

7:30 p.m. Call to Order.

Invocation: Portage United Church of Christ

Pledge of Allegiance.

Roll Call.

Proclamations: 50<sup>th</sup> Anniversary of the Portage United Church of Christ  
Fair Housing Resolution  
Resolution of Respect for Mayor Engel Corstange

- A. Approval of the March 26, 2013 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 April 9, 2013, as presented.
- D. Public Hearings:
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
  - 1. Presentation of the Fiscal Year 2013-2014 proposed Budget.
  - \* 2. Communication from the City Manager recommending that City Council:
    - a) accept for first reading an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive; and
    - b) take final action on April 23, 2013.
  - \* 3. Communication from the City Manager recommending that City Council set a Special Meeting on Tuesday, May 14, 2013, beginning at 5:15 p.m., to interview board and commission applicants.
  - \* 4. Communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation – Information Only.
  - \* 5. Communication from the Mayor recommending that City Council hold a closed session immediately following the regularly scheduled City Council Meeting of April 9, 2013, to discuss a City Attorney communication.
- G. Communications:
  - 1. Communication from the Planning Commission regarding the City of Portage FY 2013-2023 Capital Improvement Program.
- H. Unfinished Business:
  - \* 1. Communication from the City Manager recommending that City Council relinquish the northerly and southerly 12 feet of an existing easement for drainage, sewage and other public purposes over a previously vacated section of Burt Drive and authorize the City Manager to sign the License Agreement to locate an Accessory Structure in the easement area.
  - 2. Communication from the City Manager regarding a report from Park Board Chair Susan Williams concerning the Ice Rink Discount Card Program – Information Only.

- \* I. Minutes of Boards and Commissions Meetings:
  - 1. Portage Public Schools Board of Education Special and Regular of February 25, Special of March 4, Special and Committee of the Whole Work Session of March 11, and Policy Governance of March 14, 2013.
  - 2. Portage Park Board of March 6, 2013.
  - 3. Portage Human Services Board of March 7, 2013.
  - 4. Portage Youth Advisory Committee of March 11, 2013.
  
- J. Ad-Hoc Committee Reports:
  - 1. Presentation from Councilmember Sackley regarding the recent activity of the Lake Center Business Committee.
  - 2. Presentation from Councilmember Sackley regarding the recent activity of the Sign Ordinance Committee.
  
- K. New Business:
  
- L. Bid Tabulations:
  - \* 1. Communication from the City Manager recommending that City Council approve the low bid for emergency equipment and installation of equipment on the Battalion Chief Vehicle to Emergency Vehicle Products of Kalamazoo, Michigan, in the amount of \$23,971.22, and authorize the City Manager to execute all documents related to this matter on behalf of the city.
  
- M. Other City Matters:
  - 1. Statements of Citizens.
  - 2. From City Council and City Manager.
  - \* 3. Reminder of Meetings:
    - a. Wednesday, April 10, 8:15 a.m., Historic District Commission, City Hall Room No. 2.
    - b. Wednesday, April 10, 7:00 p.m., Environmental Board, Council Chambers.
    - c. Thursday, April 11, 4:30 p.m., Budget Review Session, City Hall Room No. 1.
    - d. Saturday, April 13, 8:30 a.m., Business Sign Forum, City Hall.
    - e. Monday, April 15, 6:30 p.m., Portage Public Schools Board of Education, Council Chambers.
    - f. Wednesday, April 17, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
    - g. Thursday, April 18, 7:00 p.m., District Library Board, Portage District Library.
    - h. Thursday, April 18, 7:00 p.m., Planning Commission, Council Chambers.
    - i. Monday, April 22, 6:30 p.m., Youth Advisory Committee, City Hall Room No. 1
    - j. Tuesday, April 23, 7:00 p.m., Tree Planting Ceremony, City Hall.
  
- N. Materials Transmitted of March 22, 26 and 29, 2013.

Adjournment.

# City Council Meeting Summary

March 26, 2013

## PROCLAMATION

- ◆ Mayor Strazdas issued a Child Abuse Prevention Month Proclamation.
- ◆ Approved the Accounts Payable Register of March 26, 2013, as presented.

## REPORTS FROM THE ADMINISTRATION

- ◆ Approved the Final Plan for Sterling Oaks West (Phase II) Planned Development, 1001 Gulfport Trail, subject to the maximum number of residential units be limited to 30 until a second means of ingress and egress is provided in accordance with the International Fire Code.
- ◆ Established a public hearing for April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard, to consider resolutions to adopt the recommendation that the sewer commodity rate be reduced from \$4.81 to \$4.70 per 1,000 gallons of metered water; adopt the recommendation that the water commodity rate remain at \$3.19 per 1,000 gallons of metered water; adopt the recommendation that adjustments be made to both the sewer and water base quarterly charges; eliminate the current Senior Citizen Discount Program effective October 1, 2013; adopt the recommendation that the new rates become effective on October 1, 2013, (or on January 1, 2014, if City Council chooses to implement a low income affordability program); and adopt the recommended water and sewer franchise area fees and other service fees and charges as outlined in the 2013 Utility Rate Financial Study.
- ◆ Adopted a resolution to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new water main easement for the portion of the vacated water main, placed the resolution on file with the City Clerk for 28 days with final action on April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard; and authorized the City Manager to sign the License Agreement to Locate Signs in City Utility Easement.
- ◆ Approved a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total not to exceed cost of \$443,253 for the period of March 1, 2013 to March 1, 2014, and authorized the City Manager to execute all documents related to the action on behalf of the city.
- ◆ Resolved to submit applications to the Michigan Liquor Control Commission (MLCC) for a Special License for the sale of beer and wine for consumption on the premises at Portage Central Park, 7800 Shaver Road, for The Taste of Portage on June 22, 2013, and the *Your Generation in Concert* on July 13, 2013, and authorized the City Manager to execute all documents on behalf of the city.
- ◆ Adopted the Resolution to Accept Payments on Certain City Fees and Charges by Financial Transaction Devices to allow the use of credit card services for recreation and cultural programs.
- ◆ Received the communication from the City Manager regarding the February 2013 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports.

## COMMUNICATIONS

- ◆ Received a presentation by Kalamazoo County Transit Authority (KCTA) Chairperson Linda Teeter and KCTA Executive Director Sean McBride.

## BID TABULATIONS

- ◆ Awarded a construction contract for the South 12th Street Sanitary Sewer Lift Station Improvements to B & Z Company, Incorporated, in the not to exceed amount of \$253,777.32 and authorized the City Manager to execute all documents related to the contract on behalf of the city.

## STATEMENTS OF CITY COUNCIL

- ◆ Councilmember Sackley provided an update of Mayor Pro Tem Reid's, Don Ramlow's and his service on the Public Media Network (PMN) Board. Discussion followed.
- ◆ Councilmember Randall reminded everyone that Portage Public Schools start Spring Break at noon, Wednesday, March 27, and asked that everyone be watchful of children walking, playing or biking. She also wished everyone traveling over Easter Break to have a safe journey and she extended a "Happy Easter" to all.
- ◆ Councilmember Pearson announced that an Engineering Company has returned after serving ten months in Afghanistan, and the public is invited to a celebration, Thursday, 3:30 p.m. at the Western Michigan University Read Field House to welcome home our local soldiers.
- ◆ Mayor Pro Tem Reid recognized Director of Technology Services and Community Marketing Devin Mackinder and thanked him and his staff for receiving the Sunshine Award for transparency and openness in website design for the second year in a row. She indicated that Mr. Mackinder and his staff are constantly looking for new ways to put the information "out there" so the public can have access to it. She marveled at the increase in information that is now accessible to the public since she became a Councilmember. She then extended a "Happy Easter" to all.
- ◆ Mayor Strazdas indicated that some of the soldiers mentioned by Councilmember Pearson who are coming back from Afghanistan are from Portage and have gone to Portage Northern High School or Portage Central High School. He indicated that they will be invited to a City Council meeting in the near future to be recognized, thanked and welcomed home as heroes. Mayor Strazdas announced that Bicycle Week is upcoming and mentioned his plan that Portage City Council and Kalamazoo City Commission have a bike rally together as Portage is a "Natural Place to Move." He wished everyone a safe, enjoyable and happy vacation.

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**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.**



# City of Portage Proclamation

## *50<sup>TH</sup> ANNIVERSARY OF THE PORTAGE UNITED CHURCH OF CHRIST*

**WHEREAS,** Portage Congregational Church was chartered on April 21, 1963, with a name change to Portage United Church of Christ on October 7, 1984; and

**WHEREAS,** PUCC has benefited Portage Community Center and Wide Open Table both founded by this congregation, Habitat for Humanity, Loaves & Fishes food pantries, Martha's Table, Meals on Wheels, and Military Veterans; and

**WHEREAS,** PUCC has supported One Great Hour of Sharing, Neighbors in Need offerings, New Orleans after Hurricane Katrina and Foods Resource Bank, helping people in other countries help themselves; and

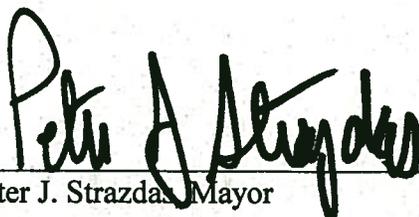
**WHEREAS,** the kids in PUCC's Children's Ministry have collected or created weekend food packs, school supplies, clothing, bedding and bags, fleece throws, goodie bags and banana bread, then distributed to grateful recipients in our community and beyond; and

**WHEREAS,** takes seriously its obligation to all those in need even as it gathers strength from God and each other to continue the work for the next 50 years, pledges its commitment to continue the work inspired by Jesus more than 2,000 years ago and welcomes all people.

**NOW, THEREFORE BE IT RESOLVED,** that I, Peter J. Strazdas, as the Mayor of Portage, Michigan, do hereby congratulate Portage United Church of Christ for 50 years of service to the community and recognize the generous giving and faithful attendance, the caring for one another, the community outreach involving both members and facilities, the involvement of youth in the life of their church, as signs of a healthy, vital congregation.



Signed this 9<sup>th</sup> day of April 2013

  
Peter J. Strazdas, Mayor



# City of Portage Proclamation

## *FAIR HOUSING RESOLUTION*

**WHEREAS,** 2013 is the 45<sup>th</sup> anniversary of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, to prohibit housing discrimination when based on race or color, national origin, religion, sex, familial status or disability, and declared that equal housing opportunity is a basic right of every American; and

**WHEREAS,** the Michigan State Legislature passed the Elliott-Larsen Civil Rights Act of Michigan in 1976 to protect people from housing discrimination based on religion, color, race, national origin, age, sex, familial status or marital status; and

**WHEREAS,** the Michigan State Legislature passed the Michigan Persons and Disabilities Civil Rights Law of 1976 to protect individuals with disabilities from housing discrimination; and

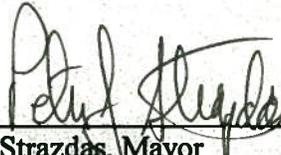
**WHEREAS,** the City of Portage has completed an Analysis of Impediments to Fair Housing, and annually undertakes activities to further fair housing efforts and educate the public on fair housing issues; and

**WHEREAS,** equal housing opportunity is a goal to be achieved within the City of Portage.

**NOW, THEREFORE BE IT RESOLVED,** that I, Peter J. Strazdas, by virtue of the authority vested in me as the Mayor of Portage, Michigan, do hereby resolve the month of April 2013, as **FAIR HOUSING MONTH** in hope that this observance will promote fair housing practices throughout the City.



Signed this 9<sup>th</sup> day of April 2013

  
Peter J. Strazdas, Mayor

# ***RESOLUTION OF RESPECT***

## **ENGEL CORSTANGE**

- WHEREAS,** Engel Corstange immigrated to the United States from the Netherlands and has been a Portage area resident since 1948, was educated at Western Michigan University and spent 25 years educating Portage youth in industrial arts at Portage Public Schools; and
- WHEREAS,** Engel Corstange served on numerous City of Portage and civic boards and commissions over the years including, but not limited to, the Building Board of Appeals, Sister City Committee, Kalamazoo Area Transportation Study and the Local Development Finance Authority; and
- WHEREAS,** Engel Corstange was unanimously appointed to serve as Mayor Pro Tempore in November of 1973 and served in this capacity until 1979; and
- WHEREAS,** Engel Corstange was elected Mayor of the City of Portage in 1979 and served in this capacity until 1985, was dedicated to civic service and an active advocate and contributor to the overall Portage community.

**NOW, THEREFORE, BE IT RESOLVED** that I, Peter J. Strazdas, Mayor of the City of Portage and on behalf of Portage residents, do hereby acknowledge the many contributions of Engel Corstange to the citizens of the City of Portage and recognize his many years of faithful and valuable service to this community; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be placed in the Heritage Room of the Portage District Library so the contributions of Engel Corstange to the Portage community may be continually recognized by future generations of Portage citizens.



Signed this 1<sup>st</sup> day of April 2013

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Peter J. Strazdas, Mayor

**CITY COUNCIL MEETING MINUTES FROM MARCH 26, 2013**

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

At the request of Mayor Strazdas, Dr. Pradeep Sagedo of the Hindu Community gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

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

**APPROVAL OF MINUTES:** Motion by Sackley, seconded by Reid, to approve the March 12, 2013 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 4 to 0 with Councilmember Randall abstaining.

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

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF MARCH 26, 2013:** Motion by Sackley, seconded by Reid, to approve the Check Register of March 26, 2013, as presented. Upon a roll call vote, motion carried 5 to 0.

**REPORTS FROM THE ADMINISTRATION:**

\* **FINAL PLAN FOR STERLING OAKS WEST (PHASE II) PLANNED DEVELOPMENT, 1001 GULFPORT TRAIL:** Motion by Sackley, seconded by Reid, to approve the Final Plan for Sterling Oaks West (Phase II) Planned Development, 1001 Gulfport Trail, subject to the maximum number of residential units be limited to 30 until a second means of ingress and egress is provided in accordance with the International Fire Code. Upon a roll call vote, motion carried 5 to 0.

\* **2013 UTILITY RATE FINANCIAL STUDY:** Motion by Sackley, seconded by Reid, to establish a public hearing for April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard, to consider resolutions to: adopt the recommendation that the sewer commodity rate be reduced from \$4.81 to \$4.70 per 1,000 gallons of metered water; adopt the recommendation that the water commodity rate remain at \$3.19 per 1,000 gallons of metered water; adopt the recommendation that adjustments be made to both the sewer and water base quarterly charges; eliminate the current Senior Citizen Discount Program effective October 1, 2013; adopt the recommendation that the new rates become effective on October 1, 2013, (or on January 1, 2014, if City Council chooses to implement a low income affordability program); and adopt the recommended water and sewer franchise area fees and other service fees and charges as outlined in the 2013 Utility Rate Financial Study. Upon a roll call vote, motion carried 5 to 0.

\* **WATER MAIN EASEMENT RELINQUISHMENT AND SANITARY SEWER ENCROACHMENT, MUELLER REFRIGERATION, 6700 SPRINKLE ROAD:** Motion by Sackley, seconded by Reid, to adopt a resolution to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new

water main easement for the portion of the vacated water main, place the resolution on file with the City Clerk for 28 days and take final action on April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard; and authorize the City Manager to sign the License Agreement to Locate Signs in City Utility Easement. Upon a roll call vote, motion carried 5 to 0.

\* **COMPREHENSIVE LIABILITY, PROPERTY AND AUTO FLEET INSURANCE:** Motion by Sackley, seconded by Reid, to approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total not to exceed cost of \$443,253 for the period of March 1, 2013 to March 1, 2014, and authorize the City Manager to execute all documents related to the action on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

\* **APPLICATION FOR SPECIAL LICENSE FOR THE SALE OF BEER, WINE AND SPIRITS:** Motion by Sackley, seconded by Reid, to resolve to submit applications to the Michigan Liquor Control Commission (MLCC) for a Special License for the sale of beer and wine for consumption on the premises at Portage Central Park, 7800 Shaver Road, for The Taste of Portage on June 22, 2013, and the *Your Generation in Concert* on July 13, 2013, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

\* **REMOTE CREDIT CARD USE:** Motion by Sackley, seconded by Reid, to adopt the Resolution to Accept Payments on Certain City Fees and Charges by Financial Transaction Devices to allow the use of credit card services for recreation and cultural programs. Upon a roll call vote, motion carried 5 to 0.

\* **FEBRUARY 2013 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Sackley, seconded by Reid, to receive the communication from the City Manager regarding the February 2013 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 5 to 0.

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

**COMMUNICATION:**

**KALAMAZOO COUNTY TRANSIT AUTHORITY (KCTA) CHAIRPERSON LINDA TEETER AND EXECUTIVE DIRECTOR OF THE KCTA SEAN MCBRIDE:** City Council received a presentation by Linda Teeter that included a summary of the 2012 Annual Report, including city, county and federal funding percentages, consideration for riders with a handicap and a quantification of riders to and from Portage. She also mentioned that a community service van will be provided to the Portage Senior Center. She reviewed the new technology that will provide more information for riders regarding all vehicles by routes and times, including the availability of applications “apps” for cell phones, and praised the addition of a travel trainer made possible through a grant from Human Services. She introduced Sean McBride, who traced the background of the regionalization of public transit and discussed some of the topics addressed in a White Paper that was written with the help of various government officials that outlines the plan for consolidation, transfer of ownership and feedback from the community. Discussion followed.

Ms. Teeter discussed the renewal of the 0.4 mills for four years for public transit, which is the ballot issue on the May 7, 2013 Special Election. Discussion followed. Mayor Strazdas summed up and discussion followed.

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

Portage Youth Advisory Committee of February 11, 2013.  
Portage Planning Commission of March 7, 2013.

**BID TABULATION:**

\* **SOUTH 12TH STREET SANITARY SEWER LIFT STATION IMPROVEMENT PROJECT:** Motion by Sackley, seconded by Reid, to award a construction contract for the South 12th Street Sanitary Sewer Lift Station Improvements to B & Z Company, Incorporated, in the not to exceed amount of \$253,777.32 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL:** Councilmember Sackley provided an update of Mayor Pro Tem Reid's, Don Ramlow's, Ayesha Mangla's and his service on the Public Media Network (PMN) Board. Discussion followed.

Councilmember Randall reminded everyone that Portage Public Schools begins Spring Break at noon, Wednesday, March 27, and asked that everyone be watchful of children walking, playing or biking. She also wished everyone traveling over Easter Break to have a safe journey and she extended a "Happy Easter" to all.

Councilmember Pearson announced that an Engineering Company has returned after serving ten months in Afghanistan, and the public is invited to a celebration, Thursday, 3:30 p.m. at the Western Michigan University Read Field House to welcome home our local soldiers.

Mayor Pro Tem Reid recognized Director of Technology Services and Community Marketing Devin Mackinder and thanked him and his staff for receiving the Sunshine Award for transparency and openness in website design for the second year in a row. She indicated that Mr. Mackinder and his staff are constantly looking for new ways to put the information "out there" so the public can have access to it. She marveled at the increase in information that is now accessible to the public since she became a Councilmember. She then extended a "Happy Easter" to all.

Mayor Strazdas indicated that some of the soldiers who are coming back are from Portage and have gone to Portage Northern High School or Portage Central High School. He indicated that they will be invited to a City Council meeting in the near future to be recognized, thanked and welcomed home as heroes. Mayor Strazdas announced that Bicycle Week is upcoming and mentioned his plan that Portage City Council and Kalamazoo City Commission have a bike rally together as Portage is a "Natural Place to Move." He wished everyone a safe, enjoyable and happy vacation.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:24 p.m.

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James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.



**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Accounts Payable Register

**SUPPORTING PERSONNEL:** Daniel Foecking, Director of Finance

**ACTION RECOMMENDED:** That City Council approve the Accounts Payable Register of April 9, 2013 as presented.

**EXECUTIVE SUMMARY:**

Bi-weekly the City Council reviews and approves the Accounts Payable Register that includes checks issued to vendors and the electronic funds transfer register. The time period noted totals of \$784,235.65 for checks issued to vendors and \$140,447.69 for electronic transfers or a total of \$924,683.34.

**BACKGROUND INFORMATION:**

Attached please find the Accounts Payable Register for the period March 17, 2013 through March 31, 2013, which is recommended for approval.

**FUNDING:** N/A

**Attachments:** Accounts Payable Register

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
03/29/2013	284537	AT&T	849	4,598.51
03/29/2013	284538	A T & T LONG DISTANCE	4060	5.43
03/29/2013	284539	ALLEGRA PRINT & IMAGING	533	1,171.89
03/29/2013	284540	APOLLO FIRE EQUIPMENT COMPANY	1253	6.85
03/29/2013	284541	APPLIED INDUSTRIAL TECHNOLOGIE	1944	451.34
03/29/2013	284542	TODD ARBANAS ENTERPRISES INC.	1704	4,650.00
03/29/2013	284543	ARIF, MUHAMMAD	532	180.00
03/29/2013	284544	ADP, INC.	3305	254.24
03/29/2013	284545	BAREFOOT GROUP, INC.	4771	500.00
03/29/2013	284546	BDO USA, LLP	136	3,000.00
03/29/2013	284547	BEACON CLUB	988	105.00
03/29/2013	284548	BEST ONE FLEET SERVICES OF W M	4817	1.987.04
03/29/2013	284549	BEST WAY DISPOSAL, INC.	142	375.00
03/29/2013	284550	BLUE CROSS/BLUE SHIELD OF MICH	642	108,288.94
03/29/2013	284551	BORGESS HEALTH ALLIANCE	151	90.00
03/29/2013	284552	BREAD OF LIFE, LLC	4729	71.99
03/29/2013	284553	BREAKAWAY BICYCLES	1356	72.00
03/29/2013	284554	BRONSON HEALTHCARE GROUP	4813	786.69
03/29/2013	284555	BUREAU OF NATIONAL AFFAIRS INC	975	44.34
03/29/2013	284556	BYHOLT INC.	68	629.64
03/29/2013	284557	C & E CONSTRUCTION	4631	8,000.00
03/29/2013	284558	Council of Governments	999999	50.00
03/29/2013	284559	CAMPBELL AUTO SUPPLY	437	124.09
03/29/2013	284560	CHICAGO TITLE OF MICHIGAN, INC	999999	38.48
03/29/2013	284561	CITY OF KALAMAZOO TREASURER	540	257,768.98
03/29/2013	284562	CLEAN EARTH ENVIRONMENTAL SERV	1821	749.20
03/29/2013	284563	COASTAL TRAINING TECHNOLOGIES	1116	235.31
03/29/2013	284564	COBRA RESOURCES	2876	177.00
03/29/2013	284566	CONSUMERS ENERGY-BILL PMT CNT	189	54,108.76
03/29/2013	284567	CREDIT BUREAU COLLECTION	999999	149.61
03/29/2013	284568	CROSSLEY, ADRIAN	999999	68.25
03/29/2013	284569	CROSSROADS CAR WASH	195	233.00
03/29/2013	284570	DATA CONSTRUCTS LLC	4741	97.95
03/29/2013	284571	DEPATIE FLUID POWER CO., INC.	211	291.29
03/29/2013	284572	DRIESENGA & ASSOCIATES, INC.	3277	495.00
03/29/2013	284573	E-TITLE	999999	50.00
03/29/2013	284574	EMERGENCY VEHICLE PRODUCTS	2948	636.80
03/29/2013	284575	ENGINEERING SUPPLY & IMAGING	2615	52.63
03/29/2013	284576	FARM N GARDEN	833	3,901.00
03/29/2013	284577	FAWLEY OVERHEAD DOOR, INC.	690	210.00
03/29/2013	284578	GREATER KALAMAZOO FOP LODGE 98	623	2,691.08
03/29/2013	284579	GREATER KALAMAZOO FOP LODGE 98	623	549.20
03/29/2013	284580	GREATER KALAMAZOO UNITED WAY	628	1,272.26
03/29/2013	284581	GRIFFIN PEST CONTROL, INC.	598	133.00
03/29/2013	284582	B L HARROUN & SON INC.	124	243.50
03/29/2013	284583	HOBART SALES AND SERVICE	4767	342.60
03/29/2013	284584	HOME DEPOT	691	298.50
03/29/2013	284585	HOMETOWN URGENT CARE AND WORKC	4752	240.00
03/29/2013	284586	Hrcertification.com	999999	399.00
03/29/2013	284587	Hrcertification.com	999999	399.00
03/29/2013	284588	KALAMAZOO COUNTY TREASURER	514	2,066.07

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
03/29/2013	284589	KALAMAZOO COUNTY 9TH CIRCUIT	999999	90.04
03/29/2013	284590	KALAMAZOO GAZETTE	4756	180.05
03/29/2013	284591	KALAMAZOO LANDSCAPE SUPPLIES	90	350.00
03/29/2013	284592	KENDALL ELECTRIC, INC.	231	477.35
03/29/2013	284593	KIMBERLY BAKER	999999	5.00
03/29/2013	284594	KLINE, ERIC	532	115.00
03/29/2013	284595	KUIPER BROTHERS MOVING INC.	1066	183.00
03/29/2013	284596	KZOO TIRE COMPANY	564	2,311.24
03/29/2013	284597	LEXISNEXIS/MATTHEW BENDER	2701	163.50
03/29/2013	284598	LIFELOC TECHNOLOGIES, INC.	3732	66.00
03/29/2013	284599	M R M A	945	241,627.00
03/29/2013	284602	MAURER'S TEXTILE RENTAL SERVIC	4746	239.01
03/29/2013	284603	MAYHEW, BRYAN	532	66.12
03/29/2013	284604	MICH MUNICIPAL POLICE & FIRE R	4777	936.74
03/29/2013	284605	MICHIGAN ELECTION RESOURCES, L	264	1,216.14
03/29/2013	284606	MICHIGAN KAL ELECTRONICS, INC.	266	237.50
03/29/2013	284607	MIDWEST ENERGY COOPERATIVE	2030	198.92
03/29/2013	284608	MLIVE MEDIA GROUP	89	321.20
03/29/2013	284609	OFFICE DEPOT, INC.	1721	1,017.47
03/29/2013	284610	OFFICEMAX INCORPORATED	301	211.10
03/29/2013	284611	OTTEN TROPHIES	304	359.20
03/29/2013	284612	PCM SALES, INC.	4852	42,319.58
03/29/2013	284613	PETTY CASH-CITY HALL	767	650.87
03/29/2013	284614	PETTY CASH-CITY MANAGER	805	211.63
03/29/2013	284615	PETTY CASH-DPS	538	176.92
03/29/2013	284616	PETTY CASH-FIRE	610	167.25
03/29/2013	284617	PETTY CASH-PARKS	536	420.35
03/29/2013	284618	PETTY CASH-SENIOR CENTER	537	187.55
03/29/2013	284619	PORTAGE CLEANERS & LAUNDRY	1415	1,143.80
03/29/2013	284620	PORTAGE FIREFIGHTERS	625	1,440.32
03/29/2013	284621	PORTAGE ON-CALL FIREFIGHTERS	504	279.46
03/29/2013	284622	PRO-FLEET	3209	1,983.75
03/29/2013	284623	PROGRESSIVE MEDICAL INTERNAT'L	829	1,055.05
03/29/2013	284624	QUADRANT II MARKETING, LLC	3139	2,209.25
03/29/2013	284625	RATHCO SAFETY SUPPLY, INC.	327	1,099.70
03/29/2013	284626	RIDGE AUTO NAPA	438	2,594.72
03/29/2013	284627	RIETH-RILEY CONSTRUCTION CO.,	4386	970.30
03/29/2013	284628	ROLLER, JOHN	999999	44.00
03/29/2013	284629	SACKETT'S FIREPLACE LLC	4863	140.00
03/29/2013	284630	SILLS, RAE	4571	250.00
03/29/2013	284631	SIMMONS FORD	2064	63.30
03/29/2013	284632	SIRRIE, LLOYD	999999	44.00
03/29/2013	284633	SOUTHWEST MICHIGAN GOV CONSULT	4484	1,600.00
03/29/2013	284634	SPRINT	3721	1,032.47
03/29/2013	284635	STATE OF MICHIGAN (WDEQ)	820	200.00
03/29/2013	284636	STATE SYSTEMS RADIO, INC	369	465.00
03/29/2013	284637	C. STODDARD & SONS INC.	1444	55.00
03/29/2013	284638	SWANK MOTION PICTURES, INC.	2694	296.00
03/29/2013	284639	SYNERGISTIC ONLINE SOLUTIONS	393	1,635.00
03/29/2013	284640	TERMINAL SUPPLY CO.	380	742.99
03/29/2013	284641	TRACTOR SUPPLY CORP.	2817	99.97

PREPARED 04/01/2013, 16:19:13  
 PROGRAM: GM350L  
 CITY OF PORTAGE

A/P CHECKS BY PERIOD AND YEAR  
 FROM 03/17/2013 TO 03/31/2013

\*ALL\*

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
03/29/2013	284642	UNITED PARCEL SERVICE	545		84.52
03/29/2013	284643	VERIZON WIRELESS SERVICES, LLC	4653		1,238.49
03/29/2013	284644	VOLOGY DATA SYSTEMS	4594		921.34
03/29/2013	284645	WIGHTMAN & ASSOCIATES, INC.	425		362.50
03/29/2013	284646	WINDEMULLER ELECTRIC, INC.	3061		127.50
03/29/2013	284647	WOLVERINE LAWN SERVICE, INC.	1089		2,115.00
03/29/2013	284648	XEROX CORPORATION	2684		1,721.03
03/29/2013	284649	58TH DISTRICT COURT	999999		375.00

DATE RANGE TOTAL \* 784,235.65 \*

PAYMENT NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE		EFT BATCH	BANK CODE
				NUMBER	NUMBER		
1817	ABONMARCHE CONSULTANTS, INC	03/29/2013	1,599.76	072000320000001	0000001	00	00
1818	ALRO STEEL CORPORATION	03/29/2013	70.46	072000320000002	0000001	00	00
1819	AMERICAN SAFETY & FIRST AID	03/29/2013	12.24	072000320000003	0000001	00	00
1820	ANIMAL REMOVAL SERVICE, LLC	03/29/2013	600.00	072000320000004	0000001	00	00
1821	ARROW UNIFORM RENTAL	03/29/2013	225.75	072000320000005	0000001	00	00
1822	B & B YARDSCAPE	03/29/2013	1,055.00	072000320000006	0000001	00	00
1823	BATTERIES PLUS	03/29/2013	206.84	072000320000007	0000001	00	00
1824	BLUE CARE NETWORK-GREAT LAKES	03/29/2013	62,773.13	072000320000008	0000001	00	00
1825	C D W GOVERNMENT, INC.	03/29/2013	2,793.71	072000320000009	0000001	00	00
1826	CONTINENTAL LINEN SUPPLY CO.	03/29/2013	95.54	072000320000010	0000001	00	00
1827	DELTA DENTAL PLAN OF MI	03/29/2013	19,619.05	072000320000011	0000001	00	00
1828	EMPLOYMENT GROUP, INC.	03/29/2013	1,184.80	072000320000012	0000001	00	00
1829	GREAT LAKES CHLORIDE, INC.	03/29/2013	4,842.96	072000320000013	0000001	00	00
1830	HARTFORD LIFE INSURANCE COMPANY	03/29/2013	7,801.12	072000320000014	0000001	00	00
1831	HI-TECH ELECTRIC CO.	03/29/2013	3,250.00	072000320000015	0000001	00	00
1832	INDUSCO SUPPLY CO., INC.	03/29/2013	75.12	072000320000016	0000001	00	00
1833	J B PRINTING COMPANY	03/29/2013	3,035.00	072000320000017	0000001	00	00
1816	JEB CONSTRUCTION MANAGEMENT LLC	03/18/2013	21,979.42	072000320000001	0000001	00	00
1834	KAHN, WILMA	03/29/2013	96.00	072000320000018	0000001	00	00
1835	KEHOE, EDWARD J	03/29/2013	280.00	072000320000019	0000001	00	00
1836	KUSHNER & COMPANY, INC.	03/29/2013	524.24	072000320000020	0000001	00	00
1837	MORRIS, JOY E	03/29/2013	120.00	072000320000021	0000001	00	00
1838	PECKELS, CHRISTINE	03/29/2013	240.00	072000320000022	0000001	00	00
1839	PORTAGE POLICE OFFICERS ASSOC	03/29/2013	1,606.22	072000320000023	0000001	00	00
1840	POULIOT, GRETCHEN	03/29/2013	60.00	072000320000024	0000001	00	00
1841	PRECISION PRINTER SERVICES INC	03/29/2013	778.76	072000320000025	0000001	00	00
1842	QUALITY AIR HEATING & COOLING, INC.	03/29/2013	832.33	072000320000026	0000001	00	00
1843	ROAD EQUIPMENT PARTS CENTER	03/29/2013	603.57	072000320000027	0000001	00	00
1844	SAFETY SERVICES, INCORPORATED	03/29/2013	150.00	072000320000028	0000001	00	00
1845	SNELL, DEBRA	03/29/2013	144.00	072000320000029	0000001	00	00
1846	SOLARWINDS, INC.	03/29/2013	894.00	072000320000030	0000001	00	00
1847	THOMPSON, HELENE	03/29/2013	362.00	072000320000031	0000001	00	00
1848	U A W, LOCAL 2290	03/29/2013	507.28	072000320000032	0000001	00	00
1849	VISION SERVICE PLAN INSURANCE CO	03/29/2013	2,029.39	072000320000033	0000001	00	00

GRAND TOTAL:

140,447.69 NO. OF CHECKS:

34

**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager 

**SUBJECT:** Tax Exemption for Spring Manor Apartments

**SUPPORTING PERSONNEL:** Victoria Georgeau, Director of Community Development

**ACTION RECOMMENDED:** That City Council:

- a) accept for first reading an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive; and
- b) take final action on April 23, 2013.

**EXECUTIVE SUMMARY:**

An amendment to the existing Payment in Lieu of Taxes (PILOT) ordinance for the Spring Manor Apartments, located at 610 Mall Drive, is proposed in order to facilitate a refinancing and completion of capital improvements, and also increase support staff for service coordination for the current senior residents of the development. While the applicant initially requested continuation of the current four percent PILOT, consistent with other more recent PILOT ordinance amendments, the applicant has agreed to a PILOT of five percent of annual shelter rents. This amount was determined appropriate based on the economic feasibility of the project and because 100 percent of the dwelling units within the development are offered at affordable rental rates for elderly households.

**BACKGROUND INFORMATION:**

The Hollander Development Corporation has requested an amendment to the existing Payment in Lieu of Taxes (PILOT) ordinance for the refinance and rehabilitation of Spring Manor Apartments (formerly known as Mall Drive Apartments), a 102-unit multiple-family elderly housing complex located at 610 Mall Drive. When the Spring Manor Apartments were constructed in 1996, the city adopted an ordinance that provided a tax exemption and established a Payment in Lieu of Taxes (PILOT). The PILOT requires payment to the city equal to four percent of the annual shelter rent as permitted by State Housing Development Authority Act (Public Act 346 of 1966, as amended). At that time, the PILOT ordinance facilitated affordable rental housing, with all 102 dwelling units in the development reserved for low income seniors. The city has also adopted PILOT ordinances for The Crossings II Apartments, Barrington Woods Apartments, the Hearthside Apartments I & II, and a single-family affordable rental dwelling at 1506 Schuring Road (owned by the Kalamazoo Family Non-Profit Housing Corporation).

As outlined in the included correspondence from Hollander Development Corporation, refinancing and rehabilitation of the development is proposed, which will be financed with a new mortgage

available through the U.S. Department of Housing and Urban Development (HUD) Section 223(f) Program. When the Spring Manor development was first constructed, it was financed with a mortgage and was awarded Low Income Housing Tax Credits (LIHTC) through the Michigan State Housing Development Authority (MSHDA). As explained by the applicant, the award of LIHTC from MSHDA includes a Regulatory Agreement/Restrictive Covenant that requires the development be rented at affordable rates to low income seniors. As part of the current proposal, the number of housing units reserved for low income seniors will remain at 102 units. Refinancing will permit rehabilitation of the development and allow for the creation of a staff position to provide support services for the elderly residents of Spring Manor Apartments.

### **Michigan Public Act 346 of 1966**

Public Act 346 was enacted to provide safe and sanitary dwelling accommodations that are within the financial means of low or moderate income individuals or families. Parameters within the Act stipulate: 1) that a tax exemption granted for eligible projects remains in effect for as long as the authority or federally-aided mortgage is outstanding; 2) any payments in lieu of taxes received by the city must be distributed to the affected taxing units in the same proportion as the property tax in the previous calendar year; and 3) the city establish a service charge to be paid in lieu of taxes in order to implement the tax exemption for the eligible housing project. The service charge is negotiable, but may not exceed the property tax that would be paid without a service charge.

The current four percent PILOT ordinance for the development will remain in effect until 2029 should the proposed refinancing and rehabilitation project not come to fruition. While the applicant initially requested a continuation of the four percent PILOT, consistent with other more recent PILOT ordinance amendments, the applicant has agreed to a PILOT of five percent of annual shelter rents. This amount was determined appropriate based on the economic feasibility of the project and because 100 percent of the dwelling units within the development are offered at affordable rental rates for elderly households. The proposed PILOT amendment is for 35 years, which coincides with the term of the proposed mortgage and associated “affordability period” for the rental housing units reserved for low income seniors.

### **Project Benefits and Costs**

There are a number of community benefits made possible by this project:

- The project fulfills goals of the 2011-2015 Consolidated Plan approved by City Council, as part of the Community Development Block Grant (CDBG) program;
- The project will fulfill the goal to partner with for-profit and non-profit developers by providing a Payment in Lieu of Taxes (PILOT) incentive to help meet financing requirements for affordable housing;
- Approval of the proposed project will demonstrate the continued commitment on the part of the city to enhance the range of housing choice for low income and special needs residents. As reference, the Consolidated Plan identifies approximately 4,350 low income households in Portage that have a housing cost burden, who are paying over 30% of their income on housing expenses. Among low income renters, 60% of these households have a housing cost burden;
- The project is consistent with the Comprehensive Plan, and
- Refinancing will facilitate the rehabilitation of the property and the provision of additional support services for the residents of the development.

The current PILOT results in \$3,550 of annual revenue to the city and \$17,840 for all units of governments (based on the most recent two years of PILOT payments). The proposed ordinance amendment provides for an annual service charge increase from four percent to five percent with an increase in the minimum annual service charge from \$17,357 to \$32,283.

As with all developments, there are costs to the City of Portage and other taxing jurisdictions to provide municipal services. In this case, and with similar housing developments, costs also include foregone tax revenues due to the existing and proposed PILOT. The service costs for the development include public safety and general government services. The cost per dwelling to provide city services to a multiple-family development has been estimated by the Finance Department as shown in the following table:

<b>General Fund</b>	<b>Estimated Annual Cost Per Unit</b>
Police	\$414
Fire	\$217
Other	\$446
Subtotal	\$1,077
<b>TOTAL COST (102 units)</b>	<b>\$109,854</b>

With regard to foregone tax revenue, the development has been tax exempt since its construction in 1996. Based on a recent as-is condition appraisal completed for the applicant, the property has an estimated value of \$4.28 million. If not tax exempt, the development would have an estimated annual Ad-Valorem Tax Liability of \$122,157. The table below illustrates annual foregone tax revenue for all taxing units, compared to average annual tax revenue (over 35 years) that would be received from the proposed PILOT.

<b>Taxing Unit</b>	<b>Estimated Average Annual Tax Revenue Without Tax Exemption/PILOT</b>	<b>Estimated Average Annual Revenue with PILOT</b>
City of Portage	\$24,274	\$8,927
State Education	\$12,840	\$4,722
School Operating	\$38,520	\$14,165
School Building/Debt	\$12,412	\$4,564
Portage District Library	\$3,210	\$1,180
KVCC	\$6,021	\$2,214
KRESA	\$10,415	\$3,830
Kalamazoo County	\$13,131	\$4,829
County Transport	\$856	\$315
County Juvenile	\$478	\$176
<b>Annual Total:</b>	<b>\$122,157</b>	<b>\$44,922</b>

As noted above, the current estimated annual cost of services incurred by the City of Portage is \$109,854 compared to the \$8,927 average annual revenue that would be received by the city with the proposed PILOT. The minimum PILOT payment to all taxing units proposed by the ordinance amendment is \$32,283, while the PILOT payment is projected to increase to \$60,236 over the 35-year period of the PILOT (with an average annual payment of \$44,922).

**Review/Recommendation**

The City Administration has reviewed the application with the applicant and the Office of the City Attorney. In addition, the City Attorney has approved the proposed PILOT ordinance amendment as to form. A tax exemption with a five percent PILOT is recommended as referenced in the attached amendment to Chapter 70, Article 2, Division 4, of the Code of Ordinances.

**FUNDING:** Not applicable.

**Attachments:** Vicinity Map  
Correspondence from Centre Hollander Development Corporation  
Proposed PILOT Ordinance amendment



Imagery: March 2009

# Vicinity Map 610 Mall Drive

1 inch = 100 feet



February 12, 2013

Mr. Maurice Evans  
City Manager  
Portage City Hall  
7900 South Westnedge Ave.  
Portage, Michigan 49002

Dear Mr. Evans:

In response to staff's request, this will attempt to summarize recent correspondence in connection with our request for amendments to the existing ordinance which established a 4% service charge in lieu of taxes ("P.I.L.O.T.") for Spring Manor senior apartments at 610 Mall Drive. The changes have become necessary because we are refinancing the original loan by the Michigan State Housing Development Authority ("MSHDA") with a loan insured by HUD.

**Description of P.I.L.O.T. and Spring Manor**

Spring Manor is financed with a combination of federal low income housing tax credits and a loan from MSHDA at a 9% interest rate. The MSHDA loan is being refinanced by a new loan insured by HUD at a much lower but as yet undetermined interest rate. The existing rent and income restrictions will continue unchanged under the new loan. HUD will conduct annual physical inspections rather than MSHDA. Spring Manor will continue as affordable housing for the elderly.

The amendments to the existing P.I.L.O.T. ordinance are necessary because of technical issues. The existing P.I.L.O.T. ordinance authorizes a service charge in lieu of taxes based upon MSHDA financing. The existing ordinance does not authorize a service charge if Spring Manor is refinanced with a HUD loan. The continued feasibility of Spring Manor after the refinancing depends upon continuation of the P.I.L.O.T.

The new loan will be 35 years and fully amortizing. The use restrictions in the existing regulatory agreement are in perpetuity. The new loan will be subordinate to these restrictions. There will also be a HUD regulatory agreement.

We are not requesting a new ordinance, merely several minor amendments to the existing ordinance which will permit the existing P.I.L.O.T. to continue with different

financing. Unlike other projects which have previously received a P.I.L.O.T. from the City and have sought new ones, 1) there will be no change in ownership of Spring Manor; 2) 100% of the units at Spring Manor will remain rent and income restricted; and 3) there will be no market rate units which benefit from the P.I.L.O.T.

Spring Manor was built in 1996 to provide affordable housing for individuals over 60 years of age. As there are a minimum of services provided to the residents, Spring Manor is considered "independent living" housing. There are 102 unfurnished one- and two-bedroom apartments, each with a fully equipped kitchen, bath, living/dining room and laundry/storage room. There are also 5 similarly equipped efficiency units. Five of the apartments are barrier free.

The project consists of a single fully accessible 2 ½ story building served by three elevators. There is extensive common area space, much of which has been modeled in a late 19<sup>th</sup> Century décor. Included are an ice cream parlor, theater, library, fitness room, beauty salon/barber shop, community store and crafts room. There is also a large common area room with attached kitchen.

### **Benefits of Refinancing**

The anticipated interest rate for a project refinanced under HUD's Section 223(f) program is currently about 3.25%. The annual debt service payments under the new loan will be about \$105,000 less than the current MSHDA loan. The annual savings in loan costs will be used to replace a MSHDA rent subsidy, fund the cost of needed repairs and improvements and provide additional services to our residents.

The average age of Spring Manor residents is over 80. Many have lived at the community since it first opened. A number of the residents have become frail and in need of an increasing level of services. Refinancing the existing MSHDA loan will allow us to add a part time service coordinator and provide residents with scheduled transportation to doctors' appointments, third party health service providers located offsite (such as PACE) and provide access to similar services needed by the residents.

It will also allow us to accelerate some of the improvements such as replacing the HVAC system in each apartment with a more energy efficient system. The new loan will provide funds to make certain immediate repairs and establish escrows which will assure sufficient funds for future improvements.

We presently receive an annual rent subsidy from MSHDA in the amount of \$42,800. Per agreement with MSHDA this subsidy is used to reduce "rent overburden" for some of our lowest income residents. Rent overburden occurs when a resident pays more than 40% of the resident's income for shelter costs (i.e., rent and utilities). This subsidy is included as rental income for the purpose of calculating the amount

Mr. Maurice Evans  
February 12, 2013  
Page Three

paid annually to the City as a P.I.L.O.T. When the MSHDA loan is paid off, we will lose this subsidy. The reduced debt service payments will make up for the lost rent subsidy. It will allow us to continue the same reduced rents to our lowest income residents.

Our goal is to facilitate the delivery of these services in an environment in which our increasingly frail resident population may continue to live independently and with dignity.

**Amount of Service Charge**

In discussions with staff, it is apparent that the City would like to increase the amount of the 4% service charge which we are presently paying. Other projects have agreed to pay a 6% service charge. We have stressed that our circumstances are markedly different from other projects (see above) and that a substantial increase would marginalize our operations and make it far more difficult to service the needs of our residents. A 5% P.I.L.O.T. (a 25% increase) would be manageable and still allow us to move forward with our mission.

Spring Manor has been an important resource for the Portage community for more than sixteen years. Its prime location near Hardings, the Crossroads and Southland Malls and shopping and services along South Westnedge Avenue cannot be equaled or duplicated. It is an ideal location for the residential population which it serves.

We respectfully request that the Portage City Council act on these amendments at its earliest convenience.

Yours very truly,



Joseph H. Hollander

cc. Mayor Peter Strazdas

**SPRING MANOR APARTMENTS**

TYPE	Percent of Area M. I.	UNITS	SQ FT	TOTAL SQ FT	Per SF	Max. LIHTC Rents	Utility Allowance	Max. Contract Rent	Annual Potential
Studio	60%	5	495	2,475	\$1.32	\$655.00	\$30.00	\$ 625.00	\$ 37,500
1BR/1BA	50%	31	668	20,708	\$0.88	\$585.00	\$39.00	\$ 546.00	\$ 203,112
1BR/1BA	60%	61	668	40,748	\$1.05	\$702.00	\$39.00	\$ 663.00	\$ 485,316
2BR/1BA	60%	<u>10</u>	<u>883</u>	<u>8,830</u>	<u>\$0.95</u>	\$841.00	\$41.00	\$ 800.00	\$ 96,000
TOTAL/AVG		<u>107</u>	<u>680</u>	<u>72,761</u>	<u>\$0.94</u>			<u>\$640.13</u>	<u>\$ 821,928</u>

Audited Operations				Annualized		BUDGET UNDER NEW LOAN			
2009	2010	2011	2012	Per Unit	Pro Forma				
802770	814135	814267	811980			<b>Gross Rent Potential</b>	7682	821928	
						<b>Subsidy</b>	(400)	(42800)	
						<b>Other Income</b>	0		
6347	6667	6617	6700			Carports	62	6617	
			400			Late Fees	0		
11143	20449	29363	225			Interest Income	0		
1127	11572	1770				Miscellaneous	17	1770	
						Vacancy Gross Up	0		
<u>18617</u>	<u>38688</u>	<u>37750</u>	<u>7325</u>			<b>Total Other Income</b>	<u>(322)</u>	<u>(34413)</u>	
821387	852823	852017	819305			<b>GROSS INCOME</b>	7360	787515	
(33204)	(71202)	(61352)	(67660)			Vacancy	(587)	(62860)	
<u>788183</u>	<u>781621</u>	<u>790665</u>	<u>751645</u>			<b>EFFECTIVE GROSS</b>	6772	724655	
53607	48792	49327	46135			Management Fee	6.00%	406	43479
27746	27844	26634	27852			PILOT & Other taxes	5.00%	302	32283
22362	21847	21114	20677			Insurance		206	22000
21316	22959	23738	23300			Electricity		224	24000
43946	41738	43666	32677			Gas		327	35000
16155	19449	18372	19000			Water & Sewer		187	20000
2716	3355	3650	3755			Rubbish Removal		36	3800
110409	(44133)	1045	12592			Exterminating		56	6000
14125	12498	8851	17556			Landscaping & Grounds		84	9000
2642	2837	2292	3000			Snow Removal		34	3600
3930	6060	5107	13236			Janitor & Cleaning		84	9000
42341	30058	23000	4260			Unit Redecorating		121	13000
32806	37659	11945	31303			Repairs & Maintenance		336	36000
12331	7202	8420	901			Maintenance Supplies & Other		37	4000
						Service Coordinator		234	25000
28950	31459	27423	34366			Payroll - Maintenance		355	38000
31815	29175	29107	36412			Payroll - Office		355	38000
13175	13256	15567	19569			Payroll - Tax & Benefits		224	24000
23138	36478	11520	18574			General Administrative		182	19453
						Vehicle Expense		144	15400
8900	8900	9125	8390			Accounting & Audit		70	7500
354	110	145	65			Legal & Professional		3	300
4774	4459	4585	4683			Telephone		45	4800
(4489)	(77)	3875	21			Misc. (Senior Center Services)		47	5000
6982	6838	7819	9917			Advertising & Marketing		84	9000
		80100	120476			Replacement Reserve		600	64200
<u>520031</u>	<u>368763</u>	<u>436427</u>	<u>508717</u>			<b>TOTAL EXPENSES</b>	<u>70.6%</u>	<u>4783</u>	<u>511815</u>
<u>268152</u>	<u>412858</u>	<u>354238</u>	<u>242928</u>			<b>NET OPERATING INCOME</b>		<u>1989</u>	<u>212840</u>
						<b>DEBT SERVICE</b>			<u>187912</u>
						<b>SURPLUS (DEFICIT)</b>			<u>24928</u>

**SPRING MANOR APARTMENTS**

**PROJECTED 5% P.I.L.O.T. ANALYSIS**

PILOT %	YEAR	GROSS		SITE PAID UTILITIES	NET	ESTIMATED
		RENT POTENTIAL	VACANCY LOSS		SHELTER RENTS	PILOT PAYMENT
5.00%	1	787,515	(63,001)	(79,000)	645,514	32,276
5.00%	2	803,265	(64,261)	(81,370)	657,634	32,882
5.00%	3	819,331	(65,546)	(83,811)	669,973	33,499
5.00%	4	835,717	(66,857)	(86,325)	682,534	34,127
5.00%	5	852,432	(68,195)	(88,915)	695,322	34,766
5.00%	6	869,480	(69,558)	(91,583)	708,339	35,417
5.00%	7	886,870	(70,950)	(94,330)	721,590	36,080
5.00%	8	904,607	(72,369)	(97,160)	735,079	36,754
5.00%	9	922,699	(73,816)	(100,075)	748,809	37,440
5.00%	10	941,153	(75,292)	(103,077)	762,784	38,139
5.00%	11	959,976	(76,798)	(106,169)	777,009	38,850
5.00%	12	979,176	(78,334)	(109,354)	791,487	39,574
5.00%	13	998,759	(79,901)	(112,635)	806,224	40,311
5.00%	14	1,018,735	(81,499)	(116,014)	821,222	41,061
5.00%	15	1,039,109	(83,129)	(119,495)	836,486	41,824
5.00%	16	1,059,892	(84,791)	(123,079)	852,021	42,601
5.00%	17	1,081,089	(86,487)	(126,772)	867,830	43,392
5.00%	18	1,102,711	(88,217)	(130,575)	883,919	44,196
5.00%	19	1,124,765	(89,981)	(134,492)	900,292	45,015
5.00%	20	1,147,261	(91,781)	(138,527)	916,953	45,848
5.00%	21	1,170,206	(93,616)	(142,683)	933,907	46,695
5.00%	22	1,193,610	(95,489)	(146,963)	951,158	47,558
5.00%	23	1,217,482	(97,399)	(151,372)	968,711	48,436
5.00%	24	1,241,832	(99,347)	(155,913)	986,572	49,329
5.00%	25	1,266,668	(101,333)	(160,591)	1,004,744	50,237
5.00%	26	1,292,002	(103,360)	(165,408)	1,023,233	51,162
5.00%	27	1,317,842	(105,427)	(170,371)	1,042,044	52,102
5.00%	28	1,344,199	(107,536)	(175,482)	1,061,181	53,059
5.00%	29	1,371,083	(109,687)	(180,746)	1,080,650	54,032
5.00%	30	1,398,504	(111,880)	(186,169)	1,100,455	55,023
5.00%	31	1,426,474	(114,118)	(191,754)	1,120,603	56,030
5.00%	32	1,455,004	(116,400)	(197,506)	1,141,097	57,055
5.00%	33	1,484,104	(118,728)	(203,432)	1,161,944	58,097
5.00%	34	1,513,786	(121,103)	(209,534)	1,183,149	59,157
5.00%	35	1,544,062	(123,525)	(215,821)	1,204,716	<u>60,236</u>

**TOTAL ESTIMATED PILOT CHARGES PAID DURING THE MORTGAGE TERM**

**1,572,259**

HUD > Program Offices > Housing > Multifamily > Programs > Multifamily Housing - Program Description

# Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223(F)

Want More Information?

Program instructions are in HUD Handbooks, Notices and Forms which can be found on **HUDclips**.

Prospective applicants should contact the local **HUD Multifamily Hub or Program Center** with jurisdiction for the property.

## Summary:

Section 207/223(f) insures mortgage loans to facilitate the purchase or refinancing of existing multifamily rental housing. These projects may have been financed originally with conventional or FHA insured mortgages. Properties requiring substantial rehabilitation are not eligible for mortgage insurance under this program. HUD permits the completion of non-critical repairs after endorsement for mortgage insurance.

## Purpose:

Section 223(f) insures lenders against loss on mortgage defaults. The program allows for long-term mortgages (up to 35 years) that can be financed with Government National Mortgage Association (GNMA) Mortgage-Backed Securities. This eligibility for purchase in the secondary mortgage market improves the availability of loan funds and permits more favorable interest rates.

## Type of Assistance:

FHA mortgage insurance for HUD-approved lenders.

## Eligible Activities:

The property must contain at least 5 residential units with complete kitchens and baths and have been completed or substantially rehabilitated for at least 3 years prior to the date of the application for mortgage insurance. The program allows for non-critical repairs that must be completed within 12 months of loan closing. Projects requiring substantial rehabilitation are not acceptable under this section and may not involve the replacement of more than one major system. The remaining economic life of the project must be long enough to permit a ten-year mortgage. The mortgage term cannot exceed 35 years or 75 percent of the estimated life of the physical

improvements, whichever is less. Davis Bacon prevailing wage requirements do not apply to this program.

The maximum mortgage limitation for a purchase transaction is the lesser of:  
(1) 85 percent of HUD appraised value; (2) 85 percent of the acquisition cost;  
(3) Section 207 statutory per unit limits, adjusted by the local Field Office high cost percentage for the locality; or (4) a mortgage amount supported by 85 percent of net income.

The maximum mortgage limitation for a refinance transaction is the lesser of:  
(1) 85 percent of HUD appraised value; (2) Section 207 statutory per unit limits, adjusted by the local field Office high cost percentage for the locality; (3) the mortgage amount supported by 85 percent of net income; or (4) the greater of the cost to refinance or 80 percent of HUD appraised value.

**Eligible Borrowers:**

Owners or prospective purchasers of eligible multifamily properties may apply for insured mortgages through HUD-approved lenders.

**Eligible Customers:**

All persons are eligible to occupy such projects subject to normal occupancy restrictions.

**Application:**

Section 223(f) is eligible for Multifamily Accelerated Processing (MAP). The sponsor works with the MAP-approved lender who submits required exhibits for Firm Commitment application, including a full underwriting package to the local Multifamily Hub or Program Center for review. The Multifamily Hub or Program Center reviews the application to determine whether the proposed loan is an acceptable risk. Considerations include market need and the capabilities of the borrower. FHA underwriting analysis must determine that there is enough project income to repay the loan, taking into account all necessary project expenses. If the proposed project meets program requirements, the local Multifamily Hub or Program Center issues a commitment to the lender for mortgage insurance.

Applications submitted by non-MAP lenders must be processed by HUD field office staff under Traditional Application Processing (TAP). Under TAP, there are only two processing stages: the conditional commitment stage and the firm commitment stage. The sponsor is required to have a pre-application conference during the conditional commitment stage to determine the appraised value and maximum mortgage amount. At the firm commitment stage the local HUD Multifamily Hub or Program Center determines the amount of the mortgage available to the purchaser or refinancing borrower in the proposed transaction. If the proposal meets FHA program requirements, the local Multifamily Hub or Program Center issues a commitment to the lender for mortgage insurance.

**Technical Guidance:**

Section 223(f) of the National Housing Act was added by Section 311(a) of the Housing and Community Development Act of 1974. Regulations are found at 24 CFR, Part 200. For processing and underwriting instructions refer to HUD Handbook 4565.1- Mortgage Insurance for the Purchase of Existing Multifamily Housing Projects available on **HUDclips**. Refer to the MAP web site for guidelines and instructions, lender approval requirements, and MAP coordinators. The program is administered by the Office of Multifamily Housing Development.

**Program Accomplishments:**

In fiscal year 2012, the Department insured mortgages for 644 projects with 91,969 units, totaling \$5.6 billion.

LIBER 1875 PG 1279

7067

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
401 South Washington Square - 4th Floor Plaza One Building  
Post Office Box 30044  
Lansing, Michigan 48909

17  
2  
0

REGULATORY AGREEMENT/RESTRICTIVE COVENANT  
LOW INCOME HOUSING TAX CREDIT

This Agreement, which shall serve as a Regulatory Agreement and have the full force of a restrictive covenant running with the land pursuant to Public Act 346 of the Michigan Public Acts of 1966, as amended, is dated as of this 19TH day of August, 1996, and made by and between the Michigan State Housing Development Authority (the "Authority") as the low income housing tax credit agency for the State of Michigan and Spring Manor LDHA LP.

WHEREAS, the Authority is the designated housing credit agency for the State of Michigan with respect to the low income housing tax credit authorized by Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owner is the Owner of certain real property, more particularly described in Exhibit A, attached hereto, and incorporated herein by reference; and

29239

WHEREAS, the Owner has applied to the Authority for an allocation of Low Income Housing Tax Credit authority for a residential rental development which has been or will be constructed on the property; and

WHEREAS, the Authority has determined, pursuant to the provisions of Section 42 of the Code, that an allocation of credit to the Project in the amount of Five Hundred Forty-One thousand, Four hundred Dollars (\$541,400) is the maximum appropriate amount of tax credit authority to be allocated to the Project; and

WHEREAS, Section 42(h) of the Code requires that the Authority and the Owner enter into an "extended low income housing commitment", which shall be recorded as a restrictive covenant in order for the Owner to be allowed the benefit of the Low Income Housing Tax Credit.

NOW, THEREFORE, in consideration of receipt of the benefit of the Low Income Housing Tax Credit, the promises and covenants set forth hereafter including those enumerated in Exhibit B, attached hereto and incorporated by reference herein, the receipt and sufficiency of which are hereby acknowledged, the Owner and the Authority agree and covenant as follows:

- 1) All words and phrases used herein shall have the same meaning as defined in Section 42 of the Code.
- 2) The Owner is a Limited Partnership, duly organized and existing under the laws of the State of Michigan, and has all the powers necessary to conduct business and to execute and deliver this Regulatory Agreement.

Revised 11-95

CLERK - REGISTER

96 AUG 27 AM 8 52

STATE OF MICHIGAN  
COURT OF CLERKS  
RECORDS & REGISTRY  
LANSING

There is no action or proceeding in law or in equity now pending, or, to the knowledge of the Owner, threatened, which, if adversely determined, would materially impair the rights of the Owner to carry on business as contemplated by this Agreement, or would materially affect the Owner's financial condition.

3) The building(s), which do or will constitute a qualified housing project as defined in Section 42 of the Code, and regulations promulgated thereunder, the rental units of which will be rented or available for rental on a continuous basis to members of the general public throughout the length of this Agreement, shall be known as **Spring Manor**.

4) As a condition and in consideration of receipt of the Low Income Housing Tax Credit, the Owner, for itself and all successors in interest to the buildings in the Project, agrees to maintain the applicable fraction, as defined in Section 42 (c)(1)(B) of the Code and stated below, for the period of time this Agreement is in effect, that being the initial compliance period of 15 years, and into perpetuity (the longer of an additional 15 years or that period agreed to by the Owner in its application for the credit), in accordance with the provisions of Section 42(h)(6)(E) of the Code.

5) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code, is 1/1, which fraction shall not be decreased during any taxable year of the extended use period, except in accordance with the provisions described below.

6) The extended use period shall be the period beginning on the first day in the compliance period, as defined in Section 42 of the Code, on which a building is part of the qualified low-income housing Project, and extending into perpetuity (the longer of fifteen years or that period agreed to by the Owner in its application for tax credit) after the initial fifteen year compliance period; provided, however, that the extended use period shall terminate, subject to the provisions hereafter regarding low income tenancy and gross rent restrictions, on the date the building(s) are acquired by foreclosure (or instrument given in lieu of foreclosure). SHOULD THE EXTENDED USE PERIOD TERMINATE IN THIS FASHION, FOR A THREE YEAR PERIOD AFTER SUCH TERMINATION, NO LOW INCOME TENANT MAY BE EVICTED FOR OTHER THAN GOOD CAUSE, NOR MAY THE GROSS RENTS ATTRIBUTABLE TO THE LOW INCOME UNITS BE INCREASED BEYOND THAT PERMITTED UNDER THE CODE AND REGULATIONS PROMULGATED THEREUNDER.

7) This Agreement constitutes an "agreement" between the parties which shall be enforceable in the courts of the State of Michigan by the Authority as the state credit agency, or by any individual(s), whether prospective, present, or former occupant(s) of the Project, who meet the income limitation applicable to the Project under Section 42(g) of the Code, such individuals being express beneficiaries of this Agreement.

8) The Owner agrees to obtain the consent of any prior recorded lien-holder on the property to this agreement, and such consent shall be a condition precedent to the issuance of IRS Form 8609, or any document constituting a carryover allocation.

- 9) The Owner covenants and agrees that no portion of a building to which this agreement applies may be disposed of, transferred, or sold, unless the entire building is disposed of, transferred, or sold to such person.
- 10) The Owner covenants and agrees that the refusal to lease a unit in a building covered by this Agreement to the holder of a voucher or certificate of eligibility under §8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder is prohibited.
- 11) It is the intent of the parties that these covenants constitute use and occupancy restrictions and be covenants running with the land, binding on all successors and assigns of each party.
- 12) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and the provisions of this Agreement. Further, the Owner covenants to take any required action, including amendment of this Agreement, as may be necessary, in the opinion of the Authority, to comply with the Code and all applicable regulations, rules, and procedures of the Internal Revenue Service or the United States Department of Treasury.
- 13) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Authority.
- 14) The Owner covenants and agrees that it will maintain records at the Project and file reports with the Authority with respect to the occupancy and rent requirements and will permit the Authority to inspect such records at all reasonable times.
- 15) In the event the Authority determines that the Project is in non-compliance with the rent and occupancy requirements of Section 42 of the Code, and the Owner, upon notification by the Authority, does not take immediate steps to correct such non-compliance, the Authority shall notify the Internal Revenue Service, and shall be entitled to take such other actions as it deems necessary to enforce the provisions of the Code and this Agreement.
- 16) The Owner covenants and agrees to complete and send to the Authority an annual report, or, if more frequent reports are requested by an authorized officer of the Authority, status reports, in form and substance acceptable to the Authority, which shall demonstrate on-going compliance with the provisions of Section 42 of the Code.
- 17) The Owner covenants and agrees that, in the event it sells or otherwise transfers ownership of the Project or any part thereof, it will notify the Authority in writing and further, that it will enter into any such agreements with the purchaser or transferee as may be prescribed by the Authority, which have the effect of causing such purchaser or transferee to be bound by these restrictions, or any amendments thereto.
- 18) In the event of any conflict between the covenants contained in this Agreement and the requirements of the Code, the Code requirements shall prevail.

19) The invalidity of any clause or provision of this Agreement shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties have set their hands as of this 19th day of August, 1996.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

Elizabeth A. Hunter  
Elizabeth A. Hunter  
Janet Irzer  
Janet Irzer

By: Jeanne L. Peterson  
Jeanne L. Peterson  
Director of Legal Affairs

State of Michigan, Ingham County. The foregoing instrument was sworn and subscribed to before me this 19th day of August, 1996, by Jeanne L. Peterson, Director of Legal Affairs, Michigan State Housing Development Authority.

CHARLENE K. JOHNSON  
Notary Public, Eaton County, MI  
Acting in Ingham County, MI  
My Comm. Expires Aug. 13, 1996

Charlene K. Johnson  
Notary Public  
Ingham County, Michigan  
My commission expires \_\_\_\_\_

SEARCH HANDB LIMITED DIVIDEND HOUSING ASSOCIATION  
(Owner) LIMITED PARTNERSHIP

By: Joseph H. Hollander  
(signature of Owner)

Susan M. Fender  
SUSAN M. FENDER  
B. M. Fender  
B. M. Fender

JOSEPH H. HOLLANDER  
(Typed Name of Owner)  
834 KING HWY STE 104  
KALAMAZOO, MI 49001  
(Address of Owner)

State of Michigan, KALAMAZOO County.

The foregoing instrument was sworn and subscribed to before me

this 26th day of August, 1996 by

JOSEPH H. HOLLANDER, GENERAL PARTNER  
(name) (title)

Susan M. Fender  
SUSAN M. FENDER, Notary Public

PREPARED BY and RETURN TO:  
Jeanne L. Peterson  
Director of Legal Affairs  
MSRDA  
PO Box 30044  
Lansing, MI 48909

KALAMAZOO County, Michigan

My Commission expires: 8-3-2000

EXHIBIT A

The following described premises situated in the City of Portage  
County of Kalamazoo  
State of Michigan, to-wit:

Parcel 1: A parcel of land situated in the Northeast quarter of Section  
9, Town 3 South, Range 11 West, described as follows:

Commencing at the Northeast corner of Section 9, Town 3 South, Range 11 West;  
thence South along the East line of said Section a distance of 1997.34 feet;  
thence North 89 49' 25" West 1585.0 feet; thence North 66.00 feet for the  
place of beginning of the land hereinafter described; thence North 89 49' 25"  
West 409.20 feet to a point on the Easterly line and 66.00 feet northerly of  
the Southeast corner of the recorded Plat of "Southland Village No. 3"; thence  
North along the Easterly line of said Plat 437.04 feet; thence North 18 34'  
East along the Easterly line of said Plat, 352.52 feet to the Southerly line  
of the recorded Plat of "Southland Village No. 2"; thence South 89 52' 40"  
East along said Southerly line 169.72 feet; thence continuing along said  
Southerly line North 70 East 135.35 feet; thence South 818.40 feet to the  
place of beginning.

## EXHIBIT B

The owner acknowledges that it has made certain representations with respect to the development, all of which remain true. Further, these criteria have been considered by the Authority in awarding tax credit and shall be binding on the owner and on any successor(s) in interest in the development unless the Authority, in its sole discretion, grants a specific waiver of any such requirement. All applicable are checked.

1.  Credit has been allocated to this development on the basis that a bona fide 501(c)(3) or 501(c)(4) nonprofit organization, having the fostering of housing as one of its exempt purposes and having no affiliation with or control by a for profit entity, has an ownership interest in the development and materially participates in the development's operation.
2.  Credit has been allocated to this development on the basis that it is designed to serve and will serve the elderly population, that term being the most restrictive of the definition of "elderly" in the Authority's Act, any applicable tax abatement ordinance or resolution, or any applicable regulations under which the development has received assistance.
3.  Credit has been allocated to this development on the basis that it will serve developmentally disabled persons under a qualified program of the Michigan Department of Mental Health.
4.  Credit has been allocated to this development on the basis that it will serve either a homeless population or as transitional housing.
5.  Credit has been allocated to this development on the basis that it will serve tenants at certain area median income restrictions below the maximums permitted and will also concomitantly reduce rents to those tenants. The number of units so assisted and the incomes of residents for those units is as follows:

29.4% of the units will be rented to families whose income does not exceed 50% of the area gross median income.

# DRAFT REPORT



**PROJECT CAPITAL NEEDS ASSESSMENT  
SPRING MANOR  
610 MALL DRIVE  
PORTAGE, MICHIGAN 49024**

**D3G PROJECT NUMBER:  
2012-1940**

**DRAFT REPORT ISSUE DATE:  
NOVEMBER 9, 2012**

**INSPECTION DATE:  
NOVEMBER 1, 2012**

**PREPARED FOR:  
BERKELEY POINT CAPITAL LLC  
4550 MONTGOMERY AVENUE, SUITE 1100  
BETHESDA, MARYLAND 20814**

Dale L. Baxter  
Senior Construction Inspector

\_\_\_\_\_  
Signature

Mike Ferguson, P.E.  
Director of Engineering Services

\_\_\_\_\_  
Signature

---

CORPORATE HEADQUARTERS ♦ 4121 COX ROAD, SUITE 200 ♦ GLEN ALLEN, VIRGINIA 23060-3316  
804.358.2020 ♦ FAX 804.358.3003 ♦ WWW.D3G.BIZ

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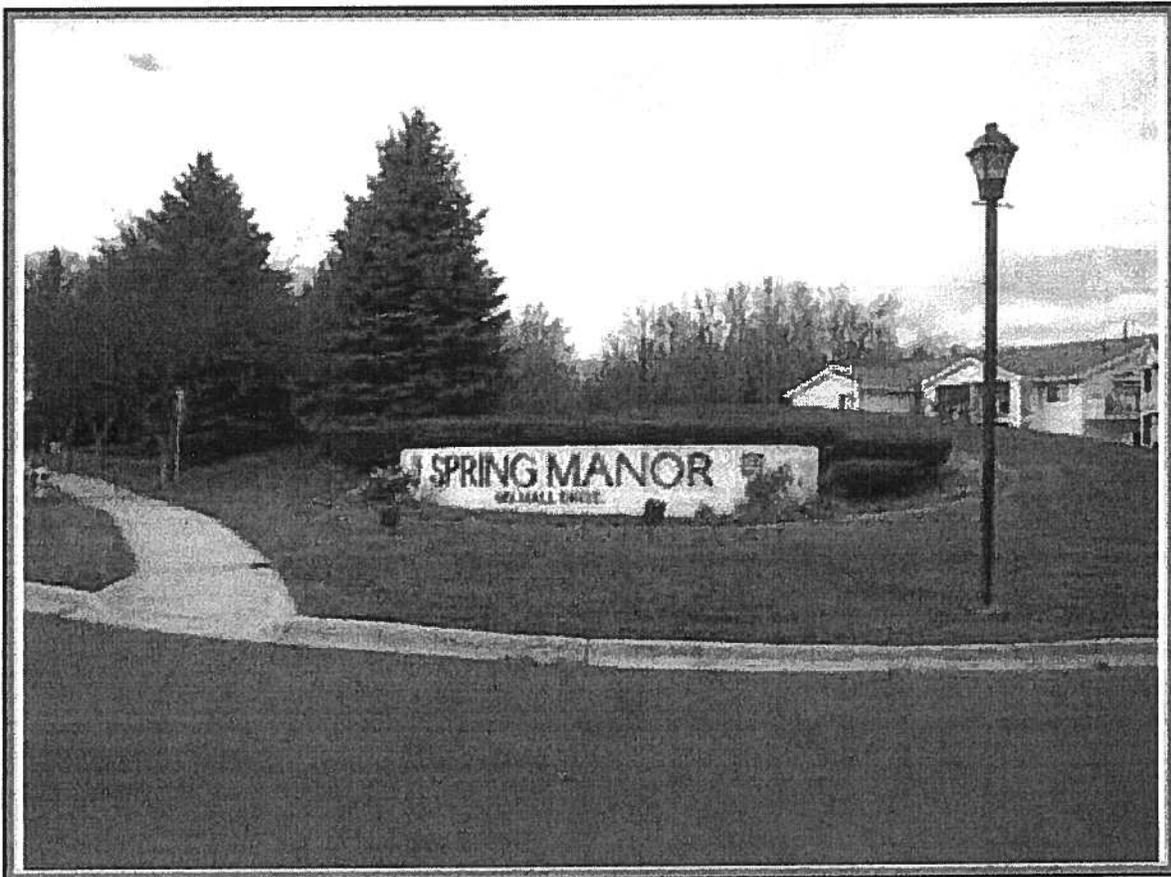
# DRAFT REPORT



## EXECUTIVE PROPERTY DESCRIPTION

Property: Spring Manor  
610 Mall Drive  
Portage, Michigan 49024

Site Description: Spring Manor, located at 610 Mall Drive in Portage, Kalamazoo, County, Michigan consists of one (1) two and three-story age-restricted apartment building and one (1) one-story enclosed garage that is a part of one (1) of the carports at the north side of the apartment building. The age-restricted apartment building contains one hundred seven (107) dwelling units. According to the owner, the apartment building was constructed in 1995 and is situated on 7.047 acres according to the owner provided survey. According to the reviewed construction documents and field measurements, the gross area of the apartment buildings is 108,050 square feet. The property was observed in good physical condition. Additional improvements consist of paved parking areas, concrete sidewalks, and mature landscaping.



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# DRAFT REPORT

Date of Construction: 1995

Zoning: Pending a response from the local municipality

Utility and Contract Services:

Electricity	-	Consumers Energy
Gas	-	Consumers Energy
Water	-	City of Portage
Sewer	-	City of Portage
Solid Waste	-	Best Way Disposal
Telephone	-	Charter
Pest Control	-	Eradico
Landscaping	-	Currently In-house / In 2013 - Devisser
Mechanical Service	-	A-1 Mechanical
Electrical	-	In-house
Plumbing	-	Roto-Rooter
Fire Protection	-	VanWall Fire Protection / Riverside
Elevator Service	-	Thyssen Krupp

## 1.3 Critical Repairs

Critical repairs are physical deficiencies that require immediate action as a result of existing potentially unsafe conditions, building code violations, poor or deteriorated conditions of a critical element or system, or a condition that if left "as is" would result in a critical element or system failure. Items with no cost are to be performed as routine maintenance tasks. Additionally included are issues that affect sustainable occupancy or egress to the property. An investigation of the subject property identified the following "Critical Repairs":

# DRAFT REPORT

CRITICAL REPAIR (IMMEDIATE NEEDS)	TOTAL
<p>1. The surveyed dwelling unit kitchens were observed with only partial (electrical outlets located within the immediate vicinity of a water source) Ground Fault Circuit Interrupt (GFCI) protection for the countertop area electrical outlets. The installation of GFCI protection for all electrical outlets servicing a kitchen countertop area are required to be GFCI protected according to the most recent National Electric Code (NEC) guideline; therefore, the installation of GFCI protected outlets is required. (107 EA @ \$35.00)</p>	\$ 3,745.00
<p>2. The designated handicap dwelling unit kitchen and bathroom sinks, as well as the public/tenant usage unisex restrooms located adjacent to the community room and the hair-wash sink in the beauty salon were observed without proper anti-scald/abrasion protection on the exposed sink plumbing. The installation of anti-scald/abrasion protection on the exposed sin plumbing in these areas is required in order to comply with the American's with Disabilities Act Accessibility Guidelines (ADAAG) and the Americans National Standards Institute (ANSI A117.1). (23 EA @ \$35.00)</p>	\$ 805.00
<p>3. The lease office entrance door was observed with non-accessible (knob style) hardware. The installation of accessible (lever handled) door hardware is required in order to comply with ADAAG (1 EA @ \$125.00)</p>	\$ 125.00
<p>4. The concrete steps leading the entrance at the northwest corner of the structure were observed to be 4-foot wide and only feature metal handrails along one (1) side of these steps. It is therefore recommended that additional handrails be installed on the opposite side of these steps in order to prevent a potential fall hazard. (1 EA @ \$350.00)</p>	\$ 350.00
<p>5. Based upon the one hundred five (105) total parking spaces (62 carport spaces and 43 open spaces) available at the property, five (5) handicap designated parking spaces, inclusive of one (1) van accessible handicap parking space is required to comply with the American's with Disabilities Act Accessibility Guidelines (ADAAG). The subject property currently features ten (10) handicap parking spaces located on the left and right sides of the main entrance on the northeast side of the building. These handicap parking spaces feature vertical signs, pavement markings, and feature shared 5-foot wide and 8-foot wide access aisles with flush sidewalk access but none of the spaces are designated as van accessible. In addition, none of the carport spaces are designated as handicap accessible. In order to comply with ADAAG, as well as FHA, D3G recommends that one (1) of the existing handicap parking spaces with the shared 8-foot wide access aisle be designated as a van accessible handicap parking space for the property to comply with ADAAG and that one (1) of the carport spaces be designated as handicap accessible in order to comply with FHA. (1 Lump Sum @ \$225.00)</p>	\$ 225.00
<b>TOTAL:</b>	<b>\$ 5,250.00</b>

# DRAFT REPORT

## 1.4 Non-Critical Repairs

Non-Critical Repairs are defined as physical deficiencies that include deferred maintenance, that may not warrant immediate attention, but requiring repairs or replacements that should be undertaken on a priority basis, taking precedence over routine preventative maintenance work within a zero to one-year time frame. Included are such physical deficiencies resulting from improper design, faulty installation, and/or substandard quality of original systems or materials. An investigation of the subject property identified the following Non-Critical Repairs:

NON-CRITICAL REPAIRS (12-MONTH PROPERTY CONDITION)	TOTAL
<p>1. The dwelling units do not feature a Carbon Monoxide (CO) detector in the dwelling units despite the natural gas-fired furnaces and water heaters that are located in the dwelling units. According to the National Conference of State Legislatures (at web address: <a href="http://www.ncsl.org/?tabid=13238">http://www.ncsl.org/?tabid=13238</a>), Michigan requires newly constructed and existing boarding houses, hotels, motels and other residential buildings where occupants are primarily transient in nature to install an operational carbon monoxide device in each area where a mechanism is present that provides a common source of heat from a fossil-fuel-burning furnace, boiler, or water heater. In addition, the State of Michigan authorizes the Director of the Department of Consumer and Industry Services to provide for the installation of at least one carbon monoxide device within the vicinity of the bedrooms within newly constructed or renovated single-family or multifamily dwellings. D3G's interpretation of Mich. Comp. Laws Ann. § 125.1504d and Mich. Comp. Laws Ann. § 125.1504f is that the apartment building is in compliance until a renovation is performed; however, the owner has elected to proceed with the installation of carbon monoxide detectors in the dwelling units even though the property is not required to do so until a renovation. (107 EA @ \$35.00)</p>	<p>\$ 3,745.00</p>
<p>2. It was reported by the owner that trouble with roof leaks at the leading edge of the roofs and overhangs has been recently occurring due to HVAC ductwork repairs that have been required at the subject property since original construction. In addition, the asphalt shingles are nearing the end of the Estimated Useful Life (EUL) for the asphalt shingles that were installed at the time of construction; therefore, D3G recommends replacement of the asphalt shingles and repair of the roof sheathing as necessary in order to prevent moisture intrusion. * (46,648 SF @ \$1.85)</p>	<p>\$ 86,298.80</p>
<p>3. The base cabinet in the ice-cream parlor/coffee shop does not feature removable base cabinets to allow for a forward approach at the sink nor does the ice-cream parlor/coffee shop kitchen area feature sufficient 30"X48" clear floor space at the sink area to allow for a parallel approach at the sink. It was reported that the ice-cream parlor/coffee shop kitchen area is available for usage by the tenants for social events; therefore, removal of the base cabinet at the sink area is recommended in order to comply with FHA. It is further recommended that the exposed sink plumbing be protected with anti-scald/abrasion protection and that the flooring be finished within the whole open area. (1 EA @ \$450.00)</p>	<p>\$ 450.00</p>
<b>Total:</b>	<b>\$ 90,493.80</b>

\* It should be noted that the Detroit HUD Office hub requires three (3) estimates for repairs over \$25,000

# DRAFT REPORT

## 1.5 Near Term (Replacement Reserve) Summary Table

Replacement reserves are defined as non-routine maintenance items that will require significant expenditure during the near term of the mortgage. Included are items that will reach the end of their Estimated Useful Life during the next ten (10) years or in the opinion of the engineer, will require attention during that time. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance over the following 10-year period:

PROPERTY IMPROVEMENTS		
1- 10 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$630,842	\$590
Inflated Cost (2.5%/year)	\$711,936	\$665
<b>RECOMMENDED INITIAL DEPOSIT CALCULATION: \$620,600 ( \$ 5,800 /UNIT)</b>		
<b>RECOMMENDED ANNUAL DEPOSIT CALCULATION: \$58,850 ( \$ 550 /UNIT)</b>		

## 1.6 Long Term Summary Table

Long-term costs are defined as non-routine maintenance items that will require significant expenditure during the extended life (11-20 years) of the mortgage. Included are items that will reach the end of their Estimated Useful Life during the 11 to 20 year period of the loan, or in the opinion of the engineer, will require attention during that time. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance over the 11 to 20 year period of the mortgage:

11-20 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$909,777	\$850
Inflated Cost (2.5%/year)	\$1,320,847	\$1,234

## 1.7 Remainder of Loan Term Summary Table

Remainder replacement reserves are defined as non-routine maintenance items that will require significant expenditure during the last portion of the 35-year mortgage, plus two additional years (21 to 37 years). Included are items that will reach the end of their Estimated Useful Life during this period. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance during this period:

21-37 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$1,189,967	\$654
Inflated Cost (2.5%/year)	\$2,361,509	\$1,298

# DRAFT REPORT

- The carport attached storage garage will require refurbishment during the loan term.

It should be noted that our reserve schedules do not include costs associated with routine maintenance (items less than \$500, plumbing and miscellaneous repairs included under the maintenance budget).

## 2.0 LIMITATIONS

This report has been prepared for, and can be relied upon by the Client, Berkeley Point Capital LLC, and the United States Department of Housing and Urban Development (HUD). This report was prepared in accordance with generally accepted industry standards of practice for building inspection services, including the ASTM E-2018 *Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process*, as well as the protocols outlined in HUD Handbook 4600.01 Revision 2 and 4460.1. In addition, the inspection was performed in accordance with the U.S. Department of Housing and Urban Development Multifamily Accelerated Processing (MAP) Guide, Chapters 5 and 6, Revised November 23, 2011. No other warranty, either expressed or implied, is made. This report is not to be reproduced, either in whole or in part, without written consent from D3G.

The statements in this report are professional opinions about the present condition of the subject property. They are based upon visual evidence available during the inspection of reasonably accessible areas at the subject property. We did not remove any surface materials, perform any destructive testing, or move any furnishings. The study is not an exhaustive technical evaluation. Such an evaluation would entail a significantly larger scope of work than was determined for this project. Accordingly, we cannot comment on the condition of systems that we could not see, such as buried structures and utilities, nor are we responsible for conditions that could not be seen or were not within the scope of our services at the time of inspection. We did not undertake activities that would completely assess the stability of the building or the underlying foundation soil since this effort would require excavation and destructive testing. Likewise, this is not a seismic assessment, nor do we make any conclusions or comments regarding wood destroying organisms/insects.

Our on-site observations pertain only to specific locations at specific times on specific dates. Our observations and conclusions do not reflect variations in conditions that may exist, in unexplored areas of the site, or at times other than those represented by our observations. Limited architectural drawings were available at the site for review during the inspection. This report and conclusions herein are based upon data collection between October 5, 2012 and November 9, 2012.

**ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING DIVISION 4 OF ARTICLE 2 OF CHAPTER 70, TAXATION, SPRING MANOR APARTMENTS (FORMERLY KNOWN AS MALL DRIVE APARTMENTS) PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.**

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. MALL DRIVE APARTMENTS PROJECT SPRING MANOR APARTMENTS

**Sec. 70-111. Preamble.**

It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.

**Sec. 70-1124. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

*Annual shelter rent* means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

*Authority* means the state housing development authority.

*Elderly* means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

*LIHTC Program* means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

*Housing development* means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

*Mortgage loan* means a federally-aided mortgage as defined in Section 11(c) of the Actthe state housing development authority.

*Senior citizen* means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

*Sponsor* means the persons who have applied to the authority for a federally-aided mortgage loan to finance a housing development.

**Sec. 70-1132. Exemption of senior citizen housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be ~~senior center~~ elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as ~~Mall Drive~~ Spring Manor Apartments is of this class.

**Sec. 70-1143. Amount of service charge on part of development occupied by senior citizens.**

The housing development identified as ~~Mall Drive~~ Spring Manor ~~a~~ Apartment Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor and the authority has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan authority's offer to the sponsor to finance the sponsor's rehabilitation ~~make a mortgage loan to finance the sponsor's construction~~ of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be ~~four~~ five percent of the annual shelter rents on that part of the housing development which is occupied by ~~senior~~ elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation construction ~~construction~~ commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.17,357.00 . The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning ~~after the commencement of construction~~ issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if ~~the a mortgage loan from the authority~~ federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

~~**Sec. 70-114. Amount of service charge on part of development occupied by other than senior citizens.**~~

~~Notwithstanding section 70-113, the service charge to be paid each year in lieu of taxes for that part of the housing development which is tax exempt and which is occupied by other than senior citizens shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.~~

**Sec. 70-115. Contractual effect of division.**

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

**Sec. 70-116. Payment of service charge.**

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) ~~One half of t~~The minimum payment of \$32,283.00 is due on or before December 31 of each year.
- (2) ~~One half of the minimum payment, plus~~Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

**Sec. 70-117. Verification of annual shelter rent.**

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor to the state housing development authority or other form of financial documentation deemed suitable by the city.

**Sec. 70-118. Effective period of division.**

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, or the Authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of anythe federally-aided mortgage loan, this division shall automatically terminate.

~~This division shall remain in effect and shall not terminate so long as a mortgage loan remains outstanding and unpaid, or the state housing development authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of the authority mortgage loan, this division shall automatically terminate.~~

\_\_\_\_\_  
Peter J. Strazdas, Mayor

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ORDINANCE #: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the \_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James R. Hudson, City Clerk

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

Approved as to Form:  
Date: \_\_\_\_\_  
\_\_\_\_\_  
City Attorney

| Z:\Jody\PORTAGE\ORD\NONZONE\PILOT Spring Manor - amending Mall Drive Apt.031313.doc

**ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING DIVISION 4 OF ARTICLE 2 OF CHAPTER 70, TAXATION, SPRING MANOR APARTMENTS (FORMERLY KNOWN AS MALL DRIVE APARTMENTS) PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.**

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

**DIVISION 4. SPRING MANOR APARTMENTS**

**Sec. 70-111. Preamble.**

**It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.**

**Sec. 70-112. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

*Annual shelter rent* means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

*Authority* means the state housing development authority.

*Elderly* means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

*LIHTC Program* means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

*Housing development* means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

*Mortgage loan* means a federally-aided mortgage as defined in Section 11(c) of the Act.

*Senior citizen* means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

*Sponsor* means the persons who have applied for a federally-aided mortgage loan to finance a housing development.

**Sec. 70-113. Exemption of senior citizen housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Spring Manor Apartments is of this class.

**Sec. 70-114. Amount of service charge on part of development occupied by senior citizens.**

The housing development identified as Spring Manor Apartments Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan to the sponsor to finance the sponsor's rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be five percent of the annual shelter rents on that part of the housing development which is occupied by elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.00. The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if a federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

**Sec. 70-115. Contractual effect of division.**

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

**Sec. 70-116. Payment of service charge.**

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$32,283.00 is due on or before December 31 of each year.

- (2) Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

**Sec. 70-117. Verification of annual shelter rent.**

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor or other form of financial documentation deemed suitable by the city.

**Sec. 70-118. Effective period of division.**

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any federally-aided mortgage loan, this division shall automatically terminate.

\_\_\_\_\_  
Peter J. Strazdas, Mayor

FIRST READING: \_\_\_\_\_  
SECOND READING: \_\_\_\_\_  
ORDINANCE #: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the \_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James R. Hudson, City Clerk

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

Approved as to Form:

Date: 3/28/13

          
City Attorney

**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 2 of Chapter 70, Taxation, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on \_\_\_\_\_, 2013, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on \_\_\_\_\_, 2013, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Article 2 of Chapter 70, Taxation, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. SPRING MANOR APARTMENTS

**Sec. 70-111. Preamble.**

**It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.**

**Sec. 70-112. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Authority* means the state housing development authority.

*Elderly* means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

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*Sponsor* means the persons who have applied for a federally-aided mortgage loan to finance a housing development.

### **Sec. 70-113. Exemption of senior citizen housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Spring Manor Apartments is of this class.

### **Sec. 70-114. Amount of service charge on part of development occupied by senior citizens.**

The housing development identified as Spring Manor Apartments Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan to the sponsor to finance the sponsor's rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be five percent of the annual shelter rents on that part of the housing development which is occupied by elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.00. The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if a federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

**Sec. 70-115. Contractual effect of division.**

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

**Sec. 70-116. Payment of service charge.**

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$32,283.00 is due on or before December 31 of each year.
- (2) Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

**Sec. 70-117. Verification of annual shelter rent.**

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor or other form of financial documentation deemed suitable by the city.

**Sec. 70-118. Effective period of division.**

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any federally-aided mortgage loan, this division shall automatically terminate.

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Hudson, City Clerk

**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Special Meeting with Board and Commission Applicants

**SUPPORTING PERSONNEL:** James Hudson, City Clerk

**ACTION RECOMMENDED:** That City Council set a Special Meeting on Tuesday, May 14, 2013, beginning at 5:15 p.m., to interview Board and Commission applicants.

**EXECUTIVE SUMMARY:**

Section 2 – Article 7 of the Ordinances affirms that City Council recognizes and appreciates the value and importance each board and commission plays in the decision-making process of the Council. Board and commission interviews are routinely performed each year in October, January and May. It is noted that the May interviews involve addressing the single-year terms of the Youth Advisory Committee in light of the passing school year.

**BACKGROUND INFORMATION:**

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

Board of Review	1 vacancy
Construction Board of Appeals	3 expiring terms, including the Architect who is term-limited
EDC/TIFA and BRA	1 Portage Public Schools vacancy
Historic District Commission	1 vacancy
Human Services Board	1 vacancy
Park Board	1 vacancy
Planning Commission	1 expiring term, 2 vacancies
Public Media Network Board	1 expiring term
Youth Advisory Committee	30 expiring terms

As reflected on the attached Board and Commission Vacancy Summary, applicants are needed at this time to fill vacancies on the Board of Review, Construction Board of Appeals, Historic District Commission, Human Services Board, Park Board, Planning Commission, Public Media Network Board, Youth Advisory Committee and Economic Development Corporation/Tax

Increment Finance Authority and the Brownfield Redevelopment Authority Portage Public Schools vacancy. It is recommended that City Council set a Special Meeting on Tuesday, May 14, 2013, beginning at 5:15 p.m., to interview board and commission applicants.

**FUNDING:** N/A

**Attachments:** Vacancy Summary

**BOARDS/COMMISSIONS VACANCY SUMMARY FOR MAY 14, 2013 SPECIAL MEETING**

**YOUTH APPLICANTS**

INTERVIEWS	5:15 pm	ENV <i>1 exp term 06/30/13</i>	HDC <i>1 exp term 06/30/13</i>	HSB <i>1 exp term 06/30/13</i>	PKB <i>1 exp term 06/30/13</i>	SR CITZ <i>1 exp term 06/30/13</i>	STATUS
	<i>YAC 30 exp terms 06/30/13</i>						
Sami Ahmad	Applicant	Applicant			Applicant		
Lauren Ammar	Applicant	Applicant			Applicant		
Lauren Bates	Applicant			Applicant			
Amanda Bunch	Applicant	Applicant			Applicant		
Eli Cartier	Applicant						
Ansh Chaudhary	Member	Applicant		Applicant	Applicant	Applicant	Appointed 10/04/11 to YAC
Stephen Chow	Applicant						
Robert Corcoran	Applicant			Applicant	Applicant		
Kyle Huit	Member			Applicant			Appointed 06/08/10 to YAC
Nadia Javeed	Member						Appointed 05/08/12 to YAC
Sharat Kamath	Applicant						
Sisira Kavuri	Applicant	Applicant					
Humza Khan	Applicant			Applicant	Applicant		
Kitu Komya	Member						
Brandon Luevano	Applicant	Applicant	Applicant	Applicant	Applicant	Applicant	Appointed 06/08/10 to YAC
Kelcie McGowan	Applicant						
Kasia Mietusiewicz	Applicant		Applicant			Applicant	
Humza Mirza	Member						Appointed 06/09/09 to YAC
Alexander Molner	Applicant	Applicant	Applicant	Applicant	Applicant	Applicant	
Sophie Morin	Applicant	Applicant					
Ugo Nwagbo	Applicant			Applicant			
Aayushi Priya	Member						
Audrey Searing	Member	Applicant					Appointed 05/08/12 to YAC
Genevieve Sertic	Member	Applicant			Applicant	Member	Appointed 05/08/12 to YAC
Taylor Snyder	Applicant						Appointed 05/10/11 to YAC
Amethyst Stewart	Applicant			Applicant		Applicant	
Jodi Stoffer	Member						
Ali Thomas, Jr.	Applicant						Appointed 05/08/12 to YAC
Logan Wilson	Member	Applicant			Applicant		Appointed 05/08/12 to YAC
Tori Wilson	Member	Applicant					Appointed 05/10/11 to YAC

NOTE: Member – currently serving as a Member of a Board or Commission and is seeking reappointment.  
 Applicant – new applicant seeking appointment to a Board or Commission.

**BOARD/COMMISSION VACANCY SUMMARY FOR MAY 14, 2013 SPECIAL MEETING**

**APPLICANTS**

INTERVIEWS	5:15 pm	pm	pm	pm	pm	pm	pm	pm	pm	pm	pm	pm	STATUS
	<b>YOUTH</b>	<b>CBA</b> 3 exp terms	<b>PC</b> 1 exp term 2 vacancies	<b>PMN</b> 1 exp term	<b>PK BD</b> 1 vacancy Applicant	<b>HDC</b> 1 vacancy	<b>HSB</b> 1 vacancy	<b>BD REV</b> 1 vacancy	<b>EDC/TIFA and BRA</b> 1 PPS vacancy				
Michael Blanchard					Applicant								
Theresa Bunch			Applicant										
Henry Kerr		Member											
William Koopsen - 1							Applicant						Appointed 10/07/03
David Miner								Applicant					
Kathleen Mishler			Applicant										
Donald Ramlow			Applicant	Member									Appointed 05/11/10
Betty Schimmel		Member											
Lawrence Schmidt			Applicant										Appointed 06/01/07
Lowell Seyburn		Member											
George Theodoru		Member											Appointed 05/11/10
Charles Thomas					Applicant								
Patricio Trevino			Applicant	Applicant	Applicant	Applicant	Applicant						
Paul Welch		Member	Member										Appointed 06/01/07

**NOTE:** Member – currently serving as a Member of a Board or Commission and is seeking reappointment.  
 Applicant – new applicant seeking appointment to a Board or Commission.

1 – Mr. Koopsen is an architect registered in the city with at least five years of experience as such (required for Construction Board of Appeals) and has served three consecutive terms on this board. If there are no other qualified applicants, Council will have to waive the “ten consecutive years or three consecutive terms” limit to reappoint Mr. Koopsen.



**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Tree City USA Tree Planting and Proclamation

**SUPPORTING PERSONNEL:** William Deming, Director of  
Parks, Recreation and Public Services

**ACTION RECOMMENDED:** Information Only

**EXECUTIVE SUMMARY:**

The annual Arbor Day tree-planting ceremony will be held at 7:00 p.m. prior to the April 23 City Council Meeting. The planting ceremony will occur on the City Hall property and all Council members are invited to attend.

**BACKGROUND INFORMATION:**

The City of Portage recently received a Tree City USA designation from the National Arbor Day Foundation for the 23<sup>rd</sup> consecutive year. Arbor Day in Michigan is April 26, 2013 this year. In addition to a proclamation and in order to recognize the importance of tree planting and maintenance within the community, the annual Arbor Day tree-planting ceremony will be held at 7:00 p.m. prior to the April 23 City Council meeting. The planting ceremony will occur on the City Hall property and all Council members are invited to attend.

**FUNDING:** N/A

**Attachments:** N/A



**TO:** Portage City Council

**FROM:** Mayor Peter J. Strazdas

**SUBJECT:** Closed Session

**SUPPORTING PERSONNEL:** Maurice S. Evans, City Manager

**ACTION RECOMMENDED:** That City Council hold a closed session immediately following the regularly scheduled City Council Meeting of April 9, 2013, to discuss a City Attorney communication.

**BACKGROUND INFORMATION:**

A closed session is requested immediately following the regularly scheduled City Council meeting of April 9, 2013, to discuss an attorney-client communication. Related information was provided to Council in the Materials Transmitted of April 5, 2013.

**FUNDING:** N/A

**Attachments:** none

**To:** Honorable Mayor and City Council  
**From:** Portage Planning Commission  
**Date:** March 27, 2013  
**Subject:** City of Portage FY 2013-2023 Capital Improvement Program

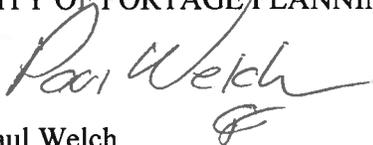
The Planning Commission has reviewed the proposed FY 2013-2023 Capital Improvement Program (CIP), the comprehensive municipal budget and planning document that contains important capital projects to continue essential public services and enhance the quality of the community. In order to reflect changes in community needs, service requirements, availability of funding, among other factors, the CIP is annually prepared by the City Administration and presented to the Planning Commission for review and recommendation to City Council.

The Planning Commission remains cognizant of the lagging local, state and national economies and appreciates the efforts of the City Administration, as outlined in the letter from City Manager Evans, to meet the changing capital improvement needs of the community.

The Planning Commission carefully reviewed the FY 2013-2023 CIP during the March 7 and March 21, 2013 meetings including the eight project categories, multiple project profiles and related information. At the conclusion of the March 21<sup>st</sup> meeting, the Planning Commission voted unanimously to recommend to City Council that the FY 2013-2023 CIP be approved (FY 2013-2014 budget year, and remaining nine-year planning projects).

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



Paul Welch  
Vice-Chairman

Attachments: March 7 and 21, 2012 Planning Commission meeting minutes

II), 1001 Gulfport Trail, be approved subject to the maximum number of residential units be limited to 30 in accordance with the International Fire Code until a second means of ingress and egress is provided. The motion was approved 8-0-1 with Chairman Cheesebro abstaining.

**PUBLIC HEARINGS:**

1. Special Land Use Permit: Lakeview Animal Hospital, 8818 Portage Road. Mr. West summarized the staff report dated February 28, 2013 regarding the request by Lakeview Animal Hospital to establish a veterinary hospital/clinic at 8818 Portage Road. Mr. West stated the existing 3,750 square foot building would be renovated to accommodate the use and no site improvements were proposed. Mr. West indicated the Zoning Board of Appeals (ZBA) granted Lakeview Animal Hospital a variance on February 11, 2013 to allow operation of a veterinary hospital at this location since the adjacent property is zoned R-1B, one family residential subject to: 1) A six-foot privacy fence along the west property line be maintained to protect adjacent residential properties; 2) No outdoor kennels or runs are provided on site; 3) The hospital/clinic be limited to the treatment of small animals (i.e. domesticated pets); and 4) No animal crematory facilities shall be provided on site. Mr. West also indicated that all activities associated with the veterinary hospital/clinic will be conducted in the totally enclosed building. Mr. West stated the application fulfills the criteria for issuance of a special land use permit and staff was recommending approval.

Mr. Darrell Greathouse was present to support the application and distributed preliminary elevation drawings that identified his plans to improve the building appearance. Chairman Cheesebro opened the public hearing. No citizens spoke regarding the proposed veterinary hospital/clinic. A motion was made by Commissioner Stoffer, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Welch, seconded by Commissioner Felicijan, to approve the Special Land Use Permit for Lakeview Animal Hospital, 8818 Portage Road. The motion was unanimously approved.

**OLD BUSINESS:**

None.

7:28pm - The Commission took a short recess.

7:34pm - The Commission reconvened the meeting in City Hall Conference Room No. 2

**NEW BUSINESS:**

1. 2013 Major Thoroughfare Plan Status Update Report. Mr. Forth referred the Commission to the 2013 Major Thoroughfare Plan Status Update Report that was provided as a separate document and asked if there were any questions or comments. Several Commission members noted it was helpful to have updated traffic information for the city. A motion was then made by Commissioner Bosch, seconded by Commissioner Stoffer, to accept the 2013 Major Thoroughfare Plan Status Update Report. The motion was unanimously approved.

1. FY 2013-2023 Capital Improvement Program. Mr. Forth summarized the February 22, 2013 memo from City Manager Evans that provided an overview of the FY 2013-2023 Capital Improvement Program (CIP) document with emphasis on the FY 2013-2014 budget year. Mr. Forth discussed the timeline for Planning Commission review of the document and indicated a recommendation to City Council was needed by the March 21<sup>st</sup> meeting.

Commissioner Reiff asked if money generated through the sale of vehicles, such as a fire truck, is identified as a revenue source in the CIP. Mr. Forth indicated he would provide an answer prior to the next meeting. Mr. Forth did note that the funds from the sale of the former South Westnedge Avenue Portage Community Center

facility had been allocated to development of the Eliason Nature Reserve. Commissioner Reiff also asked whether the 12<sup>th</sup> Street Sidewalk project should be given a higher priority and moved up in the schedule. Mr. Forth indicated it's an expensive sidewalk project and identified for funding in an appropriate budget year. Commissioner Dargitz asked why the Metsa Court water main extension project was given such a high priority since it only served a few homes. Mr. Forth indicated it was a petitioned request from the residents and was evaluated by the Transportation & Utilities Department based on the specific circumstances. Commissioner Felicijan asked why the Storm Water Drainage Improvements project was given such a high priority and funding while other neighborhoods that are experiencing flooding have not received the same attention. Mr. Forth stated the project was evaluated by the Transportation & Utilities Department based on the specific circumstances. The Commission concurred that additional discussion of the CIP could occur at the March 21, 2013 meeting, prior to formulating a recommendation to City Council. Chairman Cheesebro asked that any Commission questions regarding the CIP be forwarded to staff in advance of the March 21, 2013 meeting so that appropriate responses can be obtained.

**STATEMENT OF CITIZENS:**

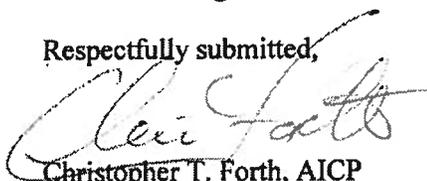
None.

**ADJOURNMENT:**

Commissioner Dargitz provided an update on the 50<sup>th</sup> Anniversary Celebration "pass book" idea being worked on by the subcommittee. Commissioner Dargitz distributed a sample entry form that was developed by the subcommittee. The Commission discussed copying and advertising options including use of the City of Portage website and Portager newsletter. Mr. Forth stated he would check regarding use of the city website and/or Portager newsletter. Mr. Forth also suggested the Planning Commission prepare a short memo to City Council that details the "pass book" idea and timeframe for implementation. Commissioner Felicijan stated he would prepare a draft communication to City Council for full Commission review at the March 21, 2013 meeting.

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,



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

DRAFT

Commissioner Patterson, seconded by Commissioner Reiff, to approve the Site Plan and Request to Exceed the Maximum Parking Requirement for Mulligan's Grill and Steakhouse, 9136 Shaver Road, with a finding that the construction of the additional 25 parking spaces is necessary for the use and demand of the restaurant and will not adversely impact the subject property, surrounding properties or related natural features. The motion was unanimously approved 5-0.

**PUBLIC HEARINGS:**

None.

**NEW BUSINESS:**

1. 2012-2013 City Council Assigned Goals and Objectives Update (April 2013) and Recommended 2013-2014 Goals and Objectives. Mr. Forth introduced the item and referred the Commission to the draft transmittal to City Council regarding progress made on the 2012-2013 Assigned Goals and Objectives and Recommended Goals and Objectives for 2013-2014. Commissioner Reiff asked about possible Youth Advisory Committee involvement during the upcoming fiscal year. Mr. Forth stated the Youth Advisory Committee would likely be engaged during the Comprehensive Plan Update. Commissioner Dargitz suggested inserting the language "...that emphasize, as appropriate, a green, sustainable and healthy community focus" into Recommended FY 2013-2014 Goals and Objectives No. 5. The Commission concurred. After additional discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Stoffer, to forward the 2012-2013 City Council Assigned Goals and Objectives Update (April 2013) and Recommended 2013-2014 Goals and Objectives to City Council with the above change. The motion was unanimously approved 5-0.

7:30pm - The Commission took a short recess.

7:35pm - The Commission reconvened the meeting in City Hall Conference Room No. 1

**OLD BUSINESS:**

1. FY 2013-2023 Capital Improvement Program. Mr. Forth provided an overview of the FY 2013-2023 Capital Improvement Program (CIP) document with emphasis on the FY 2013-2014 budget year. Commissioner Reiff and Commissioner Dargitz asked about the locations of the pedestrian refuse islands under Streets project No. 1. Mr. Forth indicated a pedestrian refuse island was planned on South Westnedge Avenue, near the West Lake Nature Preserve but didn't have the specific location for the other roadway projects. Commissioner Reiff asked about Sidewalks project #3 and whether there had been any conversations with Portage Public Schools about moving this project up in the scheduling. Mr. Forth stated he was not aware of any recent conversations with Portage Public Schools. Mr. Forth also noted projects in the out years are subject to change from year to year depending on various factors that can influence construction schedules. Commissioner Dargitz asked about the average life expectancy of roadways and whether any underground utility work would be planned with the Portage Road street project. Mr. Forth indicated the average life expectancy of a local street is estimated to be 40 years and 20 years for a major road after reconstruction. Mr. Forth noted the condition of the Portage Road underground water and sewer mains was evaluated by the City Administration and replacement at this time was not deemed necessary. Commissioner Stoffer and Commissioner Reiff asked if City Council typically reviewed the estimated costs of budget year approved projects compared to the actual cost to complete these projects. Mr. Forth indicated he did not have specific comparisons available.

After additional discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Stoffer, to recommend to City Council that the FY 2013-2023 CIP be approved (FY 2013-2014 budget year and remaining nine-year planning projects). The motion was unanimously approved 5-0.

DRAFT

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

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

**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager 

**SUBJECT:** Easement Relinquishment Request, Burt Drive (License Agreement)

**SUPPORTING PERSONNEL:** W. Christopher Barnes, Director of Transportation and Utilities

**ACTION RECOMMENDED:** That City Council relinquish the northerly and southerly 12 feet of an existing easement for drainage, sewage and other public purposes over a previously vacated section of Burt Drive and authorize the City Manager to sign the License Agreement to locate an Accessory Structure in the easement area.

**EXECUTIVE SUMMARY:**

During the March 12, 2013 meeting, City Council adopted a resolution regarding an easement relinquishment request for Burt Drive. The resolution was subsequently placed on file with the Office of the City Clerk for 28 days to allow for public input and/or inquiry. As none was received, the associated License Agreement to locate an Accessory Structure in the noted Burt Drive easement area is returned to Council for final action.

**BACKGROUND INFORMATION:**

The city has received a communication from Mr. Stephen Buckstaff, 9225 Austin Drive and Mr. Don Dargitz, 9211 Austin Drive, requesting the city relinquish a portion of a 40-foot wide utility easement located between their respective properties at the end of Burt Drive.

The easement is over an unimproved extension of Burt Drive located east of Austin Drive, which the city vacated in 1968. The easement does not have utilities located within its boundaries but the city will retain a 16-foot easement to allow for installation of a storm drain, should future need arise. The citizens are making this request as Mr. Buckstaff would like to construct a garage addition that would encroach into the existing easement area. In addition, two additional existing structures that currently encroach into the easement area will be addressed through removal of one structure and retaining the other, provided Council approves the resolution. A complete background on the request is attached for information.

**FUNDING:** N/A

**Attachments:** March 12, 2013 City Council Agenda Item F.3 regarding the Easement Relinquishment Request for Burt Drive

**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Easement Relinquishment Request, Burt Drive

**SUPPORTING PERSONNEL:** W. Christopher Barnes, Director of Transportation and Utilities

**ACTION RECOMMENDED:** That City Council:

- a) adopt a resolution to relinquish the northerly and southerly 12 feet of an existing easement for drainage, sewage and other public purposes over a previously vacated section of Burt Drive, place the resolution on file with the City Clerk for 28 days, take final action on April 9, 2013; and
- b) authorize the City Manager to sign the License Agreement to locate an Accessory Structure in the easement area.

**EXECUTIVE SUMMARY:**

The city has received a communication from two citizens in which they request the city relinquish a portion of a 40-foot wide utility easement located between their respective properties at the end of Burt Drive. The easement does not have utilities located within its boundaries but the city will retain a 16-foot easement to allow for installation of a storm drain, should future need arise. The citizens are making this request as one party desires to construct a garage addition that will encroach into the existing easement area. In addition, two additional existing structures that currently encroach into the easement area will be addressed through removal of one structure and retaining the other, provided Council approves the resolution.

**BACKGROUND INFORMATION:**

Attached is a request from Mr. Stephen Buckstaff, 9225 Austin Drive and Mr. Don Dargitz, 9211 Austin Drive, requesting the City of Portage relinquish a portion of a 40-foot wide utility easement that was retained over an unimproved extension of Burt Drive located east of Austin Drive when the city vacated this extension in 1968. Mr. Buckstaff would like to construct a garage addition that would encroach into the existing easement area. Attached is an aerial photograph with this area highlighted and a copy of the 1968 resolution. Also attached is a copy of the Assessors Plat of Dixie-Mac Park recorded in 1937.

The Transportation & Utilities Department has reviewed the request and concluded a 40-foot wide easement area is excessive of what would be required for the city installation of a storm sewer overflow drain pipe to Austin Lake, if it were necessary in the future. No utilities are currently constructed in the easement area. As a result, it is recommended the existing 40-foot utility easement area be reduced to 16 feet in width encumbering the north 8 feet of 9225 Austin Drive and south 8 feet of 9211 Austin Drive. This 8 foot area also coincides with the minimum side yard setback for each property.

Additionally, there is an existing accessory building located on 9211 Austin Drive that encroaches into the existing and proposed easement area. While the City Administration does not object to this small accessory building remaining in the easement area, a license agreement has been prepared

acknowledging the encroachment and absolving the city from responsibility should utility work conflict with the building at a future date. At 9225 Austin Drive, an existing accessory structure which currently encroaches into the easement area will be removed.

The City Attorney has prepared the accompanying resolution and license agreement for this purpose. Approval of the resolution and authorization of the City Manager to sign the license agreement on behalf of the city is recommended. Subsequent to action by City Council, if approved, the resolution will be placed on file in the Office of the City Clerk for 28 days as required by the City Charter. This matter will then return on April 9, 2013, for final City Council action.

**FUNDING:** No funding required.

**Attachments:** Communication from Mr. Stephen Buckstaff and Mr. Don Dargitz  
Aerial photograph  
1968 Resolution  
Assessors Plat of Dixie-Mac Park  
Resolution  
License Agreement

January 19, 2013

Chris Forth,  
Deputy Director of Planning, Development and Neighborhood Services  
City of Portage Department of Community Development  
7900 South Westnedge Avenue  
Portage, Michigan 49002

RECEIVED

JAN 22 2013

COMMUNITY DEVELOPMENT

Mr. Forth:

We are the title-holders and tax-payers of lots #32 and #51 of Dixie Mac Park. The street addresses are 9225 Austin Drive and 9211 Austin Drive Portage, Michigan 49002. We are writing you to request that the City of Portage consider relinquishing all or a portion of the easement rights that encumber the vacated portion of Burt Drive located between our two lots.

On August 13th 1968, the City Council adopted a resolution vacating *Streets in Dixie Mac Park*. This resolution included that portion of Burt Street located east of Austin Drive (between Lot #32 and #51) and terminating at Austin Lake. The property is described in the resolution as the east 78 feet of Burt Drive from the east boundary line of Austin Drive to Austin Lake in the recorded plat of Dixie Mac Park of plats. [Topographical photo #1] We are currently the title-holders and tax payers of record on that said vacated property.

This resolution occurred after a public hearing at which it appeared “—to be in the best interest of the City of Portage to vacate parts of said streets for the reason that the public never used said streets and will have no need to use said streets in the future—”. However, the lands were vacated saving, accepting and reserving to the city of Portage, an easement therein for drainage, sewage and other public purposes. [Document#3]

In 2012, a new storm water drainage system was developed by the City of Portage on Burt Drive. [Topical photo #2] An elaborate holding and drainage basin were installed to alleviate drainage problems that occurred at the intersection of Burt Drive and Austin Drive after a rain-fall event. Following an extensive review by the city and contractors, it was determined that using the above described easement was not fiscally or environmentally an option for storm sewer due to the number of mature trees that are located within the easement area.

Currently, the owner of Lot #32 would like to add a two car garage that would encroach into the easement area. Since the City of Portage previously vacated this small portion of Burt Drive and the easement area appears to be no longer needed for its intended purpose, we request the City of Portage relinquish the easements so we may build on said property in the future in accordance with the standard building codes of the City of Portage.

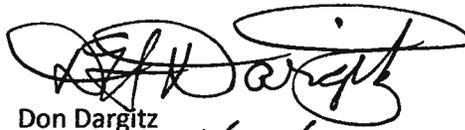
Please contact Steve Buckstaff at 269-567-0576 with further questions on this matter.

Thank you for your consideration,



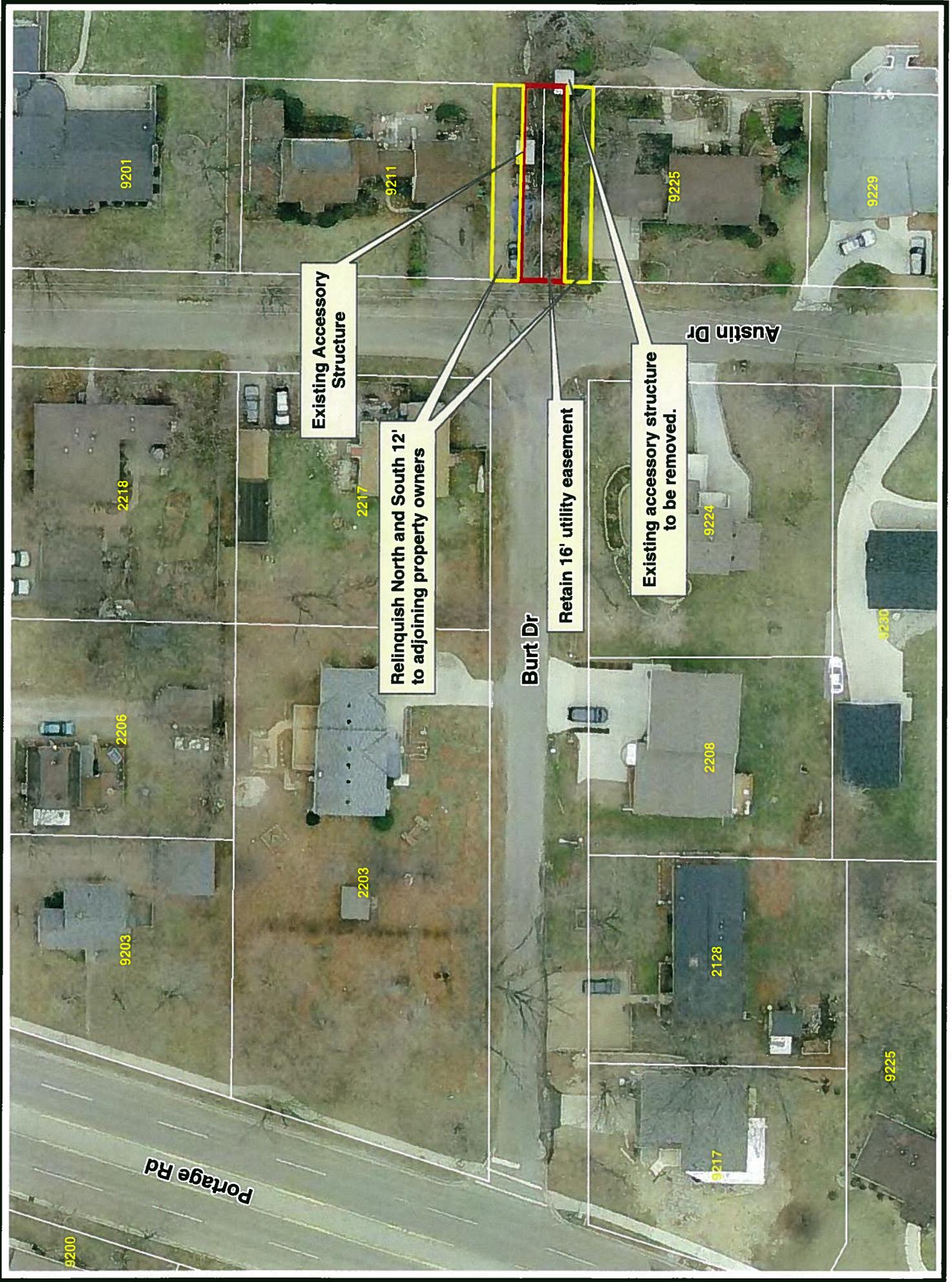
Stephen Buckstaff

1-21-13



Don Dargitz

1/21/13



**Existing Accessory Structure**

**Relinquish North and South 12' to adjoining property owners**

**Burt Dr**

**Retain 16' utility easement**

**Existing accessory structure to be removed.**

**Austin Dr**



### City of Portage Map Document

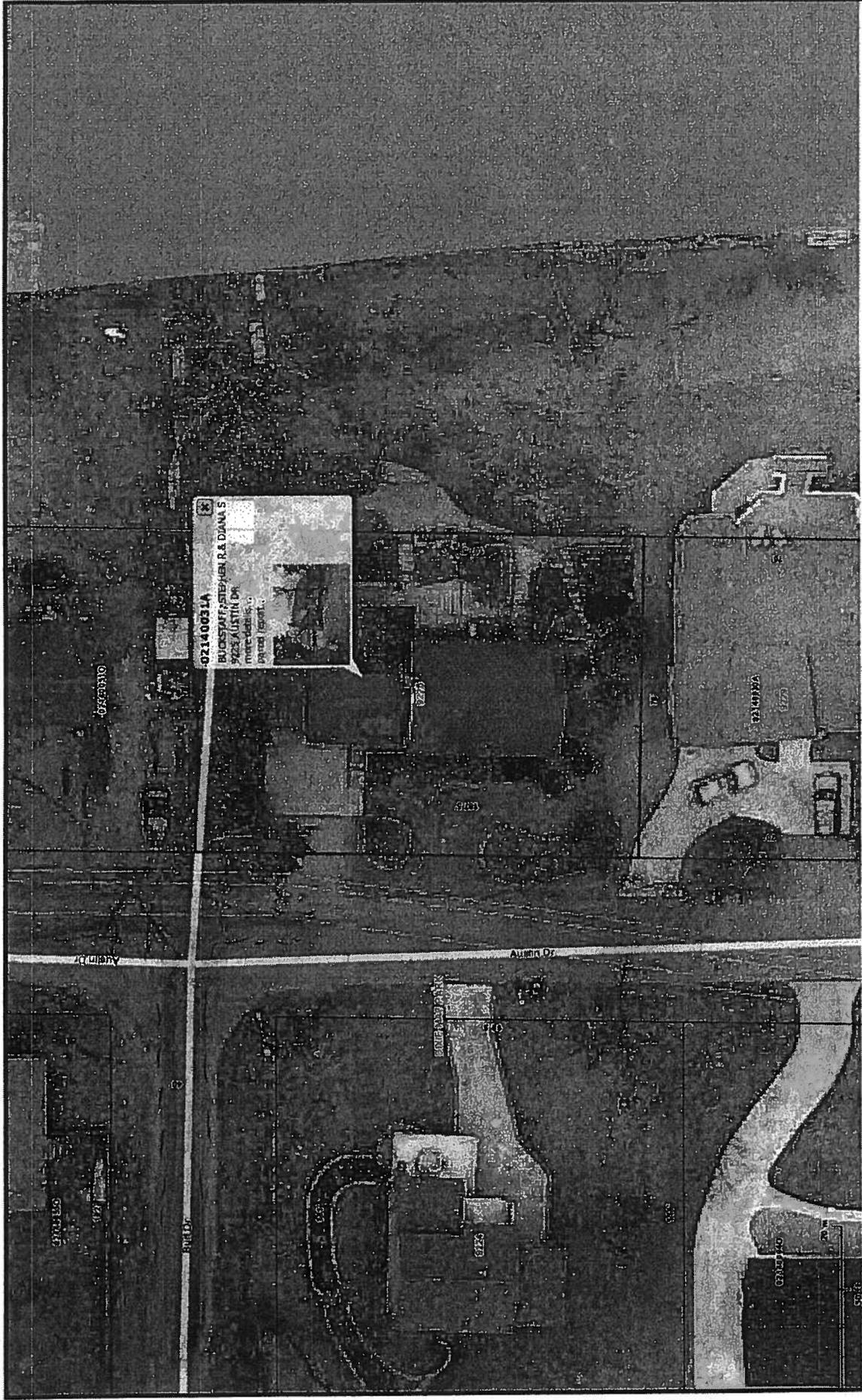


### Disclaimer:

This map does not represent a survey or legal document and is provided on an "as is" basis. City of Portage expresses no warranty for the information displayed on this map document.

 1:900  
Map Publication:  
Tue Feb 12 2013 11:11:28 AM

#2 New sewer 2012



**Disclaimer:**

This map does not represent a survey or legal document and is provided on an "as is" basis. City of Portage expresses no warranty for the information displayed on this map document.



1:500

Map Publication:

Mon Jan 7 2013 04:39:56 PM

**City of Portage Map Document**

web mapping by  
**Amalgam LLC**

**PORTAGE**  
*A State for Opportunities to Grow*

#3

The City of **P**ortage **m**ichigan /

7800 Shaver Rd. 49081

Phone: 616-327-4411

September 26, 1968

Lois B. Johnson  
Portage City Clerk  
7800 Shaver Road  
Portage, Michigan 49081

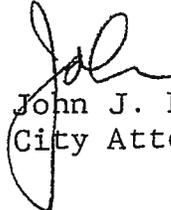
Re: Vacation of Streets in Dixie-Mac Park

Dear Lois:

Enclosed herewith please find the Resolution of the Council vacating certain streets in Dixie-Mac Park. You will note that the Resolution has been recorded in Liber 832 of Deeds, Page 327.

A copy of this Resolution was also sent to the Bureau of Local Governmental Services, Department of the Treasury in Lansing.

Very truly yours,

  
John J. Peters  
City Attorney

JJP:sm

Enclosure

CITY OF PORTAGE, MICHIGAN

RESOLUTION VACATING PARTS OF CERTAIN STREETS WITHIN

THE CITY OF PORTAGE, MICHIGAN

Moved by Councilman \_\_\_\_\_ Duncan \_\_\_\_\_.

Seconded by Councilman \_\_\_\_\_ Ongley \_\_\_\_\_.

STATE OF MICHIGAN  
COUNTY OF KALAMAZOO  
REGISTER OF DEEDS  
SEP 11 2 58 PM '68  
Richard J. ...

WHEREAS, it appears necessary and desirable to vacate parts of certain streets within the City of Portage, hereinafter more particularly described, and,

WHEREAS, after proper publication of notice and holding of a public hearing at which it appeared to be in the best interest of the City of Portage to vacate parts of said streets for the reason that the public has never used said streets and will have no need to use said streets in the future.

NOW THEREFORE, be it resolved that the following described parts of streets within the City of Portage be and the same hereby are vacated as public streets, saving, excepting, and reserving however, to the City of Portage, an easement therein for drainage, sewage and other public purposes. Said streets are described as follows to wit:

1. The east 78 feet of Clarence Drive from the east boundary line of Austin Drive to Austin Lake in the recorded plat of Dixie-Mac Park, Liber 14 of plats, page 20.
2. The east 78 feet of Burt Drive from the east boundary line of Austin Drive to Austin Lake in the recorded plat of Dixie-Mac Park in Liber 14 of plats, page 20.
3. The east 78 feet of Dixie Drive from the east boundary line of Austin Drive to Austin Lake in the recorded plat of Dixie-Mac Park, liber 14 of plats, page 20.

BE IT FURTHER RESOLVED, that the City Clerk within 30 days from the date hereof cause a certified copy of this Resolution to be recorded in the office of the Register of Deeds for Kalamazoo County, and cause another certified copy to be sent to the Treasurer for the State of Michigan.

YES: Bushouse, Duncan, Hinga, James, Ongley, Van Peenen, Lemmer

NO: None

in the office of the Register of Deeds for Kalamazoo County, and cause another certified copy to be sent to the Treasurer for the State of Michigan.

YES: Bushouse, Duncan, Hinga, James, Ongley, Van Peenen, Lemmer

NO: None

RESOLUTION ADOPTED:

Lois B. Johnson  
Lois B. Johnson, City Clerk

256

LIBER 832 PG 328

CERTIFICATION

STATE OF MICHIGAN )  
                          )    SS:  
COUNTY OF KALAMAZOO)

I, the undersigned, the 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 13th day of August, 1968.



Lois B. Johnson  
City Clerk



**CITY OF PORTAGE  
RESOLUTION TO RELINQUISH PORTION OF UTILITY EASEMENT**

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 12th day of March, 2013, at 7:30 p.m. local time.

PRESENT: Campbell, Pearson, Reid, Sackley, Strazdas, Urban

ABSENT: Randall

Resolution offered by Councilmember Urban and seconded by Councilmember Reid.

**WHEREAS**, the City of Portage owns a 40 foot wide utility easement for drainage, sewage and other public purposes described as follows:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo, State of Michigan and more full described as follows:

20 feet on either side of the center line of a vacated Burt Drive from the east boundary line of Austin Drive to Austin Lake as recorded in the Assessors Plat of Dixie-Mac Park recorded in Liber 14 of plats, Page 20.

**WHEREAS**, portions of the utility easement are not being used nor intended to be used for any public purpose;

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City of Portage relinquish the following portions of the above-described utility easement:

1. The southerly 12 feet of the above-described utility easement shall be relinquished to the abutting property owner, Stephen Buckstaff and Diane Buckstaff, of 9225 Austin Drive, Portage, Michigan.
2. The northerly 12 feet of the above-described utility easement shall be relinquished to the abutting property owner, Donald H. Dargitz and K. Dargitz, of 9211 Austin Drive, Portage, Michigan.

**BE IT FURTHER RESOLVED** that the remaining easement area to be retained by the City of Portage for utility purposes is described as follows:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo, State of Michigan and more full described as follows:

8 feet on either side of the center line of the vacated Burt Drive from the east boundary line of Austin Drive to Austin Lake as recorded in the Assessors Plat of Dixie-Mac Park recorded in Liber 14 of plats, Page 20.

**BE IT FURTHER RESOLVED** that notice, in substantially the form attached as Exhibit "A", be published in a newspaper of general circulation within the City, giving notice of the City's intent to transfer the above-described easement.

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

YEAS: Campbell, Pearson, Reid, Sackley, Strazdas, Urban

NAYS: None.

ABSENT: Randall

\_\_\_\_\_  
James R. Hudson, City Clerk

STATE OF MICHIGAN        )  
  )SS  
COUNTY OF KALAMAZOO    )

I, the undersigned, the 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 12th day of March, 2013, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this 13th day of March, 2013.

\_\_\_\_\_  
James R. Hudson, City Clerk

APPROVED AS TO FORM  
DATE 3/11/13  
[Signature]  
CITY ATTORNEY

**EXHIBIT "A"**

**CITY OF PORTAGE  
NOTICE OF INTENTION TO RELINQUISH PORTION OF UTILITY EASEMENT**

**PLEASE TAKE NOTICE**, that on the 12th day of March, 2013, the City Council of the City of Portage voted to relinquish portions of a 40 foot wide utility easement described as follows:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo, State of Michigan and more full described as follows:

20 feet on either side of the center line of a vacated Burt Drive from the east boundary line of Austin Drive to Austin Lake as recorded in the Assessors Plat of Dixie-Mac Park recorded in Liber 14 of plats, Page 20.

**PLEASE TAKE FURTHER NOTICE** that the portions of the above-described utility easement to be relinquished are as follows:

1. The southerly 12 feet of the above-described utility easement shall be relinquished to the abutting property owner, Stephen Buckstaff and K. Buckstaff, of 9225 Austin Drive, Portage, Michigan.
2. The northerly 12 feet of the above-described utility easement shall be relinquished to the abutting property owner, Donald H. Dargitz and K. Dargitz, of 9211 Austin Drive, Portage, Michigan.

**PLEASE TAKE FURTHER NOTICE** that the remaining easement to be retained by the City of Portage for utility purposes is described as follows:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo, State of Michigan and more full described as follows:

8 feet on either side of the center line of the vacated Burt Drive from the east boundary line of Austin Drive to Austin Lake as recorded in the Assessors Plat of Dixie-Mac Park recorded in Liber 14 of plats, Page 20.

**PLEASE TAKE FURTHER NOTICE** that the resolution authorizing this action is on file with the City Clerk and open for public inspection. Said documents will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's Office during regular working hours. After said twenty-eight (28) day period, the Council

may take final action and relinquish its interests if all other conditions of the transaction are satisfied.

Dated: \_\_\_\_\_, 2013

\_\_\_\_\_  
James R. Hudson, City Clerk

z:\jody\portagetres\resolution to relinquish utility easement burt drive.022013.doc

**LICENSE AGREEMENT TO LOCATE ACCESSORY STRUCTURE IN CITY UTILITY  
EASEMENT**

This License Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Portage, a Michigan municipal corporation, organized under the laws of the State of Michigan, with offices at 7900 South Westnedge Avenue, Portage, Michigan 49002 ("Licensor") and Donald H. Dargitz and K. Dargitz, husband and wife, as joint tenants, of 9211 Austin Drive, Portage, Michigan (collectively "Licensee"):

WHEREAS, Licensee is sole owner of property ("property") in the City of Portage, County of Kalamazoo and located at 9211 Austin Drive, Portage, Michigan;

WHEREAS, Licensor is the owner of a 16 foot utility easement ("easement") (8 feet of which is over the northerly portion of Licensee's property) for drainage, sewage and other public purposes, described as follows:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo, State of Michigan and more full described as follows:

8 feet on either side of the center line of the vacated Burt Drive from the east boundary line of Austin Drive to Austin Lake as recorded in the Assessors Plat of Dixie-Mac Park recorded in Liber 14 of plats, Page 20.

WHEREAS, Licensee owns and possesses an accessory structure ("structure") which encroaches upon the Licensor's utility easement and is more particularly shown on Exhibit "A" attached hereto and made a part hereof by reference;

WHEREAS, the parties acknowledge that the structure does not possess any pre-existing rights either in law or in equity to encroach upon the City's easement;

WHEREAS, the Licensor, after review and investigation, has determined that the structure will not present a public health, safety or welfare concern;

NOW, THEREFORE, in consideration of this License and other good and valuable consideration and the mutual promises herein, the parties agree as follows:

1. Licensor grants to Licensee a personal, revocable, non-exclusive License to maintain said structure in its present location particularly within Licensor's utility easement.
2. This License is personal to the Licensee and shall not be transferred or assigned

without the Licensor's written consent.

3. This Agreement shall not be deemed or construed as transferring to Licensee any interest in the easement of Licensor irrespective of any expenditure by Licensee for the maintenance of the structure or surrounding area.

4. Licensee shall not improve or expand upon the structure so that it is larger than existing at the time of entering into this License without Licensor's written consent.

5. Licensee agrees to adequately maintain the structure so that it does not prevent or inconvenience Licensor from utilizing and accessing its easement.

6. Licensee shall cause all work performed in connection with the maintenance and repair of the structure and area around the structure be accomplished with care and in a manner and time that will cause the least interference with the easement area and shall be performed as expeditiously as possible so as to minimize interference with surrounding property and traffic. Licensee may have access to the easement at all reasonable times to inspect, maintain or repair the structure located thereon with reasonable prior notice given to the Director of Transportation and Utilities, or his designee.

7. Licensee shall comply with all laws, rules and regulations of any governing body which may now or hereafter have jurisdiction over the subject matter of this License while in effect.

8. Licensee shall pay for all additional expenses associated with repair and maintenance of any public utility within the easement which results as a consequence of the encroachment, maintenance or use of the structure. Further, Licensee shall pay for all costs associated with the necessary relocation of the structure if Licensor provides notice to Licensee that it will install or maintain infrastructure in the easement.

9. Licensee, at its own expense, shall keep the structure, equipment and any other personal property installed upon the easement in connection with the structure in good working order, condition and repair. Licensee shall also keep the area around the structure free of debris and anything of an offensive nature which would create a hazard or interference to the public. Licensor may request Licensee to conduct maintenance and/or repair of the structure and if such work is not completed within thirty days of the notice, Licensor may perform the required work and charge Licensee for all time and materials expended.

10. This License shall terminate: a) at any time that the property owned by Licensee or any portion thereof is sold, transferred or assigned unless Licensor agrees to permit the new owner to maintain the structure pursuant to a new License; b) upon the removal or destruction of more than 50% of the value of any the structure, as determined by the Licensor; or c) the death of the survivor of the Licensee.

11. Licensor shall not be liable to Licensee or its agents, contractors, subcontractors, employees, invitees for any personal injury, property damage, or loss of life or property caused by or arising out of or in connection with the use of the easement. Licensee, its heirs, successors and assigns and transferees waive any claim they may have now or in the future against Licensor for damage due to the structure and other improvements located on Licensor's

property which may occur during installation or maintenance of Licensor's utilities in the easement or during maintenance or construction of other Licensor improvements.

12. Licensee agrees to defend, indemnify and save Licensor, its officers, agents and employees (hereinafter "Indemnitees") harmless from and against all actions claims, demands, judgments, loss damage, expense, including actual attorney fees which the Indemnitees may suffer, incur or sustain or for which the Indemnitees may become liable, arising or growing out of any injury or damage to persons or to real or personal property arising by reason of the existence, use, operation, installation, maintenance, repair, removal, replacement or inspection of the structure and other improvements on the easement or caused by the action, inaction and/or negligence of Licensee or its contractors, subcontractors, agents or representatives or any of them in the performance of work performed at the easement or in connection therewith.

13. During the term of this License, Licensee, their agents or contractors, performing work on the structure shall maintain, or cause to be maintain, in full force and effect, at its sole cost and expense, insurance policies protecting Licensor from liability of such nature and limits which, in the sole discretion of Licensor, will be adequate. Licensee shall provide Licensor with certificates of insurance for each insurance policy required to be maintained by Licensee annually during the term of this License. In the event any such insurance shall not be maintained, Licensor shall have the right to terminate this License.

14. Upon any termination permitted by this License, Licensee shall remove the structure from the easement and, upon failure to do so within thirty days of termination of this License, Licensor may proceed to remove the structure without notice to Licensee and Licensee shall be liable for all costs of said removal.

15. This License shall be revocable at will by Licensor by giving thirty days written notice to Licensee of said termination.

16. Nothing contained herein constitutes, nor should the same be construed as a waiver of any governmental immunity provided to the Licensor, its agents, employees, officers or representatives as provided for under common law or statute.

17. This License represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the party against whom enforcement of any waiver, change or modification or discharge is sought.

18. This License shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to licenses made and to be performed in that State.

19. In the event any of the provisions of this License are deemed to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this License and shall not cause the invalidity or unenforceability of the remainder of this License.

20. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms or provisions of this License by another party shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.

21. No provision in this License is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.

22. All representations and indemnities made by the parties shall survive the termination of this License.

23. Each party to this License warrants and presents that it is properly authorized to enter into this License.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

LICENSOR:

CITY OF PORTAGE, a Michigan  
Municipal Corporation

By: \_\_\_\_\_

Maurice S. Evans

Its: City Manager

STATE OF MICHIGAN                    )  
  ) ss  
COUNTY OF KALAMAZOO            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013 before me personally came the above named Maurice S. Evans to me personally known, who being duly sworn, did for himself say that he is the City Manager of the municipal corporation named in and who executed the within instrument and that said instrument was signed on behalf of said corporation by authority of its City Council; and said Maurice S. Evans acknowledges said instrument to be the free act and deed of said municipal corporation.

\_\_\_\_\_, Notary Public  
Kalamazoo County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in Kalamazoo County, Michigan

LICENSEE:

\_\_\_\_\_  
Donald H. Dargitz

\_\_\_\_\_  
K. Dargitz

STATE OF MICHIGAN        )  
  )SS  
COUNTY OF KALAMAZOO )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came the above named Donald H. Dargitz and K. Dargitz, to me personally known, acknowledges said instrument to be their free act and deed.

\_\_\_\_\_  
Notary Public  
Kalamazoo County, Michigan  
My commission expires: \_\_\_\_\_  
Acting in Kalamazoo County, Michigan

PREPARED BY:  
Randall L. Brown  
City Attorney  
1662 East Centre Avenue  
Portage, MI 49024  
Phone: (269) 323-8812

z:\jody\portage\agreement\license to locate sign on city utility easement - burt drive..022213.docx



**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager 

**SUBJECT:** Ice Rink Discount Card Program

**SUPPORTING PERSONNEL:** William Deming, Director of  
Parks, Recreation and Public Services

**ACTION RECOMMENDED:** Information Only

**BACKGROUND INFORMATION:**

During the February 12, 2013 regular City Council meeting, Council introduced new business regarding concerns with the Millennium Ice Rink Discount Card program as expressed by citizen Dr. Tom George. Council requested that the Park Board review the practice of the ice rink discount program and the associated annual expirations in order to provide feedback on future management of the program. The attached communication from Park Board Chair Susan Williams is provided in response to this request.

**FUNDING:** N/A

**Attachments:** Communication from Park Board Chair Susan Williams regarding the Ice Rink Discount Card review



## CITY OF PORTAGE

## PARK BOARD

7900 SOUTH WESTNEDGE AVENUE, PORTAGE, MI 49002

Honorable Mayor and City Council,

During the March and April meetings, the Park Board reviewed concerns presented by Dr. Tom George regarding the discount cards used for the Millennium Park Ice and the request from City Council to review this process. Parks, Recreation & Public Services Director Bill Deming explained the merits of the discount cards and why a yearly expiration period is used. The card has been in use for several years without previous complaints from the user public. Reasons for the expiration date include:

- Control over theft or missing cards. Having the expiration date limits the potential for card abuse.
- In addition to skating, for the 2012-13 season, the 10-punch cards could also be used for skate rental, which is a major advantage for groups and families. A record number of cards were sold this season.
- The card pays for purchase by the 7<sup>th</sup> punch.
- Price changes can be enforced for future seasons
- Revenues are necessary to help offset the cost of the ice rink operation and must be carefully managed. The expiration date allows the city to effectively budget for each operating season.

The Park Board would recommend that the 10-punch card practice continue at the Millennium Park Ice Rink with a yearly expiration date, but that the wording be altered to clarify card details. A copy of our recommended card wording is attached.

Sincerely,

  
Susan William, Chair

Attachment

**The Ice Rink at  
Millennium Park  
Valid Dec. 7, 2013 thru Mar. 2, 2014  
One Punch =  
A Daily Skate and/or Skate Rental  
\$25  
##  
Expires 3/2/2014**

Ad-Hoc Committee Meeting Reports  
March 27, 2013

UPDATED: April 8, 2013 at 11 p.m. – *Change in italics*

Lake Center Business Area Committee

The committee consisting of councilmembers Pearson, Sackley and Reid met on Wednesday, March 27<sup>th</sup> with Director Georgeau and City Manager Evans. Director Georgeau provided background on the City's designation of an area of Portage Road from just north of Centre Avenue south to Clarence Drive as a Commercial Revitalization Area under the City's current Comprehensive Plan. She reviewed the planned reconstruction of Portage Road in this area during the 2014 construction season. The proposal includes roadway improvements, pedestrian refuge islands and sidewalk upgrades. Undergrounding of utilities is not in the planned project at this time. The committee discussed the need to bring Portage Road business and property owners, area residents and Portage citizens, in general, into the discussion at this time. The committee's goals are to hear from stakeholders on not only the proposed capital improvements slated for 2014, but potential changes and/or additions to the proposed work and expansion of the project to include other items. The committee discussed the prospect of overlay zoning plans in the area as a means of providing stability and certainty to property owners and businesses that may currently be in nonconformance with City codes. The committee recognized the unique characteristics of the Lake Center Business Area and a desire to enhance and build upon the area's past successes to support long-term stability and growth for the corridor. Both Councilmember Sackley and Director Georgeau have had discussions about the Lake Center Business Area with Andrew Haan, a staff member of Governor Snyder's Office of Urban and Metropolitan Initiatives and based at Southwest Michigan First. Mr. Haan has confirmed his availability to assist in facilitating a discussion with stakeholders tentatively set for Tuesday, April 23<sup>rd</sup> at 2 p.m. at Bucky's Cafe, 8645 Portage Road. Councilmember Pearson has confirmed availability with the owner. The committee asks that Council authorize the City to rent the space for a fee of \$100 and also purchase coffee and light refreshments. Notifications will come from the City and committee members will likely visit businesses to invite them, as well. ***The committee will have another brief meeting this Thursday at 4 p.m. prior to the budget workshop.***

Sign Committee

Councilmember Sackley and Mayor Strazdas (Councilmember Urban was absent with notice), Director Georgeau and City Manager Evans met via conference phone with consultant Tim Fallon to review the proposed agenda and assignments for the April 13<sup>th</sup> Community Sign Forum. We reviewed and discussed written materials provided by Tim and Director Georgeau. As reported at a previous council meeting, TSI Consulting Partners, Inc. was recommended as our facilitator for a cost not to exceed \$2,750. During our March 27<sup>th</sup> meeting, we engaged in a full review of the proposed agenda and work flow, volunteer assignments and other aspects of the forum. Director Georgeau provided an update on the marketing and publicity for the event and we will ask for an update from her on Tuesday, April 9<sup>th</sup>. The forum will take place this Saturday and all are welcome.

Respectfully submitted,

Ed Sackley, Chair of the Committees

**TO:** Honorable Mayor and City Council

**FROM:** Maurice S. Evans, City Manager 

**SUBJECT:** Emergency Equipment Installation - Ford F-250 Truck

**SUPPORTING PERSONNEL:** Richard White, Director of Public Safety - Police/Fire Chief

**ACTION RECOMMENDED:** That City Council approve the low bid for emergency equipment and installation of equipment on the Battalion Chief Vehicle to Emergency Vehicle Products of Kalamazoo, Michigan, in the amount of \$23,971.22, and authorize the City Manager to execute all documents related to this matter on behalf of the city.

**EXECUTIVE SUMMARY:**

The Fire Division's Ford F-250 was part of a bulk vehicle purchase in October 2012 to replace several vehicles that had reached the end of their serviceable periods. The F-250 replaced a 1989 truck model. Now the truck must be outfitted to operate in its capacity as a primary response unit for the Fire Division of the Public Safety Department. The four wheel drive vehicle will be utilized by the Battalion Chief to serve as Incident Commander at emergency scenes and its off-road capability will assist in mutual aid calls when this distinctive type of navigation is required.

**BACKGROUND INFORMATION:**

As approved by City Council on October 23, 2012, the Fire Division has purchased a new Ford F-250 and is preparing the truck for service as a Command Vehicle. New emergency equipment will need to be purchased and installed on the vehicle, including such items as light bars, various warning lights, communication radios and a mobile computer/traffic recording camera.

Four quotes were obtained for the required emergency equipment purchase. The lowest quote is in the amount of \$19,771.22 from Emergency Vehicle Products. The other quotes were from Winder Police Equipment located in Southgate, Michigan for \$24,350.12; Blumerich located in Flushing, Michigan for \$25,067.69; and Apollo Fire Apparatus Repair located in Romeo, Michigan for \$28,297.35. A bid tabulation is attached for the information of City Council.

The mobile computer/traffic recording camera contained in the emergency equipment purchase is a Panasonic-Arbitrator system. In order to maintain a valid warranty, Panasonic requires that a certified Panasonic Technician complete the installation. Emergency Vehicle Products is the only company in the area with this certification, as well as an Emergency Vehicle Electrical System certification. Due to future preventive maintenance and equipment service needs, it is important that this type of work be completed locally to reduce out-of-service time for this vehicle. Emergency Vehicle Products is a local company and has provided a price of \$4,200 to perform the installation of the emergency equipment.

Therefore, it is recommended that the purchase of the emergency equipment, in the amount of \$19,771.22, as well as the certified installation in the amount of \$4,200, be awarded to Emergency Vehicle Products for a total cost of \$23,971.22.

**FUNDING:** Capital Improvement Project 2012-13

**Attachments:** Bid tabulation

**Equipment Quotes for 2013 Battalion Chief Vehicle**

	<b>Emergency Vehicle Products</b>	<b>Winder Police</b>	<b>Blumerich</b>	<b>Apollo</b>
	<u>Kalamazoo, MI</u>	<u>Southgate, MI</u>	<u>Flushing, MI</u>	<u>Romeo, MI</u>

Quantity	Product	Emergency Vehicle Products	Winder Police	Blumerich	Apollo
		<u>Kalamazoo, MI</u>	<u>Southgate, MI</u>	<u>Flushing, MI</u>	<u>Romeo, MI</u>
1	FX2RRRR Light bar w/red, clear takedowns and alleys, w/command light	\$3,651.40	\$4,016.54	\$4,739.52	\$4,746.00
1	MKA-J38 Mounting Kit	\$56.00	Inc.	\$72.69	\$72.80
1	ES100 Siren Speaker	\$225.00	\$199.00	\$292.05	\$260.00
1	ESB-U Mounting Bracket	\$30.00	\$25.00	\$38.94	\$33.15
1	MNCT-SB UTM 4 Siren	\$795.00	\$793.05	\$1,084.30	\$54.60
6	50R032CR TIR 6 bulbs, flanges-Front	\$745.10	\$875.70	\$217.17	\$930.00
4	60R02FCR 64 Red 600-Rear side, Front side	\$591.60	\$710.82	\$191.97	\$1,050.00
2	60A02PAR 64 Amber 600- Rear	\$295.80	\$364.73	\$191.97	\$350.00
2	90RRSFRR 900 Red LED- Rear	\$445.00	\$416.65	\$307.60	\$578.00
2	335U Unity Spotlights & mounting kits	Included	\$82.60	\$129.80	\$352.00
2	335U LED Bulbs, Spotlights	\$495.00	\$475.20	\$567.88	\$480.00
1	ETHF53-SP Headlight Flasher	\$85.00	\$66.00	\$110.33	\$60.00
1	EQ2B-200 Q2B Electronic Siren	\$1,428.00	\$1,128.32	\$1,853.54	\$1,700.00
1	ES-100 Q2B Speaker & bracket	\$435.00	\$398.00		\$660.00
2	45801 SL 45 LED Flashlights	\$393.32	\$393.32	\$510.53	\$378.00
1	S-1000 Kussmaul Auto Charge	\$675.00	*	\$876.15	\$588.00
1	ZOA Kussmaul Auto Eject	\$175.00	*	\$227.15	\$270.00
1	TAD 8 TADCTL1 TIR 3 Arrow stick 7 controller	\$675.00	\$519.35	\$1,171.15	\$900.00
1	Stick Rack	Included		\$2,725.80	No Bid
1	Custom Slide out tray H.D.	\$1,395.00	*	\$1,810.71	\$3,588.00
1	Custom Console with map box	\$790.00	*	\$1,025.42	\$710.00
1	Custom Computer mount, Power supply & swivel	\$610.00	*	\$791.78	\$1,050.00
1	DOWR SL-10 Jumper cable kit	\$185.00	*	\$240.13	\$475.00
8	Custom LED Compartment lights	\$690.00	*	\$111.96	\$416.00
2	Custom Lower LED backup lights	\$260.00	*	\$168.74	\$280.80
1	SR1000 Sigtronics Radio Headsets	\$1,695.00	*	\$2,200.11	No Bid
LS	Miscellaneous Wiring	\$500.00	*	\$649.00	\$400.00
LS	Miscellaneous Mounting Hardware	\$350.00	*	\$454.30	\$250.00
1	Tread Plate for Box tops & arrow stick rack	\$2,100.00	*	\$177.00	\$950.00
LS	Bundle to include all items with an (*)	N/A	\$12,190.84	N/A	N/A
LS	Freight	N/C	\$1,500.00	\$2,130.00	\$915.00
		\$19,771.22	\$24,155.12	\$25,067.69	\$22,497.35

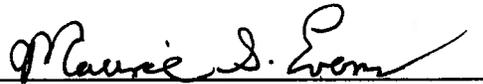
Incomplete Bid



## MATERIALS TRANSMITTED

Friday, March 22, 2013

1. Communication from the City Manager regarding the 2013 Utility Rate Study & Utility Discount/Affordability Program Legal Opinions – Information Only.
2. Communication from the City Manager regarding City Staff Vehicles – Information Only.

  
Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager



**MATERIALS TRANSMITTED**

Tuesday, March 26, 2013

1. Communication from the City Manager regarding a Mishawaka & Portage Comparative Study – Information Only.

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager



**MATERIALS TRANSMITTED**

Friday, March 29, 2013

1. Communication from the City Manager regarding the 2013 Board of Review Summary – Information Only.

A handwritten signature in cursive script that reads "Maurice S. Evans".

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Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager