	True Int Rate:	3.752893%
2018	2.750%	2028	4.625%**		
2019	3.000%	2029	4.625%**		
2020	3.250%	2030	4.625%**		
2021	3.500%	2031	4.625%**		
2022	3.750%	2032	4.625%**		

*, ** Term Bonds

Proposer: **STIFEL, NICOLAUS & CO., INC.**

2013	2.000%	2023	4.500%*		
2014	2.000%	2024	4.500%*	Discount:	\$16,850.00
2015	2.000%	2025	4.500%*		
2016	2.250%	2026	4.500%*		
2017	2.250%	2027	4.500%*	True Int Rate:	3.773398%
2018	2.300%	2028	4.500%*		
2019	3.100%	2029	4.500%*		
2020	3.375%	2030	4.500%*		
2021	3.500%	2031	4.500%*		
2022	3.700%	2032	4.500%*		

* Term Bond

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

\$1,700,000
CITY OF PORTAGE
Capital Improvement Bonds, Series 2011

Proposer: ROBERT W. BAIRD & CO., INC.

2013	2.000%	2023	4.125%*		
2014	2.000%	2024	4.125%*	Premium:	\$3,059.10
2015	3.000%	2025	4.125%*		
2016	3.000%	2026	4.125%*		
2017	3.000%	2027	4.500%**	True Int Rate:	3.812642%
2018	3.000%	2028	4.500%**		
2019	3.000%	2029	4.500%**		
2020	4.000%	2030	4.625%***		
2021	4.000%	2031	4.625%***		
2022	4.000%	2032	4.625%***		

*, **, *** Term Bonds

Proposer: RAYMOND JAMES & ASSOCIATES, INC.

2013	2.000%	2023	3.800%		
2014	2.000%	2024	4.000%	Discount:	\$34,000.00
2015	2.000%	2025	4.000%		
2016	2.200%	2026	4.150%		
2017	2.500%	2027	4.300%	True Int Rate:	3.908012%
2018	3.000%	2028	4.400%		
2019	3.100%	2029	4.700%*		
2020	3.400%	2030	4.700%*		
2021	3.550%	2031	4.700%*		
2022	3.750%	2032	4.700%*		

* Term Bond

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

REQUEST FOR PROPOSAL
\$1,700,000
CITY OF PORTAGE
KALAMAZOO COUNTY, MICHIGAN
CITY OF PORTAGE CAPITAL IMPROVEMENT BONDS, SERIES 2011

SEALED OR ELECTRONIC PROPOSALS: Sealed written proposals for the purchase of the bonds described herein (the "Bonds") will be received by the undersigned on behalf of the City of Portage (the "City") at the office of the Finance Director, City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002 on June 14, 2011 until 11:00 a.m., Eastern Daylight Savings Time, at which time and place said proposals will be publicly opened and read.

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

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

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

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

The Bonds will be awarded or all proposals will be rejected by the City Council of the City at a meeting to be held beginning at 7:30 p.m., Eastern Daylight Savings Time, on the day of the sale.

BOND DETAILS: The Bonds will be fully registered bonds in any one or more denominations of \$5,000 or a multiple of \$5,000, not exceeding the aggregate principal amount for each maturity, dated July 1, 2011, numbered from 1 upwards and will bear interest from their date of issuance payable on January 1, 2012 and semiannually thereafter on each July 1 and January 1 until maturity. The Bonds will mature on the first day of July in each year as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2013	\$155,000	2020	\$80,000	2027	\$50,000
2014	155,000	2021	80,000	2028	50,000
2015	160,000	2022	85,000	2029	50,000
2016	160,000	2023	50,000	2030	55,000
2017	160,000	2024	50,000	2031	55,000
2018	75,000	2025	50,000	2032	55,000
2019	75,000	2026	50,000		

PRIOR REDEMPTION: Bonds maturing prior to July 1, 2020, shall not be subject to redemption prior to maturity. Bonds maturing on or after July 1, 2020 shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part on any interest payment date on or after July 1, 2019. Bonds called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

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

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

INTEREST RATE AND PROPOSING DETAILS: The Bonds shall bear interest at a rate or rates not exceeding 7% per annum, to be fixed by the proposals therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. THE INTEREST RATE BORNE BY BONDS MATURING IN ANY YEAR SHALL NOT BE LESS THAN THE INTEREST RATE BORNE BY BONDS MATURING IN ANY PRECEDING YEAR. No proposal for the purchase of less than all of the Bonds, at a price less than 98% of their par value or at a rate or rates that will result in a net interest cost of more than 7%, will be considered.

TERM BOND OPTION: Bonds maturing in the years 2023-2032, inclusive, are eligible for designation by the original purchaser at the time of sale as serial Bonds or term Bonds, or both. There may be more than one Term Bond maturity. However,

principal maturities designated as Term Bonds shall be subject to mandatory redemption, in part, by lot, at par and accrued interest on July 1st of the year in which the Bonds are presently scheduled to mature. Each maturity of Term Bonds and Serial bonds must carry the same interest rate. Any such designation must be made at the time the proposals are submitted.

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

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

PURPOSE AND SECURITY: The Bonds are to be issued pursuant to Section 518 of Act No. 34, Public Acts of Michigan, 2001, as amended (the "Act"), for the purpose of constructing improvements to the City of Portage located in the City of Portage, Michigan (the "Capital Improvement Project"). The City agrees to pledge for the repayment of the Bonds sufficient amounts of City taxes levied each year provided that the amount of taxes necessary to pay the principal of and interest on the Bonds, together with the other taxes levied for the same year, shall not exceed the limit authorized by law and the Michigan Constitution.

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

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a wire transfer in an amount equal to 2% (\$34,000) of the face amount of the Bonds, and payable to the order of the City will be required of the successful proposer as a guarantee of good faith on the part of the proposer, to be forfeited as liquidated damages if such proposal be accepted and the proposer fails to take up and pay for the Bonds. If a check is used, it must accompany each proposal. If a wire transfer is used, the successful proposer is required to wire the good faith deposit not later than Noon, prevailing Eastern Time, on the next business day following the sale using the wire instructions provided by Municipal Financial Consultants Incorporated. The good faith deposit will be applied to the purchase price of the Bonds. No interest shall be allowed on the good faith checks, and checks of each unsuccessful proposer will be promptly returned to such proposer's representative or by registered mail. The good faith check of the successful proposer will be cashed immediately, in which event, payment of the balance of the purchase price of the Bonds shall be made at the closing.

AWARD OF THE BONDS - TRUE INTEREST COST: The Bonds will be awarded to the proposer whose proposal produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on January 1, 2012 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment dates to July 1, 2011 in an amount equal to the price proposed, excluding accrued interest. July 6, 2011 is the anticipated date of delivery of the Bonds.

LEGAL OPINION: Proposals shall be conditioned upon the approving opinion of Axe & Ecklund, P.C., attorneys of Grosse Pointe Farms, Michigan (the "Bond Counsel"), a copy of which will be printed on the reverse side of each bond and the original of which will be furnished without expense to the Purchaser of the Bonds at the delivery thereof. The fees of Bond Counsel for its services in connection with such approving opinion are expected to be paid from Bond proceeds. Except to the extent necessary to issue such opinion and as described in the official statement, Bond Counsel has not been requested to

examine or review, and has not examined or reviewed, any financial documents, statements or other materials that have been or may be furnished in connection with the authorization, marketing or issuance of the Bonds and, therefore, has not expressed and will not express an opinion with respect to the accuracy or completeness of the official statement or any such financial documents, statements or materials.

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

"QUALIFIED TAX-EXEMPT OBLIGATIONS": The Bonds have been designated as "Qualified Tax-Exempt Obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986.

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

DELIVERY OF BONDS: The City will furnish Bonds ready for execution at its expense. Bonds will be delivered without expense to the Purchaser. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the Bonds, will be delivered at the time of delivery of the Bonds. If the Bonds are not tendered for delivery by twelve o'clock noon, Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful proposer

may on that day, or any time thereafter until delivery of the Bonds, withdraw its proposal by serving written notice of cancellation on the undersigned, in which event the City shall promptly return the good faith deposit. Payment for the Bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the Bonds shall be paid by the Purchaser at the time of delivery. **Notwithstanding the foregoing, the successful proposer will be required to pay for and accept delivery of the Bonds on or about July 6, 2011.**

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

OFFICIAL STATEMENT:

Hard Copy

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

Internet

In addition, the City has authorized the preparation and distribution of a Nearly Final Official Statement containing information relating to the Bonds via the Internet. The Nearly Final Official Statement can be viewed and downloaded at www.i-dealprospectus.com/PDF.asp?doc=51003 or at www.tm3.com.

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

The City shall deliver, at closing, an executed certificate to the effect that as of the date of delivery the information

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

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

ADDITIONAL INFORMATION: Further information may be obtained from the undersigned at the address specified above or from Meredith A. Shanle, Municipal Financial Consultants Incorporated, 21 Kercheval Avenue, Suite 360, Grosse Pointe Farms, Michigan 48236, telephone (313) 884-9824.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL PROPOSALS.

ENVELOPES: Envelopes containing the proposals should be plainly marked "Proposal for City of Portage Capital Improvement Bonds, Series 2011".

Daniel S. Foecking
Finance Director
City of Portage

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Upcoming Calendar Overview Result Excel

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



\$1,700,000 Capital Improvement Bonds, Series 2011

For the aggregate principal amount of \$1,700,000.00, we will pay you \$1,684,905.60, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
07/01/2013	155M	2.0000
07/01/2014	155M	2.0000
07/01/2015	160M	2.0000
07/01/2016	160M	2.0000
07/01/2017	160M	2.5000
07/01/2018	75M	2.7500
07/01/2019	75M	3.0000
07/01/2020	80M	3.2500
07/01/2021	80M	3.5000
07/01/2022	85M	3.7500
07/01/2023		
07/01/2024		
07/01/2025		
07/01/2026		
07/01/2027	250M	4.2500
07/01/2028		
07/01/2029		
07/01/2030		
07/01/2031		
07/01/2032	265M	4.6250

Total Interest Cost: \$569,512.50
 Discount: \$15,094.40
 Net Interest Cost: \$584,606.90
 TIC: 3.752893
 Time Last Bid Received On:06/14/2011 10:51:40 EDST

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

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

Upcoming Calendar Overview Result Excel

**Stifel, Nicolaus & Co., Inc. - St. Louis , MO's Bid
Portage**



\$1,700,000 Capital Improvement Bonds, Series 2011

For the aggregate principal amount of \$1,700,000.00, we will pay you \$1,683,150.00, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
07/01/2013	155M	2.0000
07/01/2014	155M	2.0000
07/01/2015	160M	2.0000
07/01/2016	160M	2.2500
07/01/2017	160M	2.2500
07/01/2018	75M	2.3000
07/01/2019	75M	3.1000
07/01/2020	80M	3.3750
07/01/2021	80M	3.5000
07/01/2022	85M	3.7000
07/01/2023		
07/01/2024		
07/01/2025		
07/01/2026		
07/01/2027		
07/01/2028		
07/01/2029		
07/01/2030		
07/01/2031		
07/01/2032	515M	4.5000

Total Interest Cost: \$570,220.00
 Discount: \$16,850.00
 Net Interest Cost: \$587,070.00
 TIC: 3.773398
 Time Last Bid Received On:06/14/2011 10:28:51 EDST

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

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

Upcoming Calendar Overview Result Excel

**Robert W. Baird & Co., Inc. - Milwaukee , WI's Bid
Portage**



\$1,700,000 Capital Improvement Bonds, Series 2011

For the aggregate principal amount of \$1,700,000.00, we will pay you \$1,703,059.10, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
07/01/2013	155M	2.0000
07/01/2014	155M	2.0000
07/01/2015	160M	3.0000
07/01/2016	160M	3.0000
07/01/2017	160M	3.0000
07/01/2018	75M	3.0000
07/01/2019	75M	3.0000
07/01/2020	80M	4.0000
07/01/2021	80M	4.0000
07/01/2022	85M	4.0000
07/01/2023		
07/01/2024		
07/01/2025		
07/01/2026	200M	4.1250
07/01/2027		
07/01/2028		
07/01/2029	150M	4.5000
07/01/2030		
07/01/2031		
07/01/2032	165M	4.6250

Total Interest Cost: \$598,200.00
 Premium: \$3,059.10
 Net Interest Cost: \$595,140.90
 TIC: 3.812642
 Time Last Bid Received On:06/14/2011 10:48:17 EDST

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

Bidder: Robert W. Baird & Co., Inc., Milwaukee , WI
 Contact: Drew Kanyer
 Title:
 Telephone:414-765-7331
 Fax:

Upcoming Calendar Overview Result Excel

**Raymond James & Associates, Inc. - Detroit , MI's Bid
Portage**



\$1,700,000 Capital Improvement Bonds, Series 2011

For the aggregate principal amount of \$1,700,000.00, we will pay you \$1,666,000.00, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %
07/01/2013	155M	2.0000
07/01/2014	155M	2.0000
07/01/2015	160M	2.0000
07/01/2016	160M	2.2000
07/01/2017	160M	2.5000
07/01/2018	75M	3.0000
07/01/2019	75M	3.1000
07/01/2020	80M	3.4000
07/01/2021	80M	3.5500
07/01/2022	85M	3.7500
07/01/2023	50M	3.8000
07/01/2024	50M	4.0000
07/01/2025	50M	4.0000
07/01/2026	50M	4.1500
07/01/2027	50M	4.3000
07/01/2028	50M	4.4000
07/01/2029		
07/01/2030		
07/01/2031		
07/01/2032	215M	4.7000

Total Interest Cost: \$569,317.50
 Discount: \$34,000.00
 Net Interest Cost: \$603,317.50
 TIC: 3.908012
 Time Last Bid Received On:06/14/2011 10:28:49 EDST

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

Bidder: Raymond James & Associates, Inc., Detroit , MI
 Contact: Chris Manown
 Title:
 Telephone:313-225-5700
 Fax:

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 6, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Community Development Block Grant Program Recommendation

ACTION RECOMMENDED: That City Council:

- a. approve the revised Community Development Block Grant (CDBG) Program FY 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan in the approved FY 2011-12 budget; and
- b. authorize the City Manager to execute and submit the revised documents to the Department of Housing and Urban Development.

On May 10, 2011, City Council approved the Community Development Block Grant (CDBG) Program FY 2011-15 Consolidated Plan including the FY 2011-12 Annual Action Plan. As outlined in the attached May 2, 2011 communication to City Council, the overall FY 2011-12 CDBG Program budget was estimated at \$309,187, including an estimated entitlement grant amount of \$219,187. The documents were transmitted to the Department of Housing and Urban Development (HUD) by the required May 15th submission deadline. On May 27, 2011, the City of Portage was notified by the Detroit HUD Field Office that the final FY 2011-12 entitlement grant was established at \$192,254.

As shown in the following table, the revised budget for FY 2011-12 is \$282,254 and includes the entitlement grant, anticipated program income, together with available unexpended funds and/or program income:

FY 2011-12 Revenue

FY 2011-12 Annual Entitlement	\$192,254
FY 2011-12 Estimated Program Income to be Received During Program Year	\$ 40,000
Available Unexpended Funds and/or Program Income Received in Prior Program Years That Exceeded Estimated Program Income	\$ 50,000
TOTAL FUNDS AVAILABLE	\$282,254

As indicated in the May 2, 2011 communication to City Council on this matter, in order to address the reduced funding level, the following revisions to CDBG program activities are necessary:

- Human/public service funding: To comply with the mandated maximum 15% of the entitlement grant plus prior year program income, CDBG Program funding for human/public services must be reduced from \$47,334 to \$43,294. Historically, the Portage Community Center (PCC) has received CDBG funding for these activities. As the only human/public service agency that received CDBG funding in FY 2011-12, \$4,040 must be removed from the CDBG funding award to PCC.

Although funding must be reduced, the funding level for PCC is nearly the same as the current CDBG funding (\$43,350) and the reduced CDBG funding will not affect the additional \$79,109 General Fund contribution to PCC approved by City Council for the coming year. The total funding for PCC for FY 2011-12 will be \$122,403, which represents an increase in funding from the current year amount of \$121,567. The PCC has been advised of this necessary funding modification to comply with the federal requirements.

- **Westfield Park Playground Improvements:** The \$25,000 CDBG Program funding toward the Westfield Park project will be eliminated. The project will be delayed until a subsequent fiscal year when additional funding can be secured.

The above reductions provide funding for housing assistance and neighborhood improvement activities, identified as high priority activities for FY 2011-12. The FY 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan have been revised and the attached Five-Year Comparative Analysis outlines these programmatic and budgetary changes.

The following key components of the FY 2011-12 CDBG Program Budget are recommended:

1. **Housing Programs (\$134,190):** Upgrade of housing stock in the city is recommended as a high priority activity to be continued as the cornerstone of the block grant program. During the life of the program, approximately 482 owner-occupied houses have been rehabilitated. Owner-occupied housing upgrades for FY 2011-12 are accomplished through the:
 - Housing Rehabilitation Program (\$128,190) – Zero or low-interest deferred loans for housing rehabilitation, façade improvements, water/sewer hook-up, accessibility improvements, and Emergency Repair Grants for repairs that are a threat to the health and safety of the occupants.
 - Homebuyer Down Payment Assistance Program (\$6,000) – down payment assistance grants to first-time homebuyers in targeted neighborhoods.
2. **Neighborhood Improvement (\$66,224):** The ongoing effort to maintain and improve low-income neighborhoods is recommended as a high priority activity and remains a vital component of the recommended comprehensive community development strategy. The budget will fund the following activities:
 - Neighborhood Support Program – (\$66,224): code administration and enforcement will be completed by approximately one full-time staff position and related expenses in low to moderate income neighborhoods.
3. **Human/Public Services (\$43,294):** Portage Community Center (PCC) is recommended to receive funding to provide human services identified as a medium priority activity in the Consolidated Plan. Per HUD, the maximum amount of human/public service funding is 15 percent of the annual entitlement grant plus 15 percent of the program income received in FY 2009-10. For many years the City of Portage has allocated 15 percent of the annual CDBG Program budget toward human/public services to ensure consistency with the intent of the federal regulations that funding be provided for core programs such as housing and neighborhood improvement activities.
4. **Administration (\$38,546):** The maximum administration expenditure is \$46,451, limited to 20 percent of the FY 2011-12 entitlement grant plus anticipated FY 2011-12 program income. The funds will be utilized for program planning, administration, reporting and program expenses. In addition, this portion of the budget includes \$2,000 for fair housing services, educational programs and complaint referrals to the Fair Housing Center of Southwest Michigan.

It is recommended that City Council approve the revised CDBG Program FY 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan in the approved budget and authorize the City Manager to execute and submit the revised documents to HUD.

Attachments: Five-Year Comparative Analysis of CDBG Program
May 2, 2011 communication from City Manager Evans to City Council

**CITY OF PORTAGE CDBG PROGRAM
FIVE YEAR COMPARATIVE ANALYSIS
FY 2007-08 THROUGH 2011-12**

	2007-08	2008-09	2009-10	2010-11	2011-12
ENTITLEMENT AMOUNT	\$219,536	\$210,576	\$214,020	\$230,723	\$192,254
ESTIMATED PROGRAM INCOME TO BE RECEIVED DURING PROGRAM YEAR	\$60,000	\$50,000	\$50,000	\$40,000	\$40,000
SUB-TOTAL	\$279,536	\$260,576	\$264,020	\$270,723	\$232,254
AVAILABLE UNEXPENDED FUNDS AND/OR PROGRAM INCOME RECEIVED IN PRIOR PROGRAM YEARS THAT EXCEEDED ESTIMATED PROGRAM INCOME	NA	\$25,000	\$25,000	\$25,000	\$50,000
TOTAL	\$279,536	\$285,576	\$289,020	\$295,723	\$282,254
HOUSING (Percent of Total Budget)	46%	47%	47%	49%	48%
Housing Rehabilitation Loan Program	\$112,976	\$124,120	\$128,728	\$136,827	\$126,190
Emergency Repair Grant	\$1,000	\$2,000	\$2,000	\$2,000	\$2,000
Homebuyer Downpayment Assistance	\$15,000	\$9,000	\$6,000	\$6,000	\$6,000
TOTAL HOUSING	\$128,976	\$135,120	\$136,728	\$144,827	\$134,190
HUMAN/PUBLIC SERVICES	15%	15%	15%	15%	14%
Human/Public Services	\$41,930	\$40,037	\$38,000	\$43,350	\$43,294
TOTAL HUMAN/PUBLIC SERVICES ¹	\$41,930	\$40,037	\$38,000	\$43,350	\$43,294
NEIGHBORHOOD IMPROVEMENT (Percent of Total Budget)	22%	21%	21%	22%	23%
Code Administration and Enforcement	\$61,005	\$60,051	\$60,658	\$66,496	\$66,224
TOTAL NEIGHBORHOOD IMPROVEMENT	\$61,005	\$60,051	\$60,658	\$66,496	\$66,224
ADMINISTRATION	17%	19%	19%	15%	15%
General Administration	\$45,625	\$46,368	\$45,634	\$39,050	\$36,546
Fair Housing Services	\$2,000	\$4,000	\$2,000	\$2,000	\$2,000
TOTAL ADMINISTRATION ²	\$47,625	\$50,368	\$47,634	\$41,050	\$38,546
TOTAL	\$279,536	\$285,576	\$289,020	\$295,723	\$282,254
¹ Funding for human/public services must not exceed 15% of the FY 2011-12 CDBG entitlement grant (\$192,254) and program income received in FY 2009-10 (\$96,375)					
² Funding for administration and fair housing must not exceed 20% of the FY 2011-12 CDBG entitlement grant (\$192,254) and estimated FY 2011-12 program income (\$40,000)					

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: May 2, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Community Development Block Grant Program Recommendation

ACTION RECOMMENDED: That City Council:

- a. approve the Community Development Block Grant (CDBG) Program FY 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan;
- b. authorize the City Manager to execute and submit the documents to the Department of Housing and Urban Development; and
- c. accept as information the Analysis of Impediments to Fair Housing.

Due to the federal funding cycle, it is necessary that the Community Development Block Grant (CDBG) Program FY 2011-15 Consolidated Plan including the FY 2011-12 Annual Action Plan be reviewed and acted upon no later than the May 10, 2011 City Council meeting in order meet the May 13, 2011 submission deadline established by the Department of Housing and Urban Development (HUD). In addition, while the Analysis of Impediments to Fair Housing is not required to be submitted to HUD for review and approval, an update of the study is required and must be completed concurrently with the five-year Consolidated Plan.

The FY 2011-15 Consolidated Plan, FY 2011-12 Annual Action Plan, and Analysis of Impediments to Fair Housing address:

- 1) Housing, community development and fair housing needs within the community, in particular the needs of low to moderate income households and neighborhoods;
- 2) Long-term and short-term strategies to address identified needs with CDBG Program and other resources that may be available to the city;
- 3) Owner-occupied housing assistance programs, including housing rehabilitation loans and grants, and a first time homebuyer downpayment assistance program;
- 4) Neighborhood improvement and blight elimination to continue the protection and upgrade of the quality of low and moderate income neighborhoods throughout the city;
- 5) Neighborhood improvement projects, such as small-scale neighborhood park improvements;
- 6) Human/public service agency activities to assist Portage residents in need; and
- 7) Fair housing activities, including support for the enforcement and education programs of the Fair Housing Center of Southwest Michigan.

FY 2011-12 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM BUDGET

The proposed FY 2011-12 CDBG Program Budget has been prepared by the City Administration based on projected funding levels, demonstrated community needs and compliance with federal goals and objectives. The City of Portage held two public hearings and a 30-day comment period per federal regulations to ensure opportunities are provided for public comment.

As shown in the attached Five-Year Comparative Analysis, and based on information provided by HUD, the CDBG entitlement grant was initially estimated to decrease 5% to \$219,187 in FY 2011-12 compared

to the current year funding level. As discussed at the April 19th Budget Workshop meeting, further reductions may occur. While the final entitlement grant amount has not been received from HUD, on April 22nd another estimate was provided indicating a lesser grant amount of \$192,250. However, this grant amount has not been given final approval by the federal Office of Management and Budget. Therefore, at this time, the entitlement grant, anticipated program income for FY 2011-12, together with available unexpended funds and/or program income, is projected as presented at the April 19th Budget Workshop:

FY 2011-12 Revenue	
FY 2011-12 Annual Entitlement	\$219,187
FY 2011-12 Estimated Program Income to be Received During Program Year	\$ 40,000
Available Unexpended Funds and/or Program Income Received in Prior Program Years That Exceeded Estimated Program Income	\$ 50,000
TOTAL FUNDS AVAILABLE	\$309,187

The four key components of the FY 2011-12 CDBG Program Budget are highlighted below. The recommended activities are consistent with the Consolidated Plan and complement General Fund activities:

1. **Housing Programs (\$132,083):** Upgrade of housing stock in the city is recommended as a high priority activity to be continued as the cornerstone of the block grant program. During the life of the program, approximately 482 owner-occupied houses have been rehabilitated. Owner-occupied housing upgrades for FY 2011-12 are accomplished through the:
 - Housing Rehabilitation Program (\$126,083) – Zero or low-interest deferred loans for housing rehabilitation, façade improvements, water/sewer hook-up, accessibility improvements, and Emergency Repair Grants for repairs that are threat to health and safety of occupants.
 - Homebuyer Down Payment Assistance Program (\$6,000) – down payment assistance grants to first-time homebuyers in targeted neighborhoods.

2. **Neighborhood Improvement (\$91,224):** The ongoing effort to maintain and improve low-income neighborhoods is recommended as a high priority activity and remains a vital component of the recommended comprehensive community development strategy. The budget will fund the following activities:
 - Neighborhood Support Program – (\$66,224): code administration and enforcement will be completed by approximately one full-time staff position and related expenses in low to moderate income neighborhoods.
 - Westfield Park Playground Improvements – (\$25,000): CDBG funds will be used to leverage General Fund resources to replace the playground in this community park heavily used by neighborhood residents.

3. **Human/Public Services (\$47,334):** Portage Community Center (PCC) is recommended to receive funding to provide human services identified as a medium priority activity in the Consolidated Plan. Per HUD, the maximum amount of human/public service funding is 15 percent of the annual entitlement grant plus 15 percent of the program income received in FY 2009-10. For many years the City of Portage has allocated 15 percent of the annual CDBG Program budget toward human/public services to ensure consistency with the intent of the federal regulations that funding be provided for core programs such as housing and neighborhood improvement activities.

4. **Administration (\$38,546):** The maximum administration expenditure is \$51,837, limited to 20 percent of the FY 2011-12 entitlement grant plus anticipated FY 2011-12 program income. The funds will be utilized for program planning, administration, reporting and program expenses. In addition, this portion of the budget includes \$2,000 for fair housing services, educational programs and complaint referrals to the Fair Housing Center of Southwest Michigan.

As information for Council, the following program activities would be affected should the entitlement grant be reduced to \$192,250, or other amount:

- Human/public service funding: The city is required to comply with the mandated maximum 15% of the entitlement grant plus prior year program income. Funding from the CDBG Program for Portage Community Center would be reduced from the recommended amount of \$47,334 to \$43,293. This revised amount compares to current year funding of \$43,350 from the CDBG Program.
- Westfield Park Playground Improvements: The CDBG Program has historically focused on housing and neighborhood improvement activities that are augmented when funding is available with appropriate capital improvement projects. To offset the estimated funding reduction, the \$25,000 CDBG Program contribution toward the Westfield Park project would be eliminated. Other grant funds may be secured to complete the playground improvement project as proposed in FY 2011-12, or the project could be delayed until a subsequent fiscal year when additional funding could be secured.

These required reductions would maintain funding for housing assistance and neighborhood improvement activities, identified as high priority activities for FY 2011-12.

If the city is formally notified by HUD of the final entitlement grant amount prior to the May 10, 2011 City Council meeting, revisions will be provided to Council prior to the meeting. If the city is formally notified by HUD of the final entitlement grant amount after the May 10, 2011 City Council meeting, the Annual Action Plan will have been submitted and revisions to the document will be necessary. The revisions will be accomplished, the documents provided to City Council for approval and resubmitted to HUD.

It is recommended that City Council approve the CDBG Program FY 2011-15 Consolidated Plan, FY 2011-12 Annual Action Plan and authorize the City Manager to execute and submit the documents to HUD. It is also advised that the Analysis of Impediments to Fair Housing be accepted as information. These actions will provide for the continued implementation of successful community development programs.

Attachments: Five-Year Comparative Analysis of CDBG Program
Human Services Board meeting minutes
FY 2011-15 Consolidated Plan
FY 2011-12 Annual Action Plan
Analysis of Impediments to Fair Housing

**CITY OF PORTAGE CDBG PROGRAM
FIVE YEAR COMPARATIVE ANALYSIS
FY 2007-08 THROUGH 2011-12**

	2007-08	2008-09	2009-10	2010-11	2011-12
ENTITLEMENT AMOUNT	\$219,536	\$210,576	\$214,020	\$230,723	\$219,187
ESTIMATED PROGRAM INCOME TO BE RECEIVED DURING PROGRAM YEAR	\$60,000	\$50,000	\$50,000	\$40,000	\$40,000
SUB-TOTAL	\$279,536	\$260,576	\$264,020	\$270,723	\$259,187
AVAILABLE UNEXPENDED FUNDS AND/OR PROGRAM INCOME RECEIVED IN PRIOR PROGRAM YEARS THAT EXCEEDED ESTIMATED PROGRAM INCOME	NA	\$25,000	\$25,000	\$25,000	\$50,000
TOTAL	\$279,536	\$285,576	\$289,020	\$295,723	\$309,187
HOUSING (Percent of Total Budget)	46%	47%	47%	49%	43%
Housing Rehabilitation Loan Program	\$112,976	\$124,120	\$128,728	\$136,827	\$124,083
Emergency Repair Grant	\$1,000	\$2,000	\$2,000	\$2,000	\$2,000
Homebuyer Downpayment Assistance	\$15,000	\$9,000	\$6,000	\$6,000	\$6,000
TOTAL HOUSING	\$128,976	\$135,120	\$136,728	\$144,827	\$132,083
HUMAN/PUBLIC SERVICES	15%	15%	15%	15%	15%
Human/Public Services	\$41,930	\$40,037	\$38,000	\$43,350	\$47,334
TOTAL HUMAN/PUBLIC SERVICES ¹	\$41,930	\$40,037	\$38,000	\$43,350	\$47,334
NEIGHBORHOOD IMPROVEMENT (Percent of Total Budget)	22%	21%	21%	22%	30%
Code Administration and Enforcement	\$61,005	\$60,051	\$60,658	\$66,496	\$66,224
Westfield Park - Playground Improvements	\$0	\$0	\$0	\$0	\$25,000
TOTAL NEIGHBORHOOD IMPROVEMENT	\$61,005	\$60,051	\$60,658	\$66,496	\$91,224
ADMINISTRATION	17%	19%	19%	15%	15%
General Administration	\$45,625	\$46,368	\$45,634	\$39,050	\$36,546
Fair Housing Services	\$2,000	\$4,000	\$2,000	\$2,000	\$2,000
TOTAL ADMINISTRATION ²	\$47,625	\$50,368	\$47,634	\$41,050	\$38,546
TOTAL	\$279,536	\$285,576	\$289,020	\$295,723	\$309,187
Funding for human/public services must not exceed 15% of the FY 2011-12 CDBG entitlement grant (\$219,187) and program income received in FY 2009-10 (\$96,375)					
Funding for administration and fair housing must not exceed 20% of the FY 2011-12 CDBG entitlement grant (\$219,187) and estimated FY 2011-12 program income (\$40,000)					

CITY OF PORTAGE HUMAN SERVICES BOARD

Minutes of Meeting, January 6, 2011

CALL TO ORDER: 6:30 p.m.

MEMBERS PRESENT: Diane Durian, Pamela Gilchrist, Angela Manahan Ilori, Bill Lenehan, Elma (Pat) Maye, Marc Meulman, Genna Nichols, Sandra Sheppard, Kyle Huitt (Youth Advisory Committee Liaison)

MEMBERS EXCUSED: Amy Tuley

STAFF PRESENT: Vicki Georgeau, Deputy Director of Neighborhood Services

APPROVAL OF MINUTES: December 2, 2010 minutes were approved as submitted, 8-0.

OLD BUSINESS: None

NEW BUSINESS:

1. Memorandum regarding Human/Public Service funding, Human/Public Service Funding Application Booklet and Evaluation Criteria Forms: Staff summarized the funding applications received, current year funding and amount of funds available through the Community Development Block Grant (CDBG) Program and General Fund. Staff noted the Board would hold a special meeting on January 20th to score and rank the applications, and would make a funding recommendation to City Council at the February 3, 2011 meeting. Board member Maye noted that as she works for a sub-recipient of CDBG funding (the Fair Housing Center of Southwest Michigan), she would abstain from discussion and voting on human/public service funding and the CDBG program. Meulman noted that Board members should use the evaluation criteria and score summary forms provided, and submit their applicant scores to him via email not later than Wednesday, January 12th. In addition, Lenehan moved, and Ilori supported, that the Board consider the scores of Huitt, even though he does not vote on the Board, as he is a Youth Advisory Committee Liaison. The motion carried 8-0.
2. Presentations by Applicants: Representatives from Catholic Family Services (the ARK Shelter and ARK Community Services), YWCA (Domestic Assault, Sexual Assault, and Mentoring programs) Housing Resources, Inc. (Housing Stabilization Program), and the Portage Community Center (Program Coordination and Development, Youth Development, and Emergency Assistance Programs) made presentations regarding their grant requests from the General Fund and CDBG Fund. The Board had a number of questions and comments for the applicants regarding services provided to Portage residents, coordination between agencies, program participant characteristics, and other funding to support agency services.
3. Public Hearing - CDBG Program - Overview of Housing and Community Development Needs for Consolidated Plan update: Chairman Meulman opened the public hearing. Staff provided an overview of the U.S. Department of Housing and Urban Development (HUD) planning and reporting requirements for CDBG program grantees, including completion of a Consolidated Plan update every five years, an Annual Action Plan and grant application, and an Analysis of Impediments to Fair Housing study update. Staff indicated that a one-year extension to the Consolidated Plan update requirement was granted in FY 2009-10, and that new U.S. Census and HUD data released in December 2010 were utilized to update the plan. Staff then summarized the data in the community profile and housing and market analysis, and explained the Board would receive a draft of the Housing, Homeless and Community Development Needs Assessment, and Strategic Plan portion of the document at the February 3rd Board meeting, that a complete draft of the Plan, along with the Analysis of Impediments to Fair Housing study, would be completed by early March 2011. A 30-day public comment period would follow with a public hearing on the plan in early April 2011. Finally, while the CDBG entitlement grant is not yet known, staff estimates a five percent reduction from current year funding. Meulman asked for clarification on the affordability of rental housing units. Staff reviewed data in Tables 10-13, indicating that median gross rent increased over the past nine years, yet more rental units were offered at or below the HUD-established Fair Market Rent. In addition, there are more rental units available at affordable rates for low-income households in comparison to owner-occupied housing units. However, as will be shown in the data provided in the next section of the Plan, there are still unmet needs with regard to both affordable renter-occupied and owner-occupied housing. As no comments from the Board or public were received, the hearing was closed.

STATEMENT OF CITIZENS: None.

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

Respectfully Submitted, 
Vicki Georgeau, Deputy Director of Neighborhood Services

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 6, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Ordinance Amendment 10-C, Medical Marihuana Home Occupation

ACTION RECOMMENDED: That City Council:

- a. accept Ordinance Amendment 10-C, Medical Marihuana Home Occupation, for first reading and set a public hearing for July 12, 2011; and
- b. subsequent to the public hearing, consider approval of Ordinance Amendment 10-C, Medical Marihuana Home Occupation.

City Council enacted a temporary moratorium on medical marihuana on January 11, 2011. Subsequently, the City Administration continued to research and develop a proposed medical marihuana home occupation ordinance as the most appropriate method to address medical marihuana in the community and protect the public health, safety and welfare. On April 12, 2011, City Council referred the Medical Marihuana Home Occupation ordinance to the Planning Commission for consideration and to initiate the Zoning Code amendment process.

At the April 21, 2011 meeting, the Planning Commission received and discussed the proposed ordinance. At this meeting, the Planning Commission and staff reviewed and discussed the major provisions of the Michigan Medical Marihuana Act ("Act"), the regulatory framework and the basis for the recommended ordinance. Essentially, the Medical Marihuana Home Occupation ordinance language would amend Section 42-129 of the Portage code of Ordinances, Home Occupations, and establish regulations whereby a primary caregiver could provide medical marihuana services consistent with the Act as accessory to a residential use. Several conditions are recommended regarding important issues including compliance with noise, safety, sanitation and health regulations, as well as housing and property maintenance requirements. Also, the proposed ordinance was modified to ensure uniformity with distance separation provisions in a manner that is consistent with the Federal Drug Free School Zone standards.

The Planning Commission reviewed and discussed the proposed ordinance language during the May 5, 2011 meeting. A public hearing to formally consider Ordinance Amendment 10-C was convened on May 19, 2011 and June 2, 2011. After a careful and thorough review and extensive discussion of other alternative regulatory approaches, the Planning Commission voted 6-2 at the June 2nd meeting, to recommend that City Council approve Ordinance Amendment 10-C.

It is recommended that City Council accept Ordinance Amendment 10-C for first reading, establish a public hearing on July 12, 2011 and, subsequent to the public hearing, consider adoption of the proposed ordinance.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: June 6, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Ordinance Amendment 10-C, Medical Marihuana Home Occupation

At the April 21, 2011 meeting, the Planning Commission received and discussed the proposed medical marihuana home occupation ordinance that was referred by City Council. At this meeting, the Planning Commission and staff reviewed the major provisions of the Michigan Medical Marihuana Act ("Act"), the proposed regulatory framework and the basis for the recommended ordinance. A public hearing was set for May 19, 2011.

During the initial discussion of the proposed ordinance on April 21st, one citizen (Mr. Chris Chiles) spoke in regards to the proposed ordinance. The Planning Commission again reviewed and discussed the proposed ordinance language during the May 5, 2011 meeting. At the public hearing during the May 19th meeting, one additional citizen (Mr. Troy Fleckenstein) spoke in regard to the proposed ordinance. No additional citizens offered comments and the Planning Commission concluded the public hearing at the June 2, 2011 meeting.

The proposed ordinance would amend Section 42-129, Home occupation, of the Zoning Code and establish regulations whereby a primary caregiver could provide medical marihuana services consistent with the Act. The proposed ordinance was modified to ensure consistency with Federal Drug Free School Zone requirements. Major provisions of the proposed ordinance recommended by the City Administration and Planning Commission are as follows:

- Medical marihuana would only be provided by a primary caregiver as a home occupation.
- Primary caregiver must comply with all statutory requirements.
- The medical marihuana home occupation must be at least 1,000 feet from a school, playground or housing facility owned by a public housing authority and 100 feet from a youth center, public swimming pool or video arcade, consistent with the Federal Drug Free School Zone requirements.
- The use must be in compliance with applicable requirements of the Building Code, Noise Ordinance, Safety, Sanitation and Health Code, and Housing/Property Maintenance Code.
- Lighting used in the growing of marihuana that exceeds normal residential use must be shielded between the hours of 11:00 p.m. and 6:00 a.m.
- Patients may only visit the primary caregiver between the hours of 8:00 a.m. and 8:00 p.m.
- Signs identifying the home occupation and use of window displays are not permitted.

After careful consideration that included consideration of alternative approaches to regulating medical marihuana at the conclusion of the public hearing at the June 2, 2011 meeting, the Planning Commission voted 6-2 to recommend to City Council approval of Ordinance Amendment 10-C.

The Planning Commission transmittal, meeting minutes, Department of Community Development staff report and related materials are attached for your information and review.

Attachments: Communication from the City Manager to City Council dated April 4, 2011
 First Reading
 Ordinance for Adoption
 Planning Commission transmittal dated June 6, 2011
 Planning Commission meeting minutes dated April 21st, May 5th, May 19th and June 2nd, 2011
 Department of Community Development report dated May 27, 2011

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 4, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: Proposed Medical Marihuana Home Occupation Ordinance

ACTION RECOMMENDED: That City Council:

- a. receive the proposed Medical Marihuana Ordinance amendment to the Zoning Code, and
- b. refer the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with submission of the recommendation on the amendment not later than June 3, 2011.

On January 11, 2011, City Council enacted a temporary 180 day medical marihuana moratorium. This measure allowed the City Administration and the Office of the City Attorney additional time to continue research and to develop an ordinance that would effectively address medical marihuana activities in the city as permitted by Initiated Law 1 of 2008, Michigan Medical Marihuana Act (MMMA). The moratorium will expire on July 30, 2011.

Since enactment of the moratorium, a City Administration team, including representatives from the Police and Community Development Departments and Office of the City Attorney, met to develop an ordinance that represents the most appropriate method to address medical marihuana use in the community and protect the public health, safety and welfare. The administrative team has concluded that the best option is to amend the City of Portage Code of Ordinances and regulate the use of medical marihuana per the MMMA under the Zoning Code as a home occupation. Administration and enforcement activities will be accomplished by the Community Development and Police Departments in a collaborative manner as is now the practice with zoning, safety, sanitation and health, housing/property maintenance and related ordinance matters when necessary. The advantages of the proposed ordinance include:

- Consistency with the intent and provisions of the MMMA, which establishes a caregiver to patient relationship with privacy and confidentiality safeguards;
- The proposal employs the home occupation approach successfully implemented in other Michigan communities including the City of Kalamazoo and the City of Grand Rapids;
- The prohibition of commercial dispensaries and the potential for illicit drug activities that have been the subject of concern in many Michigan communities due to ambiguities in the statute;
- Action at this time to regulate the use of medical marihuana is appropriate with the likelihood of definitive court decisions and/or action by the Michigan Legislature potentially years away; and

- The home occupation ordinance positions the city to properly address the use of medical marihuana allowed by statute, given the potential for litigation with other regulatory alternatives (ordinances to ban medical marihuana use and/or ordinances to prohibit cultivation of medical marihuana, as examples).

The attached ordinance proposal would amend Section 42-129, Home Occupations, by adding subsection C, Medical Marihuana Home Occupation. The following highlights the principal elements of the proposed ordinance:

- The new chapter would establish specific provisions for medical marihuana home occupations. The provisions for passive and active home occupations would not be applicable. No home occupation permit would be required (due to privacy confidentiality safeguards of the MMMA).
- Location standards establishing minimum distances from schools, youth centers, arcades, adult regulated uses and other specified uses, as well as other medical marihuana home occupations, are specified.
- Only one primary caregiver may operate from a dwelling unit and only assist qualifying patients registered with the Michigan Department of Community Health. A caregiver may assist no more than five patients who are connected to that primary caregiver through the State of Michigan registration process.
- The cultivation, possession, security and related statutory provisions applicable to the use of medical marihuana consistent with the statute are specified.
- Appropriate requirements are established that address caregiver-patient visit/operating hours, off-street parking, exterior site lighting and the prevention of general nuisances by compliance with provisions of the City of Portage Code of Ordinances.
- Appropriate definitions applicable to the use of medical marihuana are also specified in the ordinance.

City Council is advised to receive the proposed ordinance language, refer the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with the recommendation by the Planning Commission submitted to City Council not later than June 3, 2011.

Attachment: Proposed Ordinance Language

**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

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

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Section 42-129 of Chapter 42, Land Development Regulations of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2011, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2011, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Section 42-129 of Chapter 42, Land Development Regulations of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

Section 42-129. Home occupations.

- A. No change.
- B. No change.
- C. Medical Marihuana Home Occupation. A primary caregiver acting in compliance with the General Rules of the Michigan Department of Community Health ("General Rules"), the Michigan Medical Marihuana Act, P.A.2008, Initiated Law, MCL 333.26421, et. seq., (the "Act") and the requirements of this section, shall only be allowed as a home occupation. The conditions and requirements contained in Section 42-129(A) and (B) (Passive and Active Home Occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The Act was passed by Michigan Voters through the initiative process. Both the summary of the Act appearing on the ballot and the Act as a whole reflect an intent to create a private and confidential patient/caregiver relationship to facilitate the lawful cultivation, distribution and use of marihuana strictly for medical purposes. The Act does not authorize the broad legalization of the cultivation, distribution or use of marihuana and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law. A primary caregiver may assist only a qualifying patient to whom he or she is connected through the Department of Community Health's ("Department") registration process for the medical use of marihuana. The following requirements for a primary caregiver as a home occupation shall apply:
 - 1. A primary caregiver shall comply at all times and in all circumstances with the Act and the General Rules of the Department as they may be amended from time to time.
 - 2. The home occupation shall only be conducted in a dwelling unit (as defined by the Zoning Code) where no more than one primary caregiver:

- a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient)
- b. Possesses up to the maximum amount of marihuana permitted by the Act (2.5 ounces for each qualifying patient), including any incidental amounts of seed, stalks and unusable roots; and
- c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of 5) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the Department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited.

3. The following shall apply to a primary caregiver conducting a home occupation under this section:

- a. To ensure community compliance with the federal "Drug Free School Zone" requirements, the home occupation shall not be located:
 - i. Within one thousand (1,000) feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or housing facility owned by a public housing authority; or
 - ii. Within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility.
- b. Measurements for purposes of Section 3(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using a straight line without regard to intervening structures or objects. "Zoning lot" is defined by Article 42, Section 42-112, Definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in Section 3(a) above, as well as the protected areas, is available for review in the Department of Community Development at the Portage City Hall and on the City's website under the Department of Community Development.
- c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.

4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
5. All medical marihuana plants shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. The home occupation shall not be conducted in an attached or detached accessory building or structure.
6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with Article 4, Chapter 24 Noise, Article 5, Chapter 24 Safety, Sanitation and Health as well as Article 14, Chapter 42 Housing/Property Maintenance Code.
7. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
8. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than 5 qualifying patients may visit the site at any one time.
9. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
10. There shall be no sign of any nature identifying the home occupation and the use of window displays are not permitted.
11. Nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the General Rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law.

Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

12. Definitions. As used in this section:

a. MARIHUANA

This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

b. PRIMARY CAREGIVER

A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

c. QUALIFYING PATIENT

A person who has been diagnosed by a physician as having a debilitating medical condition.

d. REGISTRY IDENTIFICATION CARD

A document issued by the Department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

James R. Hudson, City Clerk

**[ORDINANCE FOR ADOPTION]
ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-129 OF CHAPTER 42,
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-129 of Chapter 42, Land Development Regulations, is hereby amended to add Section 42-129(C) as follows:

Section 42-129. Home occupations.

- A. No change.
- B. No change.
- C. Medical Marihuana Home Occupation. A primary caregiver acting in compliance with the General Rules of the Michigan Department of Community Health ("General Rules"), the Michigan Medical Marihuana Act, P.A.2008, Initiated Law, MCL 333.26421, et. seq., (the "Act") and the requirements of this section, shall only be allowed as a home occupation. The conditions and requirements contained in Section 42-129(A) and (B) (Passive and Active Home Occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The Act was passed by Michigan Voters through the initiative process. Both the summary of the Act appearing on the ballot and the Act as a whole reflect an intent to create a private and confidential patient/caregiver relationship to facilitate the lawful cultivation, distribution and use of marihuana strictly for medical purposes. The Act does not authorize the broad legalization of the cultivation, distribution or use of marihuana and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law. A primary caregiver may assist only a qualifying patient to whom he or she is connected through the Department of Community Health's ("Department") registration process for the medical use of marihuana. The following requirements for a primary caregiver as a home occupation shall apply:
 - 1. A primary caregiver shall comply at all times and in all circumstances with the Act and the General Rules of the Department as they may be amended from time to time.
 - 2. The home occupation shall only be conducted in a dwelling unit (as defined by the Zoning Code) where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient)
 - b. Possesses up to the maximum amount of marihuana permitted by the Act (2.5 ounces for each qualifying patient), including any incidental amounts of seed, stalks and unusable roots; and

- c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of 5) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the Department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited.

3. The following shall apply to a primary caregiver conducting a home occupation under this section:

- a. To ensure community compliance with the federal "Drug Free School Zone" requirements, the home occupation shall not be located:

- i. Within one thousand (1,000) feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or housing facility owned by a public housing authority; or

- ii. Within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility.

- b. Measurements for purposes of Section 3(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using a straight line without regard to intervening structures or objects. "Zoning lot" is defined by Article 42, Section 42-112, Definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in Section 3(a) above, as well as the protected areas, is available for review in the Department of Community Development at the Portage City Hall and on the City's website under the Department of Community Development.

- c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.

4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.

5. All medical marihuana plants shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary

caregiver or qualifying patient. The home occupation shall not be conducted in an attached or detached accessory building or structure.

6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with Article 4, Chapter 24 Noise, Article 5, Chapter 24 Safety, Sanitation and Health as well as Article 14, Chapter 42 Housing/Property Maintenance Code.
7. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
8. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than 5 qualifying patients may visit the site at any one time.
9. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
10. There shall be no sign of any nature identifying the home occupation and the use of window displays are not permitted.
11. Nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for, growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the General Rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

12. Definitions. As used in this section:

a. MARIHUANA

This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

b. PRIMARY CAREGIVER

A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

c. QUALIFYING PATIENT

A person who has been diagnosed by a physician as having a debilitating medical condition.

d. REGISTRY IDENTIFICATION CARD

A document issued by the Department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

Peter J. Strazdas, Mayor

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

James R. Hudson, City Clerk

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

Approved as to form
Date: 6/7/11

City Attorney

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: June 6, 2011

SUBJECT: Ordinance Amendment 10-C, Medical Marihuana Home Occupation

At the direction of City Council, the Planning Commission on April 21, 2011 began the process to consider the Medical Marihuana Home Occupation. The Commission reviewed and discussed the proposed ordinance language, as developed by the City Administration committee, at the April 21st and May 5th meetings. One citizen (Mr. Chris Chiles) spoke during the April 21st meeting. A public hearing to formally consider Ordinance Amendment 10-C was first convened during the May 19, 2011 Planning Commission meeting. One citizen (Mr. Troy Fleckenstein) spoke regarding the proposed ordinance. The public hearing concluded on June 2, 2011 where no additional citizens spoke regarding the proposed ordinance.

During the course of these meetings, the Commission discussed various regulatory approaches including:

- home occupation versus commercial zoning districts
- dispensaries and patient-to-patient transfers
- caregiver permitting/registration
- caregiver distance separation provisions, and
- requirements and accessory building use

After a thorough consideration of the proposed ordinance language and associated issues, a motion was made by Commissioner Reiff, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment 10-C, Medical Marihuana Home Occupation, be approved. The motion was approved 6-2.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



James Cheesebro
Chairman

DRAFT

The Commission and staff discussed the continued requests for adjournment by the applicant and the lack of a specific development proposal with the requested rezoning. Attorney Brown stated there is no requirement that the applicant present a development proposal with a rezoning request. Attorney Brown further indicated the Planning Commission should consider the appropriateness of the requested zoning district and all uses that are allowed. Commissioner Dargitz referenced previously discussed e-mail correspondence between the applicant and surrounding area neighbors and stated she has not seen copies in any agenda packet. Mr. Forth stated he was provided copies of the e-mail correspondence but they were not requested to be provided to the Planning Commission. Mr. Forth stated the e-mails could be provided to the Commission for the July 21, 2011 meeting.

After additional discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Pearson, to adjourn the public hearing for Rezoning Application #10-02 to the July 21, 2011 meeting, as requested by the applicant. The motion included a statement that the applicant has not been present during the previous three meetings and this would be the last adjournment granted by the Commission unless the applicant was present and provided good cause for another adjournment. The motion was unanimously approved.

2. Final Report: Ordinance Amendment 10-C, Medical Marihuana Home Occupation Ordinance. Mr. Forth summarized the May 27, 2011 staff report regarding the proposed medical marihuana home occupation ordinance. Mr. Forth summarized previous Planning Commission review and discussion regarding the proposed ordinance amendment and the two primary issues that resulted from the May 19th Commission discussion: 1) The home occupation approach vs. the commercial zoning district approach and 2) accessory building use. Mr. Forth summarized the staff analysis regarding these two issues and indicated that staff is advising the Commission to recommend to City Council approval of Ordinance Amendment 10-C, Medical Marihuana Home Occupation as recommended by the City Administration.

Commissioner Dargitz asked if language could be added to the ordinance that specifically prohibits dispensary operations from a commercial area. Attorney Brown stated there is language in the ordinance that prohibits commercial medical marihuana operations. Further discussion ensued between Attorney Brown and Commissioner Dargitz regarding commercial dispensaries. Commissioner Dargitz indicated she could support caregivers operating in residential areas but wants to make sure impacts are mitigated. Commissioner Dargitz also stated that the ordinance should include commercial day care facilities in the 1,000 foot distance separation from a medical marihuana home occupation. Chairman Cheesebro reconvened the public hearing. No citizens spoke regarding the proposed ordinance. A motion was made by Commissioner Welch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved.

A motion was then made by Commissioner Reiff to recommend to City Council that Ordinance Amendment 10-C, Medical Marihuana Home Occupation, be approved. Commissioner Welch suggested hearing additional Commission comments before finalizing the motion. Commissioner Dargitz then discussed other ordinance provisions along with suggested changes including adding the word "current" to the registry identification card references, requiring a caregiver to deliver the medical marihuana to the patient or limiting the number of patients that can visit a caregiver to not more than one at a time, and additional language under the definition of a qualifying patient. Commissioner Patterson stated the amount of traffic generated by a medical marihuana caregiver is minimal compared to other types of home occupations including group child daycare homes. Commissioner Welch concurred. Commissioner Welch also stated he could support specifically prohibiting dispensary operations from a commercial area. The Commission and Attorney Brown continued discussion of these issues and other ordinance provisions including patient-to-patient transfers and a definition of medical marihuana dispensaries. As a result of this additional discussion, the original motion offered by Commissioner Reiff was seconded by Commissioner Welch. Attorney Brown indicated he believes the proposed ordinance is the best approach at this time; however, the ordinance may need to be amended in the future. Commissioner Stoffer stated he would support adding commercial daycare facilities to the 1,000 foot distance requirement and limit the number of qualifying patients that can visit a caregiver to no more than one at a time. If these two provisions are not included in the motion, Commissioner Stoffer said he would have a difficult time supporting the current motion. There being no further discussion, Chairman Cheesebro called for a vote on the motion. The motion was approved 6-2 with Commissioners Dargitz and Stoffer opposing the motion.

PLANNING COMMISSION

May 19, 2011

The City of Portage Planning Commission meeting of May 19, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Two citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Mark Siegfried.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

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

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the May 5, 2011 meeting minutes. Commissioners Dargitz, Bosch, Cheesebro and Welch stated that would be abstaining from voting since they were not present at the May 5th meeting. A motion was made by Commissioner Patterson, seconded by Commissioner Reiff, to approve the minutes as submitted. The minutes were unanimously approved.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Preliminary Report: Ordinance Amendment 10-C, Medical Marihuana Home Occupation Ordinance. Mr. Forth summarized the May 13, 2011 staff report regarding the proposed medical marihuana home occupation ordinance. Mr. Forth summarized major ordinance provisions and summarized previous issues discussed by the Commission during the April 21st and May 5th meetings. Chairman Cheesebro asked for clarification regarding the phrase "normal residential lighting" and hours that a qualifying patient can visit the site (8:00am-8:00pm). Mr. Forth stated there are existing ordinance standards for residential lighting and Attorney Brown indicated limiting the hours of the home occupation were reasonable and consistent with other ordinances. Commissioner Pearson asked why the ordinance prohibited any aspect of the home occupation from occurring in an attached or detached accessory building. Attorney Brown stated it was intended that the home occupation be conducted within the main residential structure. Mr. Forth also indicated that accessory buildings are less secure than the dwelling unit. The Commission and Attorney Brown next discussed trends in local municipality regulation of medical marihuana, liability issues and differences between a caregiver-patient interaction and a commercial dispensary.

Commissioner Dargitz asked why the caregiver-patient interaction could not occur within a commercial district, as opposed to the residential district. Attorney Brown indicated the administrative committee believes

regulation as a home occupation in the residential zoning districts is most consistent with the intent of Act and best preserves the personal/confidential relationship between the caregiver and patient. Attorney Brown stated the administrative committee believes that regulation in a commercial district would likely necessitate a caregiver providing marijuana to more than five patients, which is contrary to the Act and would likely result in a dispensary operation. Attorney Brown indicated the Act specifically states a caregiver can only receive "compensation for costs" and that the transaction between a caregiver and a patient are intended to be personal/confidential and are not intended to be a business. If allowed in the commercial zones, Attorney Brown stated the administrative committee believes the regulation would encourage dispensary-type, business operations. Attorney Brown referenced the Michigan Municipal League commissioned White Paper and the secondary, negative affects associated with dispensaries. Commissioner Dargitz indicated she still has concerns about restricting medical marijuana locations to the residential districts and asked whether the ordinance could require the caregiver to travel to the patients and not allow the patients to ingest marijuana at a caregiver location. Attorney Brown restated the ordinance is not intended to regulate the use of marijuana (Act regulates the use), but rather where a caregiver can operate. Attorney Brown also indicated that an ordinance provision that would require the caregiver to travel to the patient can not be regulated as a zoning issue.

The Commission and Attorney Brown discussed removal of day care facilities from the distance provisions section of the ordinance, consistency with the federal Drug Free School Zone requirements and definitions section of the ordinance. Commissioners Dargitz and Stoffer expressed concerns about elimination of day care facilities that care for elementary school aged children from the distance provisions section of the ordinance. Attorney Brown stated the intent was to maintain consistency with the federal Drug Free School Zone requirements. Commissioner Bosch stated he believes the Commission consideration of additional regulations involves an "over-management" of the medical marijuana issue. Commissioner Bosch indicated the ordinance is consistent with the State Act and federal Drug Free School Zone requirements and believes the direction the administrative committee has chosen is the best way to go. Commissioners Cheesebro, Welch and Patterson agreed. Additional discussion between the Commission and Attorney Brown ensued.

Chairman Cheesebro opened the public hearing. One citizen (Troy Fleckenstein, 275 West Michigan Avenue, Galesburg, Michigan) spoke in regards to the proposed ordinance. Mr. Fleckenstein voluntarily stated that he was a registered caregiver and patient and indicated he agrees with Commissioner Bosch and believes the Commission is attempting to over-regulate the issue. Mr. Fleckenstein indicated the State of Michigan already has a registration process and another registration through the city is unnecessary. Mr. Fleckenstein stated that he disagrees with Attorney Brown and believes the Act allows a caregiver to receive compensation for expenses and reasonable fees for services rendered. Mr. Fleckenstein also indicated that he believes the Commission discussion about "protecting children" is not relevant to the medical marijuana issue. Mr. Fleckenstein stated he does not believe the ordinance should restrict a caregiver to a residential area since there are various aspects to a caregiver operation including growing, harvesting, processing, storage and distribution that may not be appropriate at one specific location. No additional citizens spoke regarding the proposed ordinance.

The Commission, Attorney Brown and staff continued the discussion regarding the proposed ordinance language and issues related to prohibiting caregiver activities in an attached/detached accessory building and whether the ordinance should be expanded to also include commercial districts. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Welch, to adjourn the public hearing for Ordinance Amendment 10-C, Medical Marijuana Home Occupation Ordinance, to the June 2, 2011 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

Commissioner Patterson, seconded by Commissioner Reiff, to approve the Special Land Use Permit for Ms. Sarah Rogers (group child care home), 3125 Coachlite Avenue. The motion was unanimously approved.

2. Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street. Mr. West summarized the staff report dated May 5, 2011 and referred the Commission to an April 28, 2011 e-mail communication from Mr. Terry Patterson, on behalf of Milham Crossings LLC, requesting the public hearing for Rezoning Application #10-02 be adjourned to the June 2, 2011 meeting. Mr. West stated that staff advises the Planning Commission to reconvene the public hearing, accept public comment and then adjourn the public hearing to the June 2, 2011 meeting.

The public hearing was reconvened by Chairman Cheesebro. Seven citizens spoke in regards to the proposed rezoning: 1) Dave Szybala, 4836 Golden Ridge Trail; 2) Allan Mueller, 6055 Andover Woods Road; 3) Leonard Mosher, 4868 Golden Ridge Trail; 4) Dorothy Kocharoff, 4694 Golden Ridge Trail; 5) Karen Hecht, 4790 Golden Ridge Trail; 6) Joon Park, 4811 Golden Ridge Trail; and 7) Marcus Anthosen, 4736 Golden Ridge Trail. Mr. Szybala submitted a petition signed by 33 citizens of the Andover Woods neighborhood opposing the rezoning. Mr. Szybala stated the citizens of Andover Woods purchased their homes knowing the adjacent property was zoned B-2 and believe a change to B-3 would negatively impact property values and the quality of life for the residential neighborhood. Mr. Mueller stated he opposes the proposed zoning change that would permit a gas station and expressed concerns regarding health/safety issues and traffic congestion at the West Milham Avenue/South 12th Street intersection. Mr. Mosher also spoke in opposition to the proposed rezoning citing noise, traffic, trash and odor concerns. Ms. Kocharoff, Ms. Hecht and Ms. Park asked several questions regarding the difference between the B-2 and B-3 zones, traffic generation and flow from the site and at the West Milham Avenue/South 12th Street intersection and whether the applicant has provided any specific development proposal. Mr. West discussed the differences between the B-2 and B-3 zoning districts and stated the applicant has not submitted a specific development proposal for the property. Mr. Anthosen expressed concerns regarding potential loss of property values if the site was rezoned to B-3. No additional citizens spoke regarding the proposed rezoning.

After a brief discussion, a motion was made by Commissioner Stoffer, seconded by Commissioner Patterson, to adjourn the public hearing for Rezoning Application #10-02 to the June 2, 2011 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

1. Proposed Medical Marihuana Home Occupation Ordinance (referral from City Council). Mr. Forth summarized the April 29, 2011 staff report that provided additional background information involving several issues the Commission discussed during the April 21, 2011 meeting: 1) permitting; 2) home occupation versus commercial use; 3) marihuana dispensaries and patient-to-patient transfers; and 4) home occupation distance provisions, requirements and definitions.

The Commission, Mr. Forth and Attorney Brown discussed various aspects of the proposed ordinance. Commissioner Reiff asked for clarification regarding the distance provisions of the ordinance and whether they apply to the two Montessori schools (Otis Academy and Shamrock Academy). Attorney Brown stated that since these are pre-schools, they would not be subject to the distance provisions. Commissioner Patterson stated he still had some concern regarding the lack of permitting or registration so the city and potential caregivers know where caregivers are located in order to satisfy distance provisions of the ordinance. Attorney Brown indicated the revised ordinance eliminates the distance requirements between caregivers and should minimize this concern. Commissioner Stoffer asked what the current legal environment was on the issue of medical marihuana. Attorney Brown provided a detailed response. Commissioner Reiff stated he believes the City Administration committee put a lot of thought and effort into the ordinance and it is the right direction at this time. The

Commission had no further comments at this time. Mr. Forth noted the public hearing is scheduled for the May 19, 2011 Planning Commission meeting.

2. Mixed-Use Zoning Ordinance Proposals. Mr. Forth summarized the April 28, 2011 staff report regarding the three mixed-use ordinance proposals referred by City Council. Mr. Forth stated these proposals were previously reviewed and discussed by the Commission during the March 28, 2011 meeting. Mr. Forth reviewed the three different ordinance proposals (City Centre Area – Mixed Use Floating Zone, Commercial Corridor Mixed Use Floating District and Work/Live Accommodations) and changes that were made from the March 28th meeting and discussion.

Commissioners Patterson and Reiff indicated the previous Planning Commission comments regarding the Work/Live Accommodations ordinance had been adequately addressed with the revised ordinance. Chairman Cheesebro asked staff if any additional thought was given to expanding the boundary of the City Centre Area – Mixed Use Floating Zone, particularly further north near Garden Lane. Mr. Forth indicated staff would provide additional information regarding this issue with the preliminary report. After additional discussion, a motion was made by Commissioner Stoffer, seconded by Commissioner Patterson, to set a public hearing for the Mixed-Use Zoning Ordinance Proposals for the June 16, 2011 meeting. Attorney Brown referenced the specific Zoning Code sections that would be added or amended with the proposed mixed-use zoning ordinance proposals. The motion was unanimously approved.

NEW BUSINESS:

1. Proposed Business Banner Ordinance (referral from City Council). Mr. Forth reviewed the April 27, 2011 staff report and the transmittals to City Council regarding the proposed business banner ordinance as referred by City Council. Mr. Forth stated the proposed language would amend the sign ordinance regulations and expand the ability of a business to use a banner by eliminating the provision regarding the “name of business”, increasing the area for “copy” to 50% of the banner and by adding the language to all of the business zones (B-1, B-2, B-3, CPD and PD districts). The Commission discussed what meeting date was appropriate to schedule the public hearing. Mr. Forth stated that due to statutory notification requirements, the earliest the public hearing could be scheduled is June 2nd. In the event the Commission desires to further discuss this matter before the scheduled public hearing, Mr. Forth indicated the staff report and proposed ordinance could be included in the May 19th agenda. After a brief discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Stoffer, to set a public hearing for the Proposed Business Banner Ordinance for the June 2, 2011 meeting. The motion was unanimously approved. Attorney Brown stated the specific Zoning Code sections that would be amended with the proposed mixed-use zoning ordinance proposals.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Stoffer stated the Kalamazoo County Marathon was Sunday, May 8, 2011 and asked that the community support this event. There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

proposed rezoning. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service. The motion was approved 7-0.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Proposed Medical Marihuana Home Occupation Ordinance (referral from City Council). Mr. Forth reviewed the April 15, 2011 staff report and the April 4, 2011 transmittals to City Council regarding the proposed medical marihuana home occupation ordinance as referred by City Council. Mr. Forth summarized the major provisions of the proposed ordinance that would allow a caregiver to operate from a dwelling unit as a home occupation and provide medical marihuana for up to five patients. Mr. Forth indicated the proposed ordinance is consistent with the State Act and retains the caregiver/client relationship and confidentiality and privacy provisions. Mr. Forth stated the Commission is advised to review and discuss the proposed ordinance and set a public hearing for the May 19, 2011 meeting: A recommendation from the Planning Commission to City Council was needed by June 3, 2011.

Commissioner Welch inquired as to whether the home occupation approval would follow the caregiver or the address of the caregiver operation. Attorney Brown stated that as currently written the ordinance does not require a permit or registration, however, additional consideration may be given to a registration process to ensure distance requirements of the ordinance are satisfied. Commissioner Welch asked if a caregiver established the medical marihuana home occupation at a particular location and a public pool was established next door, would the caregiver need to discontinue the home occupation. Attorney Brown indicated the caregiver would be allowed to continue if the caregiver use was established prior to the public pool. Commissioner Patterson stated he believes a registration process, at a minimum, should be considered to allow the city to know where these caregivers are located. Attorney Brown indicated the City Administration committee decided not to require a permit or use a registration element to preserve confidentiality clauses of the State Act, but additional discussion could occur. Commissioner Pearson and Attorney Brown next discussed the confidentiality clauses of the State Act the permit requirement, FOIA issue, penalties in the statute and the requirement for any local ordinance to maintain the privacy and confidentiality of the caregivers and patients per the intent of the Act. Commissioner Pearson asked if the "white paper" referenced in the agenda materials was available for Commission review. Attorney Brown stated the "white paper" is very lengthy and he believes is available on-line.

Commissioner Dargitz stated she was having difficulties understanding the differences between dispensaries, which are prohibited in the ordinance, and the dispensing of marihuana between a caregiver and a patient. Also, Commissioner Dargitz asked why sales of marihuana was allowed under the proposed ordinance, but was removed from the recently adopted passive/active home occupation ordinance. There was a discussion of retail sales and the prior home occupation ordinance as approved by Council. Attorney Brown stated the issue of dispensaries and the dispensing of marihuana to people other than qualified patients was still not resolved in the court system. Attorney Brown stated the State Act prohibits the "sale" of marihuana, but does allow a caregiver to be compensated for costs incurred. Commissioner Dargitz asked why the ordinance could not restrict the exchange between a caregiver and a patient to a commercial district and prohibit in residential districts. Attorney Brown stated some communities have and further commented the courts have not yet decided on the dispensing aspects of the Act. However, he does not believe that restricting the activity to commercial districts is consistent with the intent of the Act. The Act is silent with regard to roll of municipalities and that creates difficulties. In his opinion,

he did not believe a caregiver relationship with five patients would be economically feasible in a commercial zone. Attorney Brown indicated preserving the personal relationship between a caregiver and patient seems more appropriate in residential districts as a home occupation similar to the ordinances recently adopted by the City of Kalamazoo and City of Grand Rapids. This was consistent with the intent of the Act. Although there is no permit as indicated, Attorney Brown emphasized it is still a regulation and can be enforced. Mr. Forth commented that when a complaint is made, as is current practice, it would be researched and enforced. Additionally, Commissioner Dargitz commented that she preferred that caregivers travel to the patient home to provide care. There was a discussion of the use of medical marihuana at the caregiver residence. Attorney Brown commented that the ordinance does not regulate qualifying patients. Ordinance is a regulation from a zoning perspective involving caregiver activities, and these activities could be looked at and discussed. Discussion ensued about the City Administration decision to not allow in a commercial, business setting. Concern was about larger establishments and this did not seem consistent with the Act. Commissioner Patterson also commented about the responsibility of both the caregiver and patient to act responsibly wherever they are located inasmuch as Kalamazoo and other communities have similar medical marihuana uses and applicable ordinances. There was brief additional discussion of a permit requirement, other municipal approaches that were reviewed, the "sales" issue with the home occupation and limited number of "customers" involved, and the medicinal purpose of the Act.

Mr. Chris Chiles spoke in regards to the proposed ordinance. Mr. Chiles stated he is a registered caregiver and is currently operating from a business district in the City of Portage. Mr. Chiles indicated he would not conform with the proposed ordinance since he does not operate from his home. Mr. Chiles stated he believes medical marihuana operations are better suited for commercial districts. Commissioner Patterson asked Mr. Chiles if locating in a business district was economically viable serving only five patients. Mr. Chiles stated there are current court cases that may allow patient-to-patient transfers and/or dispensing operations where more than five patients are served. Mr. Chiles also stated that the Act allows a caregiver to recover costs that he believes can also include services provided. Mr. Chiles indicated that he does not want to operate his business from his home and prefers a professional business environment that is maintained, controlled and safe. Attorney Brown stated the Act does not provide for patient-to-patient transfers and he believes the courts will confirm this opinion. Additionally, Attorney Brown indicated that he believes these patient-to-patient transfers and dispensing activities would be necessary to make operation from a commercial district economically viable. In response to an inquiry from Commissioner Dargitz, Attorney Brown commented that the distance requirements and definitions referenced on the map are consistent with the ordinance language and will be again reviewed, and discussed with the Planning Commission, particularly, for example, wording involving daycare activities.

After additional discussion, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to set a public hearing for Medical Marihuana Home Occupation Ordinance for the May 19, 2011 Planning Commission meeting. The motion was unanimously approved.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

TO: Planning Commission **DATE:** May 27, 2011
FROM: Jeffrey M. Erickson, ^{JME} Director of Community Development
SUBJECT: Final Report: Ordinance Amendment No. 10-C (Medical Marihuana Home Occupation Ordinance)

I. INTRODUCTION

The proposed medical marihuana home occupation ordinance was initially developed and recommended by the City Administration subsequent to enactment of a temporary moratorium by City Council on January 11, 2011. The proposed ordinance language would amend Section 42-129, Home Occupations. As the Planning Commission is aware, on April 12, 2011, City Council referred the medical marihuana home occupation ordinance to the Commission for consideration and to initiate the Zoning Code amendment process. The Planning Commission recommendation is to be submitted to City Council no later than June 3, 2011.

II. MAJOR ORDINANCE PROVISIONS

The following briefly summarizes the major provisions of the proposed ordinance.

- Medical marihuana would only be provided by a primary caregiver as a home occupation.
- Primary caregiver must comply with all statutory requirements.
- The medical marihuana home occupation must be at least 1,000 feet from a school, playground or housing facility owned by a public housing authority and 100 feet from a youth center, public swimming pool or video arcade consistent with the federal Drug Free School Zone requirements. Attached is a map that shows these drug free zones.
- The use must be in compliance with applicable requirements of the Building Code, Noise Ordinance, Safety, Sanitation and Health Code, and Housing/Property Maintenance Code.
- Lighting used in the growing of marihuana that exceeds normal residential use must be shielded between the hours of 11:00 p.m. and 6:00 a.m.
- Patients may only visit the primary caregiver between the hours of 8:00 a.m. and 8:00 p.m.
- Signs identifying the home occupation and use of window displays are not permitted.

III. PLANNING COMMISSION REVIEW/CONSIDERATION

During the April 21st meeting, the proposed medical marihuana home occupation ordinance was reviewed and discussed by the Planning Commission. The major provisions of the Michigan Medical Marihuana Act ("Act"), the proposed regulatory framework of the ordinance and the basis for the recommended ordinance were reviewed. The Commission also received correspondence from the City Attorney that explained the Michigan Medical Marihuana Act, proposed Medical Marihuana Home Occupation Ordinance and reasons to regulate medical marihuana as a home occupation. The Planning Commission discussed the information and heard comments from Mr. Chris Chiles, who attended the

meeting. No other persons spoke during the meeting. After further discussion, the Commission voted unanimously to set a public hearing for May 19, 2011.

The Commission again discussed the proposed medical marihuana home occupation ordinance during the May 5, 2011 meeting. In response to discussion during the April 21st meeting, an April 29, 2011 supplemental report was provided that further clarified the four primary topic areas: 1) home occupation permitting (and registration/licensing), 2) home occupation versus commercial use issue, 3) marihuana “dispensary” issue, and 4) home occupation distance provisions/requirements/definitions. Attached is a copy of this report.

The Planning Commission convened the public hearing on May 19th. The Commission discussed various aspects of the proposed medical marihuana home occupation ordinance including residential lighting, visiting hours, activities in an accessory building (attached/detached), regulating as a home occupation versus location in a commercial district, commercial dispensaries and related impacts, federal Drug Free School Zone requirements and the intent of the State Act for purposes of ordinance development. Mr. Troy Fleckenstein, 275 West Michigan Avenue, was present and spoke in support of medical marihuana. At the conclusion of the May 19th discussion, the Commission requested additional information regarding two issues: Regulating medical marihuana as a home occupation versus permitting the use in a commercial district and use of an accessory building for medical marihuana purposes. The following information regarding each of these two issues is provided below.

Home Occupation Ordinance Approach

- The personal and confidential relationship between the caregiver and patient as required by the Act is best maintained as a home occupation.
- There is an absence of specific provisions in the Act concerning dispensaries and, as a result, Michigan Courts may conclude that “dispensaries” can be prohibited by local ordinance.
- The operation of commercial dispensaries in other states has been linked to illicit drug activities and related “secondary” effects. Similar issues have been the subject of concern in other Michigan municipalities because some groups have asserted there are ambiguities about distribution in the Act.
- Allowing medical marihuana dispensaries encourages commercial business operations contrary to the intent of the Act. If the intent of the Act was to allow commercial medical marihuana operations, it is believed the Act would have not included the statement “A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the use of medical marihuana.”
- The Justice Department is targeting commercial dispensaries with enforcement activities and not the less intense home occupation-based medical marihuana facilities.
- Impacts associated with of a home-based medical marihuana facility are minimal. The Act specifies that one caregiver can only have up to five patients and no more than one caregiver may occupy a dwelling.
- Consistent with numerous southwest Michigan communities, including Grand Rapids, East Grand Rapids (in process), Kalamazoo, Oshtemo Township (in process), Holland Township, Allegan, Lawton, among others, the home occupation ordinance is the preferred approach.

Accessory Building Issue

- Consistent with a similar provision in the recently adopted a passive home occupation ordinance, prohibiting the use of an accessory building serves to further limit impacts on the adjacent properties and the neighborhood by restricting the medical marihuana activity to the dwelling unit.
- Accessory buildings are unoccupied making them less secure than a locked room located in the dwelling.
- An accessory building is primarily intended for the storage of vehicles and household and exterior property maintenance items. If accessory buildings are not utilized for the intended use, community quality concerns (e.g. parking in yard, outdoor storage of debris, or inoperable vehicles) may result.

IV. RECOMMENDATION

It is recommended that the Planning Commission review the ordinance language, reconvene the public hearing and accept public comment during the June 2, 2011 meeting, and then recommend to City Council approval of Ordinance Amendment No. 10-C, Medical Marihuana Home Occupation.

Attachments: Proposed Medical Marihuana Home Occupation Ordinance
Primary Caregiver Distance Provisions Map
Department of Community Development report dated April 29, 2011

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

THE CITY OF PORTAGE ORDAINS:

That Section 42-129 of Chapter 42, Land Development Regulations, is hereby amended to add Section 42-129(C) as follows:

Section 42-129. Home occupations.

- A. No change.
- B. No change.

C. Medical Marihuana Home Occupation. A primary caregiver acting in compliance with the General Rules of the Michigan Department of Community Health ("General Rules"), the Michigan Medical Marihuana Act, P.A.2008, Initiated Law, MCL 333.26421, et. seq., (the "Act") and the requirements of this section, shall only be allowed as a home occupation. The conditions and requirements contained in Section 42-129(A) and (B) (Passive and Active Home Occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The Act was passed by Michigan Voters through the initiative process. Both the summary of the Act appearing on the ballot and the Act as a whole reflect an intent to create a private and confidential patient/caregiver relationship to facilitate the lawful cultivation, distribution and use of marihuana strictly for medical purposes. The Act does not authorize the broad legalization of the cultivation, distribution or use of marihuana and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law. A primary caregiver may assist only a qualifying patient to whom he or she is connected through the Department of Community Health's ("Department") registration process for the medical use of marihuana. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the General Rules of the Department as they may be amended from time to time.
2. The home occupation shall only be conducted in a dwelling unit (as defined by the Zoning Code) where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient)
 - b. Possesses up to the maximum amount of marihuana permitted by the Act (2.5 ounces for each qualifying patient), including any incidental amounts of seed, stalks and unusable roots; and

- c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of 5) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the Department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited.

3. The following shall apply to a primary caregiver conducting a home occupation under this section:

- a. To ensure community compliance with the federal "Drug Free School Zone" requirements, the home occupation shall not be located:
 - i. Within one thousand (1,000) feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or housing facility owned by a public housing authority; or
 - ii. Within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility.
- b. Measurements for purposes of Section 3(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using a straight line without regard to intervening structures or objects. "Zoning lot" is defined by Article 42, Section 42-112, Definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in Section 3(a) above, as well as the protected areas, is available for review in the Department of Community Development at the Portage City Hall and on the City's website under the Department of Community Development.
- c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.

4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.

5. All medical marihuana plants shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary

caregiver or qualifying patient. The home occupation shall not be conducted in an attached or detached accessory building or structure.

6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with Article 4, Chapter 24 Noise, Article 5, Chapter 24 Safety, Sanitation and Health as well as Article 14, Chapter 42 Housing/Property Maintenance Code.
7. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
8. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than 5 qualifying patients may visit the site at any one time.
9. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
10. There shall be no sign of any nature identifying the home occupation and the use of window displays are not permitted.
11. Nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for, growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the General Rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

12. Definitions. As used in this section:

a. MARIHUANA

This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

b. PRIMARY CAREGIVER

A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

c. QUALIFYING PATIENT

A person who has been diagnosed by a physician as having a debilitating medical condition.

d. REGISTRY IDENTIFICATION CARD

A document issued by the Department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

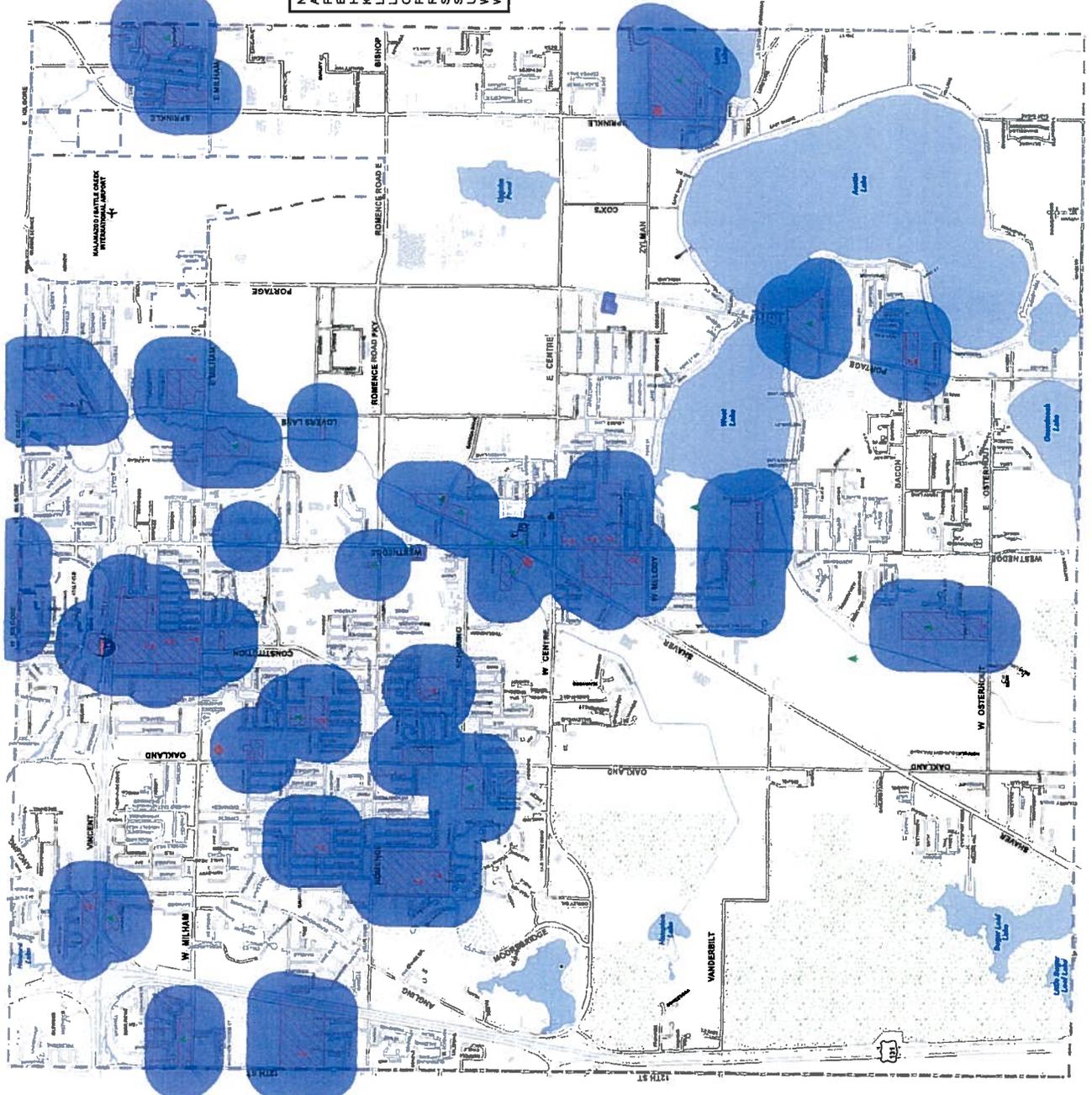
I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

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

Approved as to form
Date: _____

City Attorney

Proposed Medical Marihuana Primary Caregiver Distance Provisions



NAME	ADDRESS	TYPE	DISTANCE
ALL PORTAGE PUBLIC SCHOOLS		SCHOOL	1000
PORTAGE PARKS		PARK	1000
EMPIRE BEAUTY SCHOOL	609 CONSTITUTION	SCHOOL	1000
HACKETT CATHOLIC CENTRAL H.S.	1000 W KILGORE RD	SCHOOL	1000
KALAMAZOO ACADEMY, INC	4221 E MILHAM AV	SCHOOL	1000
LAZAR LAND	8302 PORTAGE RD	ARCADE	100
LOT NORRIS H.S.	E KILGORE	SCHOOL	1000
ROSEBUD ACADEMY	OAKLAND DR	SCHOOL	1000
ROSEBUD FAMILY FUN CENTER	7206 S WESTNEDGE AV	ARCADE	100
ST MICHAEL LUTHERAN CHURCH SCHOOL	9233 S WESTNEDGE AV	SCHOOL	1000
ST MONICA SCHOOL	211 W KILGORE DR	SCHOOL	1000
UNIVERSITY OF PHOENIX	531 W KILGORE DR	SCHOOL	1000
WOODSEDGE LEARNING CENTER (KRESA)	950 TRADE CENTRE WA	HIGHER ED	1000
WRIGHT BEAUTY ACADEMY	4501 E MILHAM AV	SCHOOL	1000
	6866 LOVERS LN	SCHOOL	1000

Excluded Areas for Primary Caregiver
 Schools, Parks etc.
 City Boundary
 State Game Area



 1 in = 0.59 miles
 Date: 4/28/2011

TO: Planning Commission

DATE: April 29, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Report: Proposed Medical Marihuana Home Occupation Ordinance

At the April 21, 2011 meeting, the proposed medical marihuana home occupation ordinance that was recommended by the City Administration committee (committee) and referred to the Planning Commission by City Council was discussed. The committee is comprised of Attorney Brown and Attorney Bear, Police Chief White, City Manager Evans and me. The committee members, each with areas of expertise – public safety, the legalities of ordinance language, public administration, community planning perspective, and so forth – have dedicated significant time over a number of months to carefully review the subject and a recommended approach for consideration. Copies of the City Council transmittals and the draft ordinance proposal were provided as information. The major provisions of the Michigan Medical Marihuana Act (“Act”), the proposed regulatory framework of the ordinance and the basis for the recommended ordinance were reviewed.

After presenting the City Council transmittals, proposed ordinance and related materials, staff and the planning commissioners discussed the information and heard comments from Mr. Chiles, who attended the meeting and voluntarily disclosed that he is a registered medical marihuana caregiver and patient. No other persons were present at the meeting.

Following is information in response to the discussion at the April 21st meeting that is intended to provide responses to commissioner inquiries and to provide further clarification of the proposal. Four topic areas have been identified based on the Commission discussion including home occupation permitting (and registration/licensing), the home occupation versus commercial use issue, the marihuana “dispensary” issue, and the home occupation distance provisions/requirements/definitions in the proposal.

1. Home Occupation Permitting (and registration/licensing)

The proposal presented to the Commission accommodates the statutory-allowed use of medicinal marihuana as a home occupation in a manner similar to the “passive” category of home occupation recently incorporated into the Zoning Code. No permit would be required, and from a legal perspective, a permit requirement may increase the risks that the confidentiality provisions in the Act may be violated. As discussed with the Commission at the April 21st meeting, the Act sets forth the intent that the relationship is a private/confidential one and the transfer of medical marihuana should be conducted within the strict limits of this relationship. The home occupation activity, as an accessory use to a residential use, is most appropriate to further this stated intention. Additionally, given the privacy and confidentiality provisions contained in the Act, the committee is of the opinion that requirements for a permit, registration, or licensing, are problematic. Storing and keeping caregiver and patient information could result in criminal and monetary sanctions upon release of confidential information: This burden and potential liability to the city is not acceptable. Further, to enforce the ordinance provisions should a complaint be received, it is recognized that research and review will be necessary. This review and research is required regardless of whether or not a permit, registration or licensing is required or granted. Recall that the Act grants immunity from arrest, prosecution and penalty to primary caregivers and qualifying patients who possess registry identification cards for the medical use of marihuana. Compliance with local ordinance provisions will still be necessary, however. Given the variety of issues that are involved, the required research and review is complex and is best conducted by the city police agency and city planning staff in conjunction with the Office of the City Attorney. As the commissioners may know, this joint effort to

administer and enforce the ordinance, should it be necessary, is acknowledged and also incorporated into Section 2-319 Penalty, of the moratorium ordinance adopted by Council.

As final comments on this topic area, the home occupation approach has been successfully used in other communities. The proposed ordinance is similar to the adopted City of Kalamazoo medical marihuana home occupation ordinance. As also discussed and as pertains to all other local ordinances, the responsibility to understand the provisions of the ordinance rests with the medical marihuana caregiver and patient. The proposed ordinance does not regulate the “use” of marihuana and, therefore, the use of marihuana by persons is subject to criminal prosecution if not in compliance with the Act. While the Act is silent as to the authority of municipalities, if no ordinance were adopted, the absence of regulation of the activities of a primary caregiver under the Act could result in undesirable conditions/community impacts associated with this Schedule 1 Controlled Substance, as further discussed below. Given the likelihood that definitive court decisions and/or action by the Michigan Legislature is potentially years away, adopting this ordinance is the preferred option. Also, should the courts and/or legislature further clarify the Act in the future, review of the local ordinance would be accomplished and appropriate changes considered and made as necessary.

2. Home Occupation Versus Commercial Use Issue

Consistent with the Act, the proposed ordinance would regulate the distribution of medical marihuana by a primary caregiver for up to five qualifying patients only. As mentioned, 61% of Portage voters approved this limited, legal use of marihuana by qualifying patients who have a debilitating medical condition. With the clear intent of the Act, which narrowly tailors protections to qualified persons for certain narrowly defined medicinal purposes, the proposed ordinance would not allow dispensaries, or other form of caregiver- or patient-to-patient transfer of marihuana. The Act requires the qualifying patients to be “connected” to a primary caregiver through a State registration process and allows the primary caregiver to have up to 2.5 ounces of marihuana, as well as 12 plants, for each qualifying patient. The Act also states that the primary caregiver can only receive “compensation for costs.”

Importantly, the recommended home occupation approach allows the city to avoid issues associated with “business” activities and the “secondary” effects that are referenced in the Michigan Municipal League-commissioned White Paper. These “secondary” effects could be associated with, for example, the operation of a business-like “dispensary” or multiple “dispensaries” in various business zones potentially involving multiple caregivers/patients. It is the opinion of the committee that a regulation confining primary caregiver activities only to commercial, or other similar districts, with the restriction of five qualifying patients, would not be economically feasible. The development of dispensary “business” activities is problematic, and as again emphasized, is not consistent with the personal/confidential relationship that is intended and clearly conveyed by the Act.

3. Marihuana Dispensary Issue (and patient-to-patient transfers)

Although this topic area is also related to the topic addressed in #2, the Act lacks specific direction regarding the dispensation of medical marihuana. While some groups continue to argue that the Act permits the distribution of marihuana by a primary caregiver to more than five qualifying patients as well as patient-to-patient transfers, or as a “dispensary” activity, the committee is of the opinion that this is not permitted by the Act. There is an absence of specific provisions in the Act concerning “dispensaries.” This fact can very well mean that it is more likely for Michigan Courts to find that “dispensaries” can be prohibited by local ordinance. As previously conveyed in the communication to City Council, the advantages to the proposed ordinance include the prohibition of commercial dispensaries and prevention of the potential for illicit drug activities and related “secondary” effects referenced above that have been reported by law enforcement officials in California. Similar issues have been the subject of concern in other Michigan municipalities because some groups have asserted that there are ambiguities about distribution in the Act. Nonetheless, per the proposed ordinance, “dispensaries” would not be permitted in Portage.

4. Home Occupation Distance Provisions/Requirements/Definitions

As discussed with the commissioners, the regulatory provisions in the proposed ordinance are self explanatory. Certain standards address several operational issues (activity must be in the main residential structure, lighting requirements, nuisance regulations and sign prohibitions). Location standards are proposed that establish minimum distances from schools, youth centers and other specified uses. As mentioned during the meeting, these provisions were continuing to be refined. Under the proposed ordinance, which would not require the primary caregiver to obtain a permit, or register, the ordinance requirements would be enforced should a complaint be received about the home occupation. As referenced above, the home occupation approach is preferred based on the language in the Act. Additionally, enforcement, when needed, will require joint action of the city police agency, city planning staff and the city attorney. In this coordinated effort, effective administration and assuring compliance with the ordinance requirements can be accomplished.

With regard to refinements in the proposed ordinance, the distance provisions have been further clarified. The distance provisions are best established using the federal Drug Free School Zone provisions. Attached is a copy of the modifications to Section 42-129 C. 3. Essentially, the distance provisions will apply to the specified protected uses/facilities. Removed from the proposed ordinance are adult regulated uses and public community centers (there are none of either in Portage). Also removed from the ordinance are day care facilities and other primary caregivers conducting a home occupation under this section (to be consistent with the intent of the Act establishing the private/confidential caregiver-patient relationship). Use of the federal Drug Free School Zone provisions serves to standardize this element and provide consistent guidance concerning the proposed ordinance. While using the federal Drug Free School Zone provisions is a conservative approach, it is used by other Michigan municipalities and is believed to be appropriate in this community. The refined distance provisions that involve a number of identified, protected uses/facilities can be viewed on the attached Distance Provisions Map, which shows the protected uses/facilities and the corresponding excluded areas.

Conclusion

As conveyed to the Commission, the proposed ordinance has been developed in consideration of how medical marihuana would be distributed, the language of the Act, other ordinances passed by other municipalities, the potential impact on the community and taking into account law enforcement issues. Banning the use of medical marihuana, as four Michigan communities have done, is clearly inconsistent with the Act and would invite unwarranted litigation. Also, it is not known when the appellate courts will decide the relevant legal issues and/or the legislature will "fix" the Act. However, it is prudent to move forward with the proposed home occupation approach, which is similar to ordinances that have been adopted in other Michigan communities. It is recognized that future revisions may be necessary as appellate court decisions or legislative actions occur.

As requested by the Commission, following is the link to the White Paper on the internet, which can be found at <http://www.mama-online.org/sites/default/files/mimedicalmarijuanawhitepaper.pdf>. Commissioners may view the information, print all or the relevant sections, or staff can provide a copy upon request.

Department of Community Development staff and the Office of the City Attorney will be present at the upcoming meeting to further discuss this issue with the commissioners in advance of the scheduled May 19th public hearing.

Attachments

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 3, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Trade Centre Way Relocation Project #997-R.

ACTION RECOMMENDED: That City Council adopt Resolution No. 4 for the Trade Centre Way Relocation Project #997-R, setting a public hearing on the Assessment Roll for June 28, 2011.

Attached is Special Assessment Resolution No. 4 for the Trade Centre Way Relocation Project #997-R. Previous City Council actions relating to this project include:

- On April 26, 2011, City Council adopted Resolution No. 1 on this project, accepted the City Manager Report dated April 15, 2011, and requested preparation of Resolution No. 2.
- On May 10, 2011, City Council adopted Resolution No. 2 on this project, setting a public hearing of necessity on May 24, 2011.
- On May 24, 2011, City Council adopted Resolution No. 3 on this project, directing the preparation of the Assessment Rolls.

It is recommended that City Council adopt Resolution No. 4 for the Trade Centre Way Resolution Project #997-R, setting a public hearing on the Assessment Roll for June 28, 2011.

Attachment: Resolution No. 4 for the Trade Centre Way Relocation Project #997-R

**CITY OF PORTAGE
SPECIAL ASSESSMENT RESOLUTION NO. 4
TRADE CENTRE WAY RELOCATION PROJECT #997-R**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan held at the City Hall in said City on the ____ day of _____, 2011 at 7:30 p.m., local time.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and seconded by:

Councilmember: _____.

WHEREAS, the City Assessor has, pursuant to resolution of the City Council, and in accordance with the provisions of the Special Assessment Ordinance of the City, prepared a Special Assessment Roll and has filed the same with the City Clerk for presentation to the City Council for review and certification for the hereinafter described public improvement:

Reconstruct Trade Centre Way from West Fork crossing to South Westnedge Avenue including the relocation of the Trade Centre Way/West Fork Crossing intersection along with the necessary utility relocations and adjustments.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said Special Assessment Roll shall be filed with the office of the City Clerk and shall be available for public inspection during regular working hours on regular working days.

2. The City Council shall meet on the ____ day of _____, 2011 at 7:30 p.m., local time, or as soon thereafter as may be heard, in the City Hall in said City to review said Special Assessment Roll and hear any objections thereto.

3. The City Clerk shall cause notice of the filing of said Special Assessment Roll and of the time and place of said meeting to be mailed and published in accordance with the requirements of the Charter and the Special Assessment Ordinance of the City of Portage; said notice shall be in substantially the form attached hereto as Exhibit "A".

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

YEAS: Councilmember: _____

NAYS: Councilmember: _____

ABSENT: Councilmember: _____

RESOLUTION DECLARED ADOPTED:

James R. Hudson
City Clerk

STATE OF MICHIGAN)
)ss
COUNTY OF KALAMAZOO)

I, the undersigned duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the _____ day of _____, 2011, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this ___ day of _____, 2011.

James R. Hudson
City Clerk

PREPARED BY:
Randall L. Brown
Portage City Attorney
1662 East Centre Avenue
Portage, Michigan 49002

Approved as to Form:
Date: 01/10/14
By: [Signature]
City Attorney

EXHIBIT "A"

**CITY OF PORTAGE, MICHIGAN
NOTICE OF PUBLIC HEARING TO REVIEW SPECIAL ASSESSMENT ROLL FOR
TRADE CENTRE WAY RELOCATION PROJECT #997-R**

TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY:

PLEASE TAKE NOTICE that the City Council of the City of Portage has declared its intention to proceed with the following described public improvement:

Reconstruct Trade Centre Way from West Fork crossing to South Westnedge Avenue including the relocation of the Trade Centre Way/West Fork Crossing intersection along with the necessary utility relocations and adjustments.

and has designated the Special Assessment District against which all or a part of the cost of said improvement is to be assessed as consisting of all the following described land, to wit:

Unplatted Land: Part of the Northeast quarter of section 4, town 3 South, range 11 West, City of Portage, Kalamazoo County, Michigan, described as: Commencing at the East quarter post of said section 4; Thence North 00 degrees 10'32" East on the East line of said section 4 a distance of 650.43 feet to the North line of the assessor's plat of DeBoer Homestead Acres, according to the plat thereof as recorded in liber 14 of plats, page 6, Kalamazoo County records, said North line being previously referred to as the North line of the North half of the South half of the South half of the Northeast quarter of said section 4; Thence North 89 degrees 55' 00" West on said North plat line 759.22 feet to the Northeast corner of lot 67, of said assessor's plat of DeBoer Homestead Acres and the point of beginning of the land herein described: Thence South on the East line of said lot 67 and on said East line extended a distance of 198.00 feet to the South line of De Haan Drive; Thence North 89 degrees 55' 00" West on said South line extended 9.18 feet; Thence South 15 degrees 05' 00" West 74.17 feet; Thence Southwesterly 92.45 feet On a 124.00 foot radius curve to the right whose chord bears south 36 degrees 26' 36" West 90.33 feet; Thence South 57 degrees 48' 12" West 163.83 feet; Thence Southwesterly 243.48 feet on a 424.00 foot radius curve to the right whose chord bears South 74 degrees 15' 16" West 240.15 feet; Thence North 89 degrees 17' 40" West 181.89 feet; Thence North 84 degrees 43' 14" West 688.21 feet; Thence North 05 degrees 51' 51" East 433.28 feet to the Westerly extension of the North line of said DeBoer Homestead Acres; Thence South 89 degrees 55' 00" East on said North line extended 1,274.81 feet to the point of beginning and ending of the above described.

Platted Land: Lots 64 through 65 inclusive as originally recorded in the plat of DeBoer Homestead Acres in liber 14 of plats page 6 Kalamazoo County records.

PLEASE TAKE NOTICE that a Special Assessment Roll has been prepared and is on file in the office of the City Clerk for public examination during regular working hours on regular working days; said Special Assessment Roll has been prepared for the purpose of defraying that part of the cost which the City Council has decided should be paid and borne by the Special Assessment for the above described public improvement project in the City of Portage.

PLEASE TAKE NOTICE that the City Council will meet on the ____ day of _____, 2011 at 7:30 p.m., local time, or as soon thereafter as may be heard, in the City Hall in said City for the purpose of reviewing the Special Assessment Roll, at which time and place an opportunity will be given to all persons interested to be heard.

PLEASE TAKE FURTHER NOTICE that the owner or any person having an interest in property that is specially assessed may file a written appeal with the Michigan Tax Tribunal within 30 days after confirmation of the special assessment roll. However, appearance and protest at the public hearing are required in order to appeal the special assessment to the Michigan Tax Tribunal. An owner or other party in interest or his or her agent may (1) appear in person at the hearing to protest the special assessment or (2) file his or her appearance or protest by letter before the close of the hearing. The City Council shall maintain a record of parties who appear to protest at the hearing. If the hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded shall be considered to have protested the special assessment in person.

Dated: _____, 2011

James R. Hudson
City Clerk

Z:\Jody\PORTAGE\SPECIAL\SPEC#4.997-R.wpd

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 3, 2011

FROM: Maurice S. Evans, City Manager

MS

SUBJECT: Delinquent Water and Sewer Bills

ACTION RECOMMENDED: That City Council order notice to applicable property owners that all water and/or sewer charges remaining unpaid as of June 30, 2011 will be transferred to the 2011 city tax roll and assessed against property for which the services were furnished.

The City Manager is required to report to City Council on an annual basis those water and sewer bills which are unpaid as of March 31. In accordance with this requirement, unpaid accounts considered uncollectible by the Finance Director total \$52,588.54. A listing is attached showing all delinquent accounts. For each of these accounts, collection efforts have not resulted in payment. State law requires the charges to stay with the location.

According to City Ordinance, the unpaid accounts are to be transferred to the city tax roll and assessed against properties to which the services are provided. Action by City Council to order notice to all applicable property owners that all unpaid water and/or sewer charges will be transferred to the 2011 city tax roll is requested to set the process in motion.

c: Daniel S. Foecking, Finance Director
Robert Luders, Financial Services Director

Attachment

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
THOMAS, ANGELNETTE	5706 DEERFIELD ST	212.51
CHRISTIE, STUART	210 AMOS AV	129.90
HARRIS, HENRY	302 BOSTON AV	48.81
CARPENTER, NEIL A	414 RUTH ST	39.44
HASKE, TIFFANIE	429 BOSTON AV	20.79
MARIAN PRE-B, DONALD	4867 CHASEMOOR DR	140.03
TAYLOR PRE-B, CAROL	7714 PRIMROSE LN	131.86
BUSSING, EUGENE	503 MARIGOLD AV	22.15
FRELIN, RALPH	202 E VAN HOESEN BL	390.31
GERGER, MARK	7233 PRESTWICK LN	498.86
ACTON, MARK A	808 SUNBRIGHT AV	59.00
EBERSTEIN, DANEEN	1002 KARENDALE AV	62.43
THRASHER, CONNIE	1021 ORCHARD DR	152.21
KEYS, ARNOLD L.	1103 SCHURING RD	45.06
MARKS, WILLIAM J	1220 FOREST DR	5.56
BROWN JR, JOHN W	1423 ORCHARD DR	430.15
EVANS, LISA	1427 LAKE AV	114.15
BARR PRE-B, KELLY	1615 KINGSBURY DR	409.06
NORRIS, ALBERT	1619 ROMENCE RD	12.96
CLARK, RICHARD	1820 PLEASANT DR	38.60
ALLRED, CYNTHIA	2007 FAIRFIELD RD	24.51
SMITH, SCOTT B	2012 INDIAN RD	342.57
FARRELL, TOM	2207 EWING AV	104.14
QUICK PRE-B, RICHELLE	2320 CURTIS AV	470.46
WAGNER PRE-B, TROY	7385 HAMPSTEAD LN	466.93
HEATH, DAWAYNE	2608 BEETHOVEN AV	430.15
ROMING, ARTHUR	2626 STANLEY AV	91.05
CLINE, DANA	7540 RAVENSWOOD DR	396.87

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
DALE, MONIQUE	3321 WEDGWOOD DR	162.61
BAKHUYZEN PRE-B, MICHAEL	3805 FLORINDA AV	288.50
SKILES, BARRY & VALERIE	1830 GREENVIEW AV	149.60
BUSH, LAWRENCE	5203 ALLARDOWNE ST	561.00
COOPER, KATHY	5229 GROSSE POINTE ST	169.92
DIXON, LATICIA	5328 WISTERIA ST	93.67
CLEVELAND, MARK A & C N	5336 AZALEA ST	60.94
BRYE, MIKE	5728 DOWNING ST	137.10
BISHOP, CHRISTOPHER M &	5734 MT VERNON AV	59.59
STORCH PRE-B, MARILYN	5739 MONTICELLO AV	75.94
HAYES, MICHELLE	5225 WINDYRIDGE DR	172.70
HODKINS, DANIEL	5812 OHIO AV	41.68
RICHTER, CHARLES	5908 MONTICELLO AV	86.14
HUGHSON, SAMUEL	5928 DAKOTA AV	74.47
GERSTNER, RICHARD	6235 S 12TH ST	209.69
HARRIGAN, MICHAEL	6404 SURREY ST	9.04
COLE, JULIE	3014 TATTERSALL RD	472.04
COON PRE-B, MICHAEL	6630 ISABELLE ST	227.93
COOK, WILLIAM	6632 WESTCHESTER ST	99.82
HIATT, RICHARD	6871 CREST POINT CT	75.07
CLARK, ELLEN	6749 CORNELL ST	9.57
MERLIN MUFFLER	6841 S WESTNEDGE AV	378.70
COMPTON, PAUL L & KAREN	7105 S 12TH ST	6.11
RE/MAX ADVANTAGE	7127 S WESTNEDGE AV	14.03
LOWE, DOUGLAS	7222 LEAWOOD ST	430.15
PALMORE, CLEOPHIA & BESS	7229 BALFOUR DR	6.06
RUSSELL, ROBIN	7238 BALFOUR DR	333.36

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
FULLING, SUSAN	7266 JAMAICA LN	14.62
VANDELINDE, G. J.	7312 CAPRI ST	228.26
NEYLAND, NADINE	7334 HAMPSTEAD LN	97.21
BOLHUIS, DAN	7704 GARDEN LN	73.13
FULLER COMMUNICATIONS IN	7804 S SPRINKLE RD	102.84
HOSBEIN, HENRY & JILL	8113 BROOKWOOD DR	283.77
GOFF, MIKE	8331 TRANQUIL ST	119.94
MATHIS, ANN	8333 BRUNING ST	194.43
KONING, LINDA	8424 OAKSIDE ST	12.55
PHILLIPS, NANCY	8446 NEWELL'S LN	7.27
MILLER, CARL	8811 PORTAGE RD	430.15
MILLER, CARL	8817 PORTAGE RD	430.15
ALEXANDER, JOSEPH	9510 S WESTNEDGE AV	258.82
POOL, KATHY	9511 CORDUROY ST	40.58
DOYLE, JAMES T	10419 DEWBERRY ST	426.90
GREEN, CHARLES O	10616 OAKLAND DR	7.12
RUPERT, RICK AND SHELIA	10912 S WESTNEDGE AV	134.31
MCINTOSH, DUBOIS	5144 WOODMONT DR	476.55
BRUMLEY, DONALD	7029 WINTER FOREST DR	30.90
SMITH, ADAM	4729 ROMENCE RD	413.19
BOYER, NICKOLAS & MARY	7320 STARBROOK ST	19.09
OLSON, RICK	601 BEAUVOIS AV	32.01
PATERALA, EDWARD	8123 WAYLEE ST	150.46
ARGONDELIS BUILDERS LLC	1222 CHAUCER AV	1,495.37
THOMAS, HAROLD & SHERYL	7755 CHIPPEWA ST	19.43
SUPERIOR REAL ESTATE INV	10332 PORTAGE RD	98.11
TOMPKINS, DANIEL A	7742 PICKERING ST	80.39
FLOWERS, DAVID C	5812 DAKOTA AV	101.93

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
PARKS, CINDY	227 GABARDINE AV	430.15
CLEVELAND, DOUGLAS	6910 BRATCHER ST	41.77
LEWIS, EVELYN	5747 NEVADA AV	253.59
THRASH, GEORGE	5010 MORNINGSIDE DR	441.15
HITE, RICK	8536 LOVERS LN	217.44
BROWN, CHESTER	1418 ORCHARD DR	84.13
SCHAUER, ROBERT T.	5011 STONEHENGE DR	219.16
GONSER, JOHN & TONYA	4860 E CENTRE AV	23.23
CLELAND, TOM	5526 CHATHAM ST	110.41
WHITTAKER, JOEL	5621 S SPRINKLE RD	58.83
TAVERNA, THOMAS	5105 BRONSON BL	1,191.64
WHITE, KILOLO	4718 CEDARCREST AV	166.41
HARPOLE, SHARLA	205 AMOS AV	52.34
PAVEY, JOSHUA	810 DRURY LN	260.82
COLBERT, CORY	1911 PROSPERITY DR	25.76
BURCH, CLAY	5577 HEDGEWOOD ST	998.49
OCCUPANT-5919 DAKOTA	5919 DAKOTA AV	614.39
GARRISON, KATHLEEN	824 ROMENCE RD	58.54
BEAUDRIE, CHRISTY	5904 DAKOTA AV	154.61
SHEARS, JAMES	703 FLAMINGO AV	95.33
WEISZER, MARK	1630 SCHURING RD	159.38
MOORE, CARRIE	5105 EVANS ST	271.98
GONZALEZ, NORMA	6843 ISABELLE ST	277.81
GABEL, VALARIE	7068 VENICE DR	586.80
LOZON, ERNEST	1523 ORCHARD DR	50.93
MATEUS, ANITA	7173 PROVENCE DR	156.70
VERNON, ANDREW & CODI	5369 E Q AV	103.74
OERTEL, ETHAN & MELISSA	10648 OAKLAND DR	248.53

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
SUNNY PETROLEUM, INC.	4824 W MILHAM AV	108.76
BREESE, ANN MARIE	2002 INDIAN RD	296.41
CROUCH, CHARLENE A	5038 ALLARDOWNE ST	59.35
BEAM, RICHARD & JENNIFER	4653 CHASEMOOR DR	448.31
NEFF, TODD	4416 E MILHAM AV	372.81
HOFFER, KEVIN	7059 PROVENCE DR	550.60
ESTRADA, BRIAN	5327 WISTERIA ST	341.23
HUGHES, RONDA	224 AMOS AV	145.28
MORIN, JAMES	1786 GREENBRIAR DR	198.20
LEWIS-BRAUSSARD, KATHERY	5229 SHAGBARK CT	271.75
BATES, SAMANTHIA	4417 FALLOW AV	222.22
KENNEY, DORCAS G	602 LANDSDOWNE AV	48.73
EVERT, DONALD	5710 MEREDITH ST	74.00
OCCUPANT - 3716 WOODHAMS	3716 WOODHAMS AV	26.27
DECKER, BART D.	7822 JULIE DR	157.16
BUNN, CARLA	605 W VAN HOESEN BL	199.33
O'MELL, ROBERT	9718 WOODLAWN DR	364.88
YOAKUM, LISA	9443 CHAMBRAY ST	157.13
RANNEY, JACOB	2304 BENDER RD	226.15
SALGAT, DANIEL	1710 APPLE ST	237.41
CATO, CHRISTOPHER	2414 WOODY NOLL DR	37.40
MANGAT, DALBARA	4713 W MILHAM AV	353.89
NEEDHAM, JODI	1402 ORCHARD DR	254.10
BALL (AVIS), MOLLY	906 KARENDALE AV	259.90
FERREL, MATTHEW	413 NEW HAMPSHIRE DR	16.16
KING, OLIVIA	5419 CIRCLEWOOD WEST DR	148.57
HANNAHS, JOSHUA	325 ANDY AV	216.76
MACLEAN, JENNIFER	4218 WINTHROP AV	133.72

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
BAY, BRIAN	10019 MOZART ST	163.84
GONZALEZ, JOSE G	1324 E KILGORE RD	496.36
THOMAS, TERRY &	4890 NORFOLK CR	183.42
HOYAT, MAIN	7311 SALERNO CR	804.68
WHITE, MARY	1614 ROMENCE RD	29.08
PARKER PRE-B, STEVEN J	10400 OAKLAND DR	167.02
STEWART, BECKY	706 KARENDALE AV	563.93
KELLER, JASON	718 SOUTHLAND AV	574.52
MSR PARTNERSHIP LLC	10047 SHAVER RD	452.55
NAZARIANS, JEFF	2105 ECKENER DR	120.42
MORSE, SHAWN	1026 BACON AV	49.32
HANSEN, RUTH	2304 RAMONA AV	57.63
WALDEN, ANNETTE	6826 BRATCHER ST	146.24
NIMMO, SAM	1110 SOUTH SHORE DR	331.77
SORRELS, REBECCA	5526 CHATHAM ST	150.08
LEVERSEE, SHARI	2801 BROOKHAVEN DR	240.19
YODER PRE-B, ANDREW	8143 LAKE WOOD DR	155.35
GARCIA-GEWIRTZ, BARBARA	5745 MEREDITH ST	139.48
BURCHETTE, BRANDIS	5341 PLATEAU ST	143.73
HAMILTON, DIANE	5386 E Q AV	13.15
HAMILTON PRE-B, JEFF	5615 DEERFIELD ST	94.34
WATKINS, VICTOR	5924 DAKOTA AV	63.63
MIFSUD, ROBERT & KIMBERL	4700 MARCEL AV	270.27
HURD, LORI	306 E MILHAM AV	150.63
KAISER, DEVIN	5727 BAY MEADOW TR	387.11
GARCIA, MARC A	4611 SALZBURG CR	219.98
GAILLAT PRE-B, ANA	1317 WOODLAND DR	24.51
BORSTLER, MANDY	4328 BEECHMOUNT AV	140.34

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
EDWARDS PRE-B, VERNON	5602 ROANOKE ST	181.36
BROWN, ASHLEY	1719 BYRD DR	91.56
MONTGOMERY, TRACY	611 DELLA ST	179.26
ROLEN, WILLIAM	1609 W KILGORE RD	514.09
RESIDENTIAL OPPORTUNITIE	765 BARRINGTON DR	24.23
RESIDENTIAL OPPORTUNITIE	770 BARRINGTON DR	47.21
RESIDENTIAL OPPORTUNITIE	850 BARRINGTON DR	39.55
RESIDENTIAL OPPORTUNITIE	865 BARRINGTON DR	39.55
RESIDENTIAL OPPORTUNITIE	880 BARRINGTON DR	31.89
STREICH, ANGIE	7250 BALFOUR DR	295.64
CK ENTERPRISE	7616 S WESTNEDGE AV	40.00
SUPERIOR LAWN MAINTENANC	922 SCHURING RD	180.99
MILLIKEN, WILLIAM	7707 S SPRINKLE RD	58.22
MONGEON, GREG	652 SOUTH SHORE DR	201.85
MARTIN, BETHANN	1724 SOUTH SHORE DR	12.29
TUSTIN, ROXANN	9704 WOODLAWN DR	186.88
OCCUPANT-520 GABARDINE	520 GABARDINE AV	159.52
PARKER, CINDI	1830 THRUSHWOOD AV	269.60
MENKEN, KELLY	2235 CHORAL AV	274.59
STEWART, BERTHA	6631 PLEASANTVIEW DR	421.31
BURDICK, BRUCE	7827 OAKLAND DR	207.75
KASISCHKE, KEVIN	5445 LOVERS LN	422.82
HOLLISTER, ALAN	5804 MISSOURI AV	105.38
HOWELL, JEFFERSON SCOTT	4630 ASHTON FARMS BL	258.11
LEGALLEY, MINDY	8510 OAKSIDE ST	430.15
MISTICH, ANTHONY	1901 LANSING AV	261.17
PIKE, SHELLEY	5830 DEERFIELD ST	268.10
WALKER, YOLANDA	316 AMOS AV	98.73

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
URIE, KIRA OR WILL	1130 E OSTERHOUT AV	296.69
ALEXANDER, VICKI	5536 DEERFIELD ST	21.91
OCCUPANT - 1220 E. OSTER	1220 E OSTERHOUT AV	430.15
BROWN, KELLY & ROBERT	7120 WRENBURY ST	117.98
ROTH, JOSHUA	7284 MARFIELD ST	5.51
ROCHA, LYNETTE	5911 NEVADA AV	414.41
STASFFEN, ANTHONY	7816 LAKE WOOD DR	136.72
GALE, MICHAEL	5536 DEERFIELD ST	139.94
TRAMEL, DIANE	4734 GENEVA AV	407.66
MULDER, JAMIE	4705 WESTFIELD AV	223.01
ROBINSON, CLAUDIA	5914 DAKOTA AV	15.27
TYLER-WHEELER, AMBER	9946 EAST SHORE DR	145.38
KOSTER, KAITLYN	7426 ANGLING RD	26.22
HARRIS, VANCE	8301 TRANQUIL ST	430.15
HENSON, BARBARA	1910 RAMONA AV	11.32
LYNN, GREGORY	10041 ROGER ST	16.34
EPLEY, CHARLOTTE	1762 GREENBRIAR DR	150.37
BARON, SCOTT	1424 WINTERS DR	92.96
KISH, BRIANNE	8747 WINDWOOD ST	39.47
RINGEL, REBEKAH	1625 FRIENDLY AV	141.89
OWENS, KELLY	6236 MARLOW ST	230.22
GUM SR, TRACY A	8310 BRUNING ST	246.85
MATTIMORE PRE-B, JILL	525 IDAHO AV	404.23
SATYAVARAPU, KARTIK	2132 MANSFIELD AV	13.30
OSTLAND, MATTHEW & BREND	5803 LOVERS LN	86.14
GIESE, TERRI	5643 CHESHIRE ST	151.66
WILCOX, CHRIS	5813 DEERFIELD ST	348.74
HOLEWA, MARY	1808 RAMONA AV	91.57

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
HORVATH, THOMAS	8521 LOVERS LN	144.99
KALISZ, STAN	2619 WOODBINE AV	60.25
SMITH, WENDY	601 BEAUVOIS AV	167.29
MILLS, JENNIFER	5805 OREGON AV	123.21
JOHNSON, NICOLE	1713 REDSTOCK AV	58.67
FETT, MELISSA	5603 MONTICELLO AV	39.39
GUTHRIE, STAN	4508 E MILHAM AV	94.67
SLOSAR, LAUREN	3745 TARTAN CR	7.93
DIXON, GARY	603 LUDGATE LN	57.74
RDW HOLDINGS, LLC	8750 PORTAGE INDUSTRIAL DR	202.03
CLINTON, SHAWN	405 BOSTON AV	148.16
BEHER, EDWARD	406 E CENTRE AV	117.03
SUTTON, SABRINA	5632 ROANOKE ST	216.72
ASHLEY, MARK	1706 BYRD DR	176.58
YAGER, DELORENA	2403 FAIRFIELD RD	425.19
REEVES, RYAN	8841 WARUF AV	104.93
PARHAM, EDWARD	4620 E MILHAM AV	188.20
BRAYBROOKS, DENNY	6839 BRATCHER ST	470.72
HENSON, KRYSTINE	1628 FOREST DR	201.49
BIG DADDY TAXI	9008 PORTAGE RD	63.21
TERRY, CHRISTOPHER	9403 ORGANDY ST	272.50
AYALA, CARMEN	912 E CENTRE AV	59.31
WEBB, NATHAN	408 MARIGOLD AV	614.02
EDWARDS, VERNON LEE	5602 ROANOKE ST	508.94
EDWARD PARHAM	4620 E MILHAM AV	202.14
FINNEY, SHANNON	406 DELLA ST	108.41
MORGAN, MELISSA	304 W VAN HOESEN BL	220.04
GARROD, VIRGINIA	5804 CHESHIRE ST	236.34

2011 TRANSFER UTILITY BALANCE TO TAX

CUSTOMER NAME	LOCATION ADDRESS	DELINQUENT AMOUNT
KEIM, JEFFREY M	5342 AZALEA ST	51.01
CLINE, JIM	2304 BENDER RD	42.64
TEMPLETON, BILL	4888 NORFOLK CR	27.17
FUENTES, DANIAL	5816 CHESHIRE ST	19.93
OLIVER, STEPHANIE	9229 OAKLAND DR	47.35
GUNBERG, BLAIR	7816 LAKE WOOD DR	165.56
THOMAS, JEREMY	520 GABARDINE AV	174.08
CORNER, DUWAYNE E	5419 CIRCLEWOOD WEST DR	366.91
OCCUPANT - 1111 BACON AV	1111 BACON AV	15.72
BAUMGARTNER, ROBIN	7103 ROCKFORD ST	37.36
MC KIBBIN, SCOTT	5915 ROANOKE ST	155.06
BROWN, CHRIS	8180 COPPER OAKS ST	113.69
KEUHLEN, CHERYL	8446 NEWELL'S LN	73.52
ARMSTRONG, RACHEL	6248 LOVERS LN	59.99
BELLABAY REALTY COMPANY	5913 MISSOURI AV	42.70
STREETER, JYTISHA	7409 ROCKFORD ST	18.50
OCCUPANT - 8343 TRANQUIL	8343 TRANQUIL ST	6.75
OCCUPANT - 1410 ORCHARD	1410 ORCHARD DR	5.97
BLAIR, WILLIAM	213 SCHURING RD	26.36
HODGES, JENNIFER	614 E CENTRE AV	<u>21.17</u>
	TOTAL	52,588.54

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 8, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Renewal of Contract for Police Uniform Cleaning

ACTION RECOMMENDED: That City Council approve a one-year extension of the contract with Kal Clean, Inc. (dba Paris Cleaners) for police uniform cleaning services in the amount of up to \$30,000, for the period of June 10, 2011 through June 10, 2012, and authorize the City Manager to execute all documents related to this matter on behalf of the City.

Kal Clean, Inc. (dba Paris Cleaners) has agreed to a one-year extension of the current police uniform cleaning service with no increase in cost. Kal Clean, Inc. has provided satisfactory service with no identifiable problems during previous contract extensions. It is recommended that City Council approve a one-year extension with Kal Clean, Inc., and authorize the City Manager to execute all documents related to the contract extension.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 6, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Eliason Corporation Land Donation

ACTION RECOMMENDED: That City Council accept the donation of 123 acres of land as a preservation area from Mrs. Linda Eliason, in memoriam, subject to finalization of the donation, memorial, land appraisal, title documentation and a Phase I Environmental Assessment.

The City Administration has been approached by Mrs. Linda Eliason about the donation of an approximate 123 acres of land addressed as 9501 Shaver Road. The donor is requesting that the city receive the property as a charitable gift to be used for park/preserve purposes in memory of her spouse. A vicinity map that shows the tract is attached.

The tract is adjacent to city-owned land that was donated in the 1980s by the Jansma and Dekkinga families. This general area is known as "Bishop's Bog," an environmentally sensitive and diverse land area in southwest Michigan that is registered by the Nature Conservancy. In terms of community value, and as additional information, the 2008 Park and Recreation Plan references preservation of natural areas in urbanizing areas and the significant benefits to the community from recreational to flood control functions. The long range goals in the Plan include the preservation of environmentally sensitive areas through acquisition or development control. Innovative approaches are also indicated to maintain/preserve open spaces. Additionally, the donation of the 123 acres would be consistent with the 2011-12 Council Mission Statement and Goals and Objectives, as well as the enhancement of environmental quality and protection of natural resources. The City Administration is supportive of acceptance of the donation.

The City Administration forwarded the proposal to the City Council Ad Hoc Property Committee, which has favorably indicated that the gift be gratefully received.

The charitable gift of this tract by Mrs. Eliason is commendable and very much appreciated. It is recommended that City Council accept the donation of 123 acres of land as a preservation area from Mrs. Linda Eliason, in memoriam, subject to finalization of the donation, memorial, land appraisal, title documentation and a Phase I Environmental Assessment.

Attachment: Vicinity Map



Imagery: March 2009

1 inch = 533 feet

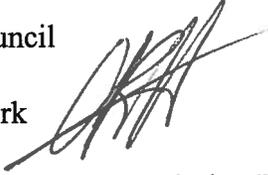
CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 8, 2011

FROM: James R. Hudson, City Clerk



SUBJECT: Local Officers Compensation Commission Report

ACTION RECOMMENDED: That City Council receive the communication from the Local Officers Compensation Commission.

The Local Officers Compensation Commission (LOCC) met on June 7, 2011, to deliberate whether City Council should receive a salary increase or decrease and, if so, in what amount. The attached communication from the LOCC to City Council contains a determination that there be no change to the salaries of City Council or the Mayor.

For informational purposes, according to section 117.5c of the State of Michigan Home Rule City Act, the determinations of the LOCC are effective 30 days following their June 8th filing with the City Clerk unless rejected by a two-thirds majority of the City Council. In case of rejection, the current salaries prevail.

Attachment

c: Maurice S. Evans, City Manager
Daniel Foecking, Finance Director
Robert Luders, Financial Services Director

To: Mayor Strazdas and the Portage City Council
From: Local Officers Compensation Commission
Subject: Elected Official Compensation Review

Date: June 7, 2011



Committee Officers:

Gary Brown, Chairperson. Betty Lee Ongley, Secretary.

Committee Members:

Frances H. Denny, James Graham, Joshua Hill, Michael Stoddard, Norm Terry.

Background

The Local Officers Compensation Commission is appointed by the Mayor as established by City Ordinance to “determine the salaries of all local elected officials.”

Salary History

Following is a brief history of the salary received by the Portage City Council and Mayor

- \$20 per meeting as of – and prior to – April 1975 for the Councilmembers and the Mayor.
- \$25 per meeting as of April 25, 1975, for the Councilmembers and the Mayor.
- \$1300 per year for Councilmembers and \$2300 per year for the Mayor as of August 2, 1977.
- \$4000 per year for Councilmembers and \$6000 per year for the Mayor as of March, 1991.
- \$5000 per year for Councilmembers and \$7500 per year for the Mayor as of June, 2007.
- \$5000 per year for Councilmembers and \$7500 per year for the Mayor as of June, 2009. It was determined that there should be no change.

Committee Discussion

The committee believes there exists a need to fairly compensate the Mayor and the City Councilmembers. The Local Officers Compensation Commission (LOCC) discussed the current economic climate and trends and the fact that membership on the City Council is public service in its truest form. The LOCC deliberated whether or not a pay decrease or increase was in order. The LOCC determined that the best course of action was to maintain salaries at current levels.

Committee Determination

After discussion and deliberation on the subject that the LOCC is charged with, it is the determination of the committee that there be no change to the salaries of members of the City Council and the Mayor.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 10, 2011

FROM: Maurice S. Evans, City Manager

A handwritten signature in black ink, appearing to be 'ME', enclosed in a circle with a long horizontal line extending to the right.

SUBJECT: Closed Session

A closed session is requested immediately following the regularly scheduled Council meeting of Tuesday, June 14, 2011. The purpose of this closed session is to discuss a personnel matter. City Council will reconvene in public session subsequent to completion of the closed session.

CITY OF PORTAGE

PARK BOARD

7900 SOUTH WESTNEDGE AVENUE, PORTAGE, MI 49002

June 9, 2011

Dear Honorable Mayor and City Council Members:

We would like to extend an invitation to an event that is quickly becoming the premier wellness event in our city, *Get Active Portage!* A flyer outlining the event is attached. The event will be hosted at Ramona Park on July 9, 2011 and will encompass several events throughout the day beginning at 8:30 a.m. The event is a joint effort between the Portage Park Board, the City's Parks Department, TriKiva and several local businesses.

The history of *Get Active Portage!* began two years ago when we, along with Lee's Adventure Sports, hosted our first Paddle Fest event. While Paddle Fest is still a major part of the day, *Get Active Portage!* has become much more. Last year, a Health and Wellness Fair was added with 10+ local businesses attending, and this year that number will be increased. Lastly and new this year, the event will include a Youth Triathlon, in cooperation with TriKiva, a nonprofit organization supporting Kiva by hosting triathlons in Kalamazoo County.

This event has grown beyond our expectations. Last year, the weather was great and there were over 300 people that attended the park. If the weather cooperates this year, we are expecting more attendees. We hope that you will join them and the rest of us to celebrate and encourage the health and wellness of our community.

Best regards,



Mike Zajac
Park Board Chair



GET ACTIVE PORTAGE!

A Celebration of Health and Wellness in Our Community

The area's largest health and wellness event of the summer!

Saturday, July 9 - 8:30AM to 2:00PM - Ramona Park

8:30AM



This is far more than a triathlon.

Confidence: All children will *see their potential* as they successfully complete the short triathlon in full.

Goodwill: Every child will be given \$25.00 in credit for use on kiva.org, enabling them to help an entrepreneur in 57 countries while learning the value of giving to others.

To learn more and register, go to

www.trikiva.com

10:30AM



Come paddle in the park!

Jump in: Enjoy the superior-quality kayaks from Lee's Adventure Sports when Paddle Fest begins!

If you enjoy kayaking, then this event is highly encouraged!

Register in the park at

10:00 AM

8:30AM to 2:00PM



Health & Wellness Fair

Engage & Learn: Interact with the local businesses at Ramona Park, who are there because of their commitment to the health and wellness in our community.



CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: June 8, 2011

FROM: Maurice S. Evans, City Manager



SUBJECT: Bid Recommendation – Park Facility Cleaning Maintenance

ACTION RECOMMENDED: That City Council approve the low bid from Too Clean, Incorporated, for cleaning maintenance of park facilities for the period July 1, 2011 through June 30, 2012 in the amount of \$21,630, with an option for a contract renewal up to three years and authorize the City Manager to execute all documents related to this action on behalf of the city.

The Parks Department utilizes the services of a contractor for the cleaning maintenance of park restrooms, enclosed structures and picnic pavilions to ensure that such facilities are in proper condition each day.

Bids were received from two area vendors. This is specialized work, not commonly performed by most janitorial contractors. Too Clean, Incorporated, submitted the low bid of \$21,630 to perform the required services for the period of July 1, 2011 through June 30, 2012, with an option for a contract renewal up to three years. Too Clean is a reputable company that has provided this service for the city for many years. Too Clean understands the city priority to provide quality restroom facilities and is quick to respond to special needs.

It is recommended that City Council approve the low bid submitted by Too Clean, Incorporated, for park facility cleaning maintenance for the period of July 1, 2011 through June 30, 2012, with an option for a contract renewal up to three years and authorize the City Manager to execute all documents related to this action on behalf of the city. Funds are available in the Fiscal Year 2011-2012 Budget for this service. The bid tabulation is attached for the information of City Council.

Attachment

BID TABULATION
CLEANING MAINTENANCE OF PARK RESTROOMS,
PICNIC SHELTERS AND ENCLOSED STRUCTURES

<u>Bidder</u>	<u>Season Total</u>
Too Clean, Inc. 1613 Riverview Kalamazoo, MI 49004	\$21,630.00
Customized Cleaning Services PO Box 245 620 Tanner Lake Rd. Hastings, MI 49058	\$22,654.00

MATERIALS TRANSMITTED

Friday, May 20, 2011

1. Communication from the City Manager regarding the Building Authority Bond Refinancing.
2. Communication from the City Manager responding to Councilmember Randall's request for millage information – Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

MATERIALS TRANSMITTED

Tuesday, May 24, 2011

1. **Supplemental Information to Item F.7 of the May 24, 2011 City Council Agenda:**
Communication from the City Manager regarding an addendum - Response to Comments of David McGavin – Information Only.
2. Communication from the City Manager regarding City Health Insurance Expenditures Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

MATERIALS TRANSMITTED

Friday, May 27, 2011

1. Communication from the City Manager regarding the FY 2011-2012 Budget – Information Only.
2. Communication from the City Manager regarding a Smoking Paraphernalia Complaint Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager