

7:30 p.m. Call to Order.

Invocation: Mr. Tim Earl of the Southwest Michigan Atheist Network

Pledge of Allegiance.

Roll Call.

Proclamations: Senior Services of SW Michigan 50th Anniversary
Community Hunger Awareness Month

A. Approval of the Regular Meeting Minutes of July 9, 2013.

* B. Approval of Consent Agenda Motions.

* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of July 23, 2013, as presented.

D. Public Hearings:

E. Petitions and Statements of Citizens:

F. Reports from the Administration:

* 1. Communication from the City Manager recommending that City Council award a contract to American Hydrogeology Corporation to perform the 2013 annual groundwater sampling and reporting for the South Westnedge Park and former Parks Maintenance Facility in the not to exceed amount of \$45,800 annually with an option to renew the contract for two additional years and authorize the City Manager to execute all documents related to this contract on behalf of the city.

* 2. Communication from the City Manager recommending that City Council consider granting an extension until November 2015 for completion of sidewalk and street tree installation at The Homestead of Portage No. 3 plat subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney.

* 3. Communication from the City Manager recommending that City Council approve Change Order #2 to the Major and Local Street Mill & Fill Asphalt Repair Contract with Michigan Paving & Materials Company to provide parking lot upgrades at South Westnedge Park and West Lake Nature Preserve in the not to exceed amount of \$39,667.82 and authorize the City Manager to execute all documents related to this contract on behalf of the city.

* 4. Communication from the City Manager regarding the June 2013 Summary Environmental Activity Report - Information Only.

* 5. Department Monthly Reports.

G. Communications:

* 1. Public Media Network Quarterly Report: April 1, 2013 – June 30, 2013.

H. Unfinished Business:

1. Communication from the City Manager recommending that City Council amend the Code of Ordinances to include *Article 7, Consumer Fireworks, of Chapter 34 Fire Prevention and Protection*, as revised.

- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Park Board of June 5, 2013.
 - 2. Portage Youth Advisory Committee of June 10, 2013.
 - 3. Portage Zoning Board of Appeals of June 10, 2013.
 - 4. Portage Public Schools Board of Education Special of June 12, June 13, June 19, June 21, July 1 and July 2, 2013 and Regular of June 17, 2013.

- J. Council Committee Reports:
 - 1. Communication from the Ad Hoc Property Committee to City Council regarding 10323 Archwood and city owned outlots.
 - 2. Presentation from Councilmember Sackley regarding the recent activity of the Sign Ordinance Committee.
 - 3. Communication from the 2012 Ethics/Rules/Procedures Committee regarding the Mayor Pro Tem Election Process.

- K. New Business:
 - 1. Discussion regarding protocol for City Council Communications.

- L. Bid Tabulations:
 - * 1. Communication from the City Manager recommending that City Council award a contract to the low bidder, Michigan Paving & Materials Company of Kalamazoo, Michigan for reconstruction of Angling Road (Vanderbilt Avenue to West Centre Avenue) in the not to exceed amount of \$243,555.77 and authorize the City Manager to execute all documents related to the contract 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. Thursday, July 25, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, 3rd floor, Kalamazoo.
 - b. Thursday, August 1, 6:30 p.m., Human Services Board, City Hall Room #1.
 - c. Thursday, August 1, 7:00 p.m., Planning Commission, Council Chambers.
 - d. Wednesday, August 7, 8:15 a.m., Historic District Commission, City Hall Room #2.
 - e. Wednesday, August 7, 6:30 p.m. at Oakland Drive Park, 7:15 p.m. at Haverhill Park.
 - f. Monday, August 12, 2:00 p.m., Youth Advisory Committee, City Hall Room #1.
 - g. Monday, August 12, 7:00 p.m., Zoning Board of Appeals, Council Chambers.

- N. Materials Transmitted of July 5 and 9, 2013.
Adjournment.

City Council Meeting Summary

July 9, 2013

PROCLAMATION

- ◆ Mayor Pro Tem Reid issued a Firefighters Fill the Boot Days for Muscular Dystrophy Proclamation.

ACCOUNTS PAYABLE REGISTER

- ◆ Approved the Accounts Payable Register of July 9, 2013, as presented.

PETITIONS AND STATEMENTS OF CITIZENS

- ◆ Board of Review Member William Brandt, 1825 Tamfield Avenue, indicated that he was not informed that the rest of the members were coming to speak at the June 25, 2013 Regular City Council Meeting, indicated that he could not concur with everything that was said at the meeting by all of the other Board of Review Members, but did agree that the notice of assessment changes were sent out to the residents late, that sending them out earlier would give citizens a better chance to prepare for an appeal before the Board, and he agreed with the perceptions of the Board that they were being publicly criticized at the City Council meetings.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved the Fiscal Year 2013-14 Community Development Block Grant Fund contracts; General Fund human/public services contracts; and, authorized the City Manager to execute all documents on behalf of the city.
- ◆ Supported the request from Wiitanen Enterprises, Inc., to transfer location of the Resort Class C Liquor License with Sunday Sales Permit (PM), Entertainment Permit, Outdoor Service (1 Area), Specific Purpose Permit (Food) and (2) Bars, issued under MCL 436.1531(2) to the newly constructed building at 9136 Shaver Road, Portage, MI 49002, Kalamazoo County (Mulligan's Grill and Sports Bar), from the razed building at the same address.
- ◆ Convened a closed session to discuss a personnel matter immediately following the regularly scheduled meeting of July 9, 2013.

UNFINISHED BUSINESS

- ◆ Adopted the proposed amendment to the City of Portage Code of Ordinances by adding Article 9, Midwest Energy Cooperative Franchise to Chapter 14, Business, Sections 14-192 through 14-202.
- ◆ Sent the ordinance back to the Administration and the City Attorney to draft an ordinance that allows for a permit similar to the bonfire permit that allows for fireworks on other days than those mandated by the State Law for future consideration by City Council.

COUNCIL COMMITTEE REPORT

- ◆ Received a presentation from the Pre-Qualified Sites Committee regarding recent activity from Councilmember Randall.

BID TABULATIONS

- ◆ Approved a contract with Michigan Paving & Materials Company for the 2013 Local Street Reconstruction Program in the not-to-exceed amount of \$559,555.77; a contract amendment with Jones & Henry Engineers, Ltd., for construction administration and material testing for the 2013 Local Street Reconstruction Program in the not-to-exceed amount of \$53,610.00; and authorized the City Manager to execute all documents related to this contract on behalf of the city.
- ◆ Approved a contract with Michigan Paving & Materials Company to provide asphalt surface repairs to isolated sections of major and local streets in the not-to-exceed amount of \$210,150.55; the added expenditure of \$142,266.30 for additional mill and fill repairs at unit pricing within this contract; and authorized the City Manager to execute all documents related to this contract on behalf of the city.
- ◆ Approved the proposal submitted by Paradigm Design, Incorporated, to complete building infrastructure reviews for twelve city facilities in the amount of \$24,000 and authorized the City Manager to execute all documents related to this action on behalf of the city.

COUNCIL COMMITTEE REPORT

- ◆ Awarded a 2.5% increase in City Manager Maurice Evans' base salary and a \$5,000 one-time bonus.
- ◆ Approved the recommendations to the City Manager Employment Agreement from the City Manager Salary Review/Evaluation Committee.

STATEMENTS OF CITY COUNCIL

- ◆ Councilmember Sackley indicated that he provided an e-mail from Laura Tupper, 9516 East Shore Drive, spoke in opposition to fireworks to City Clerk James Hudson and City Manager Maurice Evans for distribution to the rest of City Council for later discussion. He expressed concerns with the Fill the Boot Campaign for Muscular Dystrophy as it creates an unsafe situation for motorists and pedestrians at key intersections in the City. He indicated he supports the charity, praised the firefighters for their years of efforts and the millions of dollars raised by them. He emphasized that he supports the cause, but not the method of collection owing to safety concerns and shows a poor example to children. He cited that Public Safety Officers have restricted this method for other organizations, explained and gave examples.
- ◆ Councilmember Urban concurred with Councilmember Sackley and explained. He said he and his family enjoyed the Portage Fireworks Display on July 4th and praised The Rotary for providing them and Councilmembers Campbell and Pearson for their direct efforts in the Program. He did voice a concern for traffic control and egress following the fireworks with the new fence that was installed significantly limited the number of exits for patrons and explained.

- ◆ Councilmember Randall invited everyone to the Eliason Nature Reserve Trail Dedication, Tuesday, July 16, 2013, at 10:00 a.m., 9501 Shaver Road with parking at the end of Industrial Drive off of West Melody.
- ◆ Councilmember Pearson mentioned great turn-out for the Fireworks Display on July 4th put on by the Portage Rotary, pointed out that the donations at the gate are used solely for Fireworks purposes and asked for donations to keep coming.
- ◆ City Manager Evans assured City Council that he and Public Safety Director White would be discussing alternatives to the current method of collecting donations for the Fill the Boot Campaign for Muscular Dystrophy. Also, he indicated that he had already sent out an e-mail regarding the concerns expressed by Councilmember Urban regarding the exit issues at McCamley Field after the Fireworks Demonstration. He thanked each City Councilmember for the wage increase, the positive review and the adjustments in his employment agreement.
- ◆ Mayor Pro Tem Reid indicated that at the June 25, 2013 City Council Meeting, many fervent statements were made by the Board of Review Members as well as Councilmembers Randall and Pearson and, as a result, is looking forward to the August 13, 2013 Regular City Council Meeting and the discussion regarding the Board of Review. She then expressed her concern that the bidding process could have been compromised for outsourcing any segment of the assessing process because of a comment by Councilmember Randall at the June 25, 2013 Council Meeting where she addressed the sale of the property on Osterhout using the sale approach determination process as an opportunity to make a plea for City Council to consider outsourcing the Assessing Department. She then praised a specific company stating, "WCA is an excellent company. Kalamazoo is using them. Their preliminary bid could save the City over a quarter of a million dollars annually." With that Mayor Pro Tem Reid indicated that she had not received any information about a preliminary bid put out by the City for assessing services and wondered how Councilmember Randall had this information. She investigated and found no request had taken place for a bid or a request for proposal and commented that at the last meeting Councilmember Randall made a very strong point that it is the responsibility of each Councilmember to provide City Council with information to which they had access in order to fully inform everyone. She indicated that she had not received any information about this preliminary bid from WCA. She then said she assumed that Councilmember Randall requested the preliminary bid from WCA on her own. She said she would have called her to check on this, but the last time she called her about a city issue, Councilmember Randall told her not to call her again, so she did not call her. She encouraged all Councilmembers to trust the process and work with all of your colleagues as that is how we can all benefit from a broad range of skills, knowledge and passion found within the members of the Portage City Council. She said that there are reasons that parameters of the bid process are established by *City Charter*, the City Code of Ordinances and the State of Michigan law to prevent unfair practices and poor results, and to provide boundaries for our own personal passions. She asked for a consensus from all of City Council on this.

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

SENIOR SERVICES OF SOUTHWEST MICHIGAN 50TH ANNIVERSARY OF SERVICE

- WHEREAS,** the City of Portage is pleased to pay tribute to Senior Services of Southwest Michigan for their role in improving the lives of our community's older adults for the past 50 years through its innovative and integrated system of programs and services; and
- WHEREAS,** Senior Services of Southwest Michigan has a rich history of resourcefulness beginning with a single program and evolving over the years into one of the largest and most comprehensive organizations serving the elderly and disabled anywhere, providing vital life sustaining services to their clients through over 20 different programs; and
- WHEREAS,** organizations throughout the country look to Senior Services of Southwest Michigan as a model of Best Practice and strive to duplicate services successfully in their own organizations, clearly demonstrating the leadership role that Senior Services of Southwest Michigan has in the aging field; and
- WHEREAS,** with a mission of enhancing and promoting the independence and well-being of older adults, adults with disabilities and those who care for them, Senior Services of Southwest Michigan has made a tremendous positive impact in the community, empowering older adults to maintain the highest level of independence possible; and
- WHEREAS,** on behalf of the people of Portage, Michigan, we are honored to join with the Board of Directors and staff of Senior Services of Southwest Michigan to celebrate the 50th anniversary of Senior Services of Southwest Michigan.

NOW, THEREFORE, I, Peter J. Strazdas, Mayor of the City of Portage, do hereby sign this document as a special tribute to Senior Services of Southwest Michigan for 50 years of exemplary service and commitment to our community and wish Senior Services of Southwest Michigan continued success in the years ahead.



Signed this 23rd day of July 2013

Peter J. Strazdas, Mayor



City of Portage Proclamation

COMMUNITY HUNGER AWARENESS MONTH

WHEREAS, food insecurity and hunger is a reality for 37,790 residents (or 15.2 percent) of Kalamazoo County and can cause long-term health consequences—including developmental delays, behavior issues, nutrient deficiency and physical impairment—especially in children;

WHEREAS, the problem of food insecurity is a growing epidemic that can be found in urban, suburban and rural areas of Kalamazoo County, and adversely affects the vitality and sustainability of our neighborhoods; residents of this community cannot actively participate to the best of their ability at work, school or home without enough to eat;

WHEREAS, awareness is vital in understanding the causes of food insecurity in Kalamazoo County and feasible solutions, such as the public and private partnerships between community-based organizations, charities, and faith institutions;

WHEREAS, the Kalamazoo County community has a long tradition of offering food assistance through public programs and private generosity; Kalamazoo Loaves & Fishes was founded on acts of volunteering in 1982 and has since grown to provide food to an average of 900 households per week; more than 12,000 people received food assistance from Kalamazoo Loaves & Fishes in August 2012, including more than 5,000 children;

NOW THEREFORE, be it resolved, that the Portage City Council:

- (1) designate August 2013, as 'Community Hunger Awareness Month';
- (2) call upon all residents, community agencies, faith groups, medical facilities, and businesses of the City of Portage to acknowledge Community Hunger Awareness Month with increasing awareness of local hunger through applicable ceremonies, volunteer activities, gifts of food or funds, and additional support for food security efforts; and take action in support of programs and public policies aimed at reducing food insecurity in Kalamazoo County, including participation in Community Hunger Awareness activities during the month of August 2013.



Signed this 23rd day of July, 2013

Peter J. Strazdas, Mayor

CITY COUNCIL MEETING MINUTES FROM JULY 9, 2013

DRAFT

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

At the request of Mayor Pro Tem Reid, Councilmember Terry Urban 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 Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall, Edward J. Sackley and Terry R. Urban and Mayor Pro Tem Claudette S. Reid. Mayor Peter J. Strazdas was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

PROCLAMATION: Mayor Pro Tem Reid issued a Firefighters Fill the Boot Days for Muscular Dystrophy Proclamation.

APPROVAL OF MINUTES: At the request of Councilmember Pearson, City Clerk James Hudson checked the DVD recording of the June 25, 2013 City Council Meeting, so the minutes were changed on page 2, ten lines down, to reflect a comment from Board of Review Member Richard Ford, who read a statement at the request of Board of Review Member Bill Fries that read, “who concurred with the concerns expressed previously and added a concern that false building permits that are being used by the Assessor, that do not exist anywhere in City Hall, should not add value to the home.” Motion by Urban, seconded by Randall, to approve the June 25, 2013 Regular Meeting Minutes as corrected. Upon a voice call vote, motion carried 5 to 0 with Councilmember Sackley abstaining.

* **CONSENT AGENDA:** Mayor Pro Tem Reid asked Councilmember Urban to read the Consent Agenda. Councilmember Randall asked that Item F.1, Fiscal Year 2013-14 Community Development Block Grant Fund Contracts, be removed from the Consent Agenda. Motion by Urban, seconded by Randall, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0, with Councilmember Randall abstaining in part of Item F.1 as she is a Board Member of Catholic Charities.

Mayor Pro Tem Reid pointed out that as part of the Consent Agenda, City Council would be going into a closed session at the end of the meeting to discuss a personnel matter, and indicated that City Council would be addressing Item J.1 after the closed session and noted that this is a change in the order of the Agenda.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JULY 9, 2013:** Motion by Urban, seconded by Randall, to approve the Accounts Payable Register of July 9, 2013, as presented. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Board of Review Member William Brandt, 1825 Tamfield Avenue, indicated that he was not informed that the rest of the members were coming to speak at the June 25, 2013 Regular City Council Meeting, indicated that he could not concur with everything that was said at the meeting by all of the other Board of Review Members, but did agree that the notice of assessment changes were sent out to the residents late, that sending them out earlier would give citizens a better chance to prepare for an appeal before the Board, and he agreed with the perceptions of the Board that they were being publicly criticized at the City Council meetings.

REPORTS FROM THE ADMINISTRATION:

FISCAL YEAR 2013-14 COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND GENERAL FUND CONTRACTS: Motion by Urban, seconded by Randall, to approve the Fiscal Year 2013-14 Community Development Block Grant Fund contracts and the General Fund

human/public services contracts, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 6 to 0, with Councilmember Randall abstaining in part as she is a Board Member of Catholic Charities.

* **TRANSFER LOCATION OF RESORT CLASS C LIQUOR LICENSE (MULLIGAN'S GRILL AND SPORTS BAR):** Motion by Urban, seconded by Randall, to support the request from Wiitanen Enterprises, Inc., to transfer location of the Resort Class C Liquor License with Sunday Sales Permit (PM), Entertainment Permit, Outdoor Service (1 Area), Specific Purpose Permit (Food) and (2) Bars, issued under MCL 436.1531(2) to the newly constructed building at 9136 Shaver Road, Portage, MI 49002, Kalamazoo County (Mulligan's Grill and Sports Bar), from the razed building at the same address. Upon a roll call vote, motion carried 6 to 0.

* **CLOSED SESSION:** Motion by Urban, seconded by Randall, to convene a closed session to discuss a personnel matter immediately following the regularly scheduled meeting of July 9, 2013. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

* **CITY ORDINANCE AMENDMENT:** Motion by Urban, seconded by Randall, to adopt the proposed amendment to the City of Portage Code of Ordinances by adding Article 9, Midwest Energy Cooperative Franchise, to Chapter 14, Business, Sections 14-192 through 14-202. Upon a roll call vote, motion carried 6 to 0.

FIREWORKS REGULATION: City Manager Maurice Evans summarized City Council action thus far, including the passage of an Emergency Ordinance on June 25, 2013, and the First Reading of the Fire Regulations Ordinance currently presented for second reading. He provided a review of the Fire Code Safety Act, and indicated that City Council has a listing of calls and e-mails before them as part of their consideration of a more permanent ordinance. Discussion followed.

Each Councilmember brought concerns expressed to them personally by citizens both for and against fireworks regulations. Some of the discussion centered around the level of restrictiveness, safety versus quality of life, public versus private property concerns, dates to allow fireworks especially when the holiday falls on a mid-week day, the wisdom of imposing further control over the State of Michigan guidelines, the cultural diversity aspects of a wish to celebrate with fireworks demonstrations, and a desire for consistency with surrounding communities. Discussion followed.

Councilmember Urban expressed an interest in investigating the option of having a permitting process for fireworks demonstrations to accommodate cultural holidays, private celebrations or whatever it might be. Discussion followed. Motion by Urban, seconded by Campbell, to send the ordinance back to the Administration and the City Attorney to draft an ordinance that allows for a permit similar to the bonfire permit that allows for fireworks on other days than those mandated by the State Law for future consideration by City Council. Councilmember Campbell requested that the Administration provide the requirements necessary to obtain a commercial fireworks permit through the City, including the five-page application, and explained. Discussion followed.

In answer to Councilmember Sackley, City Attorney Brown indicated that the permit segment of the ordinance would be couched as an exception to the prohibition as it exists in the ordinance. Discussion followed and City Attorney Brown offered some parameters to be considered when writing a permit ordinance and indicated that he would be going over and above what might be standard in order to enable City Council to consider other options and have the flexibility to change things. He also referred to the ability of the Fire Department to promulgate reasonable rules such as the standards in the Bonfire Ordinance and the insurance requirements in other permitting processes. Discussion followed.

Councilmember Sackley spoke in opposition to expanding the ordinance beyond what the State has already mandated.

City Manager Evans reviewed a request by a party who wanted to have a fireworks display on one of the lakes in Portage. He indicated that he reviewed the matter with the City Attorney and worked out some standards in order to protect the neighbors such as insurance, inspections, and ensuring that there is a qualified pyrotechnical individual to discharge the fireworks. He expressed a caveat to City Council that any extra opportunities to have fireworks in the community beyond State Law brings extra Administrative, Public Safety and liability concerns, plus complaints from citizens who wish to retain the quiet enjoyment of their property. Discussion followed.

In answer to Mayor Pro Tem Reid, City Attorney Brown indicated that having a permitting process would increase liability for the City as there would be no liability if the City simply follows State Law owing to errors made, etc. Discussion followed.

Upon a roll call vote, motion carried 4 to 2. Yeas: Councilmembers Campbell, Pearson and Randall and Mayor Pro Tem Reid. No: Councilmembers Sackley and Urban. Discussion followed. Councilmember Randall asked if City Council could obtain information regarding fireworks ordinances or standards from all of the surrounding communities, not just Kalamazoo. Mr. Brown indicated that between his office and city staff that this should be accomplishable.

COUNCIL COMMITTEE REPORTS:

COUNCIL PRE-QUALIFIED SITES COMMITTEE: Councilmember Randall indicated that the Council Pre-qualified Sites Committee chaired by Mayor Strazdas with Councilmember Urban as the third member met with Joe Bland and Jennifer Owens from Southwest Michigan First. She indicated that city staff provided much verbal information; that the property owner's participation is critical and necessary before a prequalification can be accomplished on a site; that Michigan does not currently have a prequalification site program in place, but it does have a Redevelopment Ready Communities Program in its second year; and, the Committee agreed that the needs of the landowner has to be taken into consideration and the Southwest Michigan First representatives agreed. She indicated that large segments of land that are zoned industrial segments will be the focus of Southwest Michigan First, hopefully bringing in buyers. She cited a presentation by Southwest Michigan First regarding the "call support" industry study that revealed that Portage has a number of call centers and a work force that would be conducive to attract more of these call centers. She said that the Southwest Michigan First Representatives felt that staff was working well with them, both Mr. Evans and Ms. Georgeau, and expressed her opinion that even though this is a slow process, there were a lot of positive comments in the discussion. Councilmember Urban indicated that unfortunately he was not able to attend the meeting owing to an illness. Councilmember Sackley said he realized that Mayor Strazdas chaired the meeting, but asked if a written report would be forthcoming for the record. Councilmember Randall responded that "the Mayor said that he would have one on the dais, but there wasn't one, so she went off just some notes." Councilmember Sackley asked if City Manager Evans could follow-up and get the written report for the record and Mr. Evans answered in the affirmative. When Mayor Pro Tem Reid asked what the next steps might be, Councilmember Randall answered that the city is at the mercy of Southwest Michigan First and the clients they bring in; that we do have large tracts of privately owned land in Portage that are not for sale noting that there is the dream and there is reality; moreover, Southwest Michigan First indicated that Portage is doing all it can do at this time by working with prospective clients, and Councilmember Randall said, "we can still be visionaries."

Motion by Pearson, seconded by Urban, to receive the presentation from the Pre-Qualified Sites Committee regarding recent activity. Upon a voice call vote, motion carried 6 to 0.

BID TABULATIONS:

* **2013 LOCAL STREET RECONSTRUCTION PROGRAM:** Motion by Urban, seconded by Randall, to approve a contract with Michigan Paving & Materials Company for the 2013 Local Street

Reconstruction Program in the not-to-exceed amount of \$559,555.77 and a contract amendment with Jones & Henry Engineers, Ltd., for construction administration and material testing for the 2013 Local Street Reconstruction Program in the not-to-exceed amount of \$53,610.00, and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **STREET MILL AND FILL REPAIRS - RECOMMENDATION:** Motion by Urban, seconded by Randall, to approve a contract with Michigan Paving & Materials Company to provide asphalt surface repairs to isolated sections of major and local streets in the not-to-exceed amount of \$210,150.55 and the added expenditure of \$142,266.30 for additional mill and fill repairs at unit pricing within this contract, and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **BUILDING INFRASTRUCTURE REVIEW - PROPOSED RECOMMENDATION:** Motion by Urban, seconded by Randall, to approve the proposal submitted by Paradigm Design, Incorporated, to complete building infrastructure reviews for twelve city facilities in the amount of \$24,000 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

RECESS: 8:42 p.m.

RECONVENE: 8:59 p.m.

COUNCIL COMMITTEE REPORTS:

CITY MANAGER SALARY REVIEW/EVALUATION COMMITTEE: At the request of Mayor Pro Tem Reid, Councilmember Pearson provided a report from the City Manager Salary Review/Evaluation Committee. Councilmember Pearson indicated that the Committee consisted of Councilmembers Sackley, Urban and himself and met to collate the performance reviews of City Manager Maurice Evans. He indicated that City Council has completed the performance review of City Manager Evans for Fiscal Year 2012-2013, and City Council is pleased with the overall performance of Maurice Evans as the City Manager of the City of Portage. He noted that Mr. Evans continues to manage the city in a way that maximizes the value of its resources, both financial and human; that his relationship with City Council and the citizens of Portage is one of mutual respect and professional courtesy; that he has performed admirably in managing financial and fiscal responsibilities with continuing state and national challenges; and, that the City of Portage remains positioned as well as it can be to provide essential city services at a high level of customer satisfaction because of his efforts.

Councilmember Pearson indicated that Mr. Evans achieved an overall rating of *exceeds expectations* to *meets expectations* and, in recognition of this past and current performance, there is a consensus of City Council to award a 2.5% increase in his base salary and a one-time bonus of \$5,000. Motion by Urban, seconded by Sackley, to award a 2.5% increase in the base salary of the City Manager and a \$5,000 one-time bonus. Mayor Pro Tem Reid and Councilmember Sackley spoke with high regard for City Manager Maurice Evans. Upon a roll call vote, motion carried 6 to 0.

CITY MANAGER'S EMPLOYMENT AGREEMENT: Councilmember Pearson highlighted some of the changes as requested by Mr. Evans for the remaining three years on his employment contract as it pertained to healthcare and outplacement services after he leaves employment with the City of Portage. He reviewed the material changes to the contract as it applied to or is impacted by spousal benefits, years of service, severance pay, computer hardware/software in lieu of outplacement services and actuarial data to be used if separation is less than ten years. Discussion followed.

Motion by Pearson, seconded by Sackley, to approve the recommendations to the City Manager Employment Agreement from the City Manager Salary Review/Evaluation Committee. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Sackley indicated that he provided an e-mail from Laura Tupper, 9516 East Shore Drive, who spoke in opposition to fireworks, to City Clerk James Hudson and City Manager Maurice Evans for distribution to the rest of City Council for later discussion. He expressed concerns with the Fill the Boot Campaign for Muscular Dystrophy as it creates an unsafe situation for motorists and pedestrians at key intersections in the City. He indicated he supports the charity, praised the firefighters for their years of efforts and the millions of dollars raised by them. He emphasized that he supports the cause, but not the method of collection owing to safety concerns and that it shows a poor example to children. He cited that Public Safety Officers have restricted this method for other organizations, explained and gave examples.

Councilmember Urban concurred with Councilmember Sackley and explained. He said he and his family enjoyed the Portage Fireworks Display on July 4th and praised The Rotary for providing fireworks and thanked Councilmembers Campbell and Pearson for their direct efforts in the Display. He did voice a concern regarding traffic control and egress following the fireworks citing the new fence that was installed significantly limited the number of exits for patrons and explained.

Councilmember Randall invited everyone to the Eliason Nature Reserve Trail Dedication, Tuesday, July 16, 2013, at 10:00 a.m., 9501 Shaver Road, with parking at the end of Industrial Drive off of West Melody.

Councilmember Pearson mentioned the great turn-out for the Fireworks Display on July 4th put on by the Portage Rotary, pointed out that the donations collected at the gate are used solely for Fireworks purposes and asked for donations to keep coming.

City Manager Evans assured City Council that he and Public Safety Director White would be discussing alternatives to the current method of collecting donations for the Fill the Boot Campaign for Muscular Dystrophy. Also, he indicated that he had already sent out an e-mail regarding the concerns expressed by Councilmember Urban regarding the exit issues at McCamley Field after the Fireworks Demonstration. He thanked each City Councilmember for the wage increase, the positive review and the adjustments in his employment agreement.

Mayor Pro Tem Reid indicated that at the June 25, 2013 City Council Meeting, many fervent statements were made by the Board of Review Members as well as Councilmembers Randall and Pearson and, as a result, is looking forward to the August 13, 2013 Regular City Council Meeting and the discussion regarding the Board of Review. She then referred to a comment by Councilmember Randall at the June 25, 2013 Council Meeting where she addressed the sale of the property on Osterhout using the sale approach determination process as an opportunity to make a plea for City Council to consider outsourcing the Assessing Department. She then praised a specific company stating, "WCA is an excellent company. Kalamazoo is using them. Their preliminary bid could save the City over a quarter of a million dollars annually."

With that Mayor Pro Tem Reid indicated that she had not received any information about a preliminary bid put out by the City for assessing services and wondered how Councilmember Randall had this information.

Mayor Pro Tem Reid commented that at the last meeting Councilmember Randall made a very strong point that it was the responsibility of each Councilmember to provide City Council with information to which they had access in order to fully inform everyone. She indicated that she had not received any information about this preliminary bid from WCA. She checked the appropriate city website segment to check for postings of bids designed to ensure transparency and to encourage participation by as many vendors as possible, but there was nothing related to Assessing. When she

asked City Manager Evans about the matter, he told her that the City has not requested any bid for assessing services, preliminary or any other kind. She then said she assumed that Councilmember Randall requested the preliminary bid from WCA on her own. She said she would have called her to check on this, but the last time she called her about a city issue, Councilmember Randall told her not to call her again, so she did not call her.

Mayor Pro Tem Reid said she then did some research on the bid process of the City of Portage. She noted that there are two kinds of bids: bids for specifically defined products, goods and services and request for proposals (RFP's); RFP's are put forth so companies would provide how they would provide the service and at what cost; both are competitive processes; both are publicly advertised; and both are very transparent. She stated that she found out that this process is not arbitrary or changeable by staff, but it is because the basis for the City of Portage bid process is founded in the *City Charter*, the City Code of Ordinances and the State of Michigan law. She expressed her concern that the City is being exposed to possible legal risk by having bids being brought forward by Councilmembers which do not follow the City's own procedures let alone the *City Charter*, the City Code of Ordinances and the State of Michigan law. She also expressed her concern that she does not know the specifics of the Preliminary Bid that no one else on Council or staff is aware of or participated in developing; and, she expressed her concern that it could be highly subjective and just plain wrong.

She also expressed her concern that the results of this preliminary bid would be used for political grandstanding and a threat to push for a recommendation for outsourcing a city department. She also expressed her concern that by her dealing directly with WCA and developing this preliminary bid, that Councilmember Randall has effectively taken them out of the running for providing any assistance to the Assessing Department in the future on that basis; and, it could be easily argued that this particular company benefited from an unfair competitive advantage over other companies because of this activity.

She encouraged all Councilmembers to trust the process and work with all of your colleagues as that is how we can all benefit from a broad range of skills, knowledge and passion found within the members of the Portage City Council. She said that there are reasons that parameters of the bid process are established by *City Charter*, the City Code of Ordinances and the State of Michigan law to prevent unfair practices and poor results, and to provide boundaries for our own personal passions. She asked for a consensus from all of City Council on this.

ADJOURNMENT: Mayor Pro Tem Reid adjourned the meeting at 9:29 p.m.

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 July 23, 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 \$1,150,856.95 for checks issued to vendors and \$87,607.76 for electronic transfers for a total of \$1,238,464.71.

BACKGROUND INFORMATION:

Attached please find the Accounts Payable Register for the period June 23, 2013 through July 7, 2013, which is recommended for approval.

FUNDING: N/A

Attachments: Accounts Payable Register

ALL

 CHECK NUMBER VENDOR NAME VENDOR # BANK CODE CHECK AMOUNT

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
06/27/2013	285612	A PIZZA YEN	999999		334.40
06/27/2013	285613	ALL STIRRED UP	999999		19.20
06/27/2013	285614	COLD STONE CREAMERY	999999		1,154.40
06/27/2013	285615	ERBERTS & GERBERTS	999999		266.40
06/27/2013	285616	FANNIE MAY CHOCOLATES	999999		113.60
06/27/2013	285617	GREAT HARVEST BREAD	999999		246.40
06/27/2013	285618	HARRIS & HARRIS CATERING	999999		615.20
06/27/2013	285619	HONEY BAKED HAM & CAFE	999999		116.00
06/27/2013	285620	JAC'S CEKOLA PIZZA	999999		677.60
06/27/2013	285621	KELLY'S CAFE	999999		320.80
06/27/2013	285622	MAIN STREET PUB	999999		384.00
06/27/2013	285623	MI RECREATION & PARKS ASSOC.	2622		5,200.00
06/27/2013	285624	MING DYNASTY	999999		692.00
06/27/2013	285625	PETTY CASH-PARKS	536		699.04
06/27/2013	285626	STATE OF MICHIGAN	4070		501.72
06/27/2013	285627	TIMPSON, MEREDITH	999999		160.80
07/05/2013	285628	A I S CONSTRUCTION EQUIP. CO.	640		1,716.62
07/05/2013	285629	AT&T	849		4,740.05
07/05/2013	285630	A-1 SIGNS	2873		229.70
07/05/2013	285631	ADRIAN & BLISSFIELD RAIL ROAD	999999		3,458.92
07/05/2013	285632	AIRGAS GREAT LAKES	106		286.70
07/05/2013	285633	ALL-PHASE ELECTRIC SUPPLY CO.	108		106.48
07/05/2013	285634	ALLEGRA PRINT & IMAGING	533		1,164.41
07/05/2013	285635	ALLIED MECHANICAL SERVICE	974		78.00
07/05/2013	285636	ANY CUTTING & WELDING	3347		3,218.00
07/05/2013	285637	APPLIED INDUSTRIAL TECHNOLOGIE	1944		4,084.55
07/05/2013	285638	APPROVED FIRE PROTECTION CO.	630		2,579.00
07/05/2013	285639	AQUATIC SERVICES, INC	744		11,800.00
07/05/2013	285640	ARNOLD, CHET	999999		102.00
07/05/2013	285641	ARNOLD, JOSEPHINE	999999		102.00
07/05/2013	285642	ARROWHEAD SCIENTIFIC, INC.	3744		363.86
07/05/2013	285643	ADP, INC.	3305		1,196.86
07/05/2013	285644	BANK OF NEW YORK MELLON	3939		250.00
07/05/2013	285645	BEROW, LEANDRA	999999		63.00
07/05/2013	285646	BESCO WATER TREATMENT, INC.	3339		23.00
07/05/2013	285647	BEST ONE FLEET SERVICES OF W M	4817		975.78
07/05/2013	285648	BONDAR CHOK, KAREN	999999		400.00
07/05/2013	285649	BORGESS HEALTH ALLIANCE	151		1,368.00
07/05/2013	285650	BRANT, HAROLD	999999		63.00
07/05/2013	285651	BREAD OF LIFE, LLC	4729		138.57
07/05/2013	285652	BROOKS, RENA	999999		95.00
07/05/2013	285653	BULLOCK, MARGE	999999		58.00
07/05/2013	285654	BYHOLT INC.	68		359.47
07/05/2013	285655	CADWELL APPARELL	1845		168.00
07/05/2013	285656	CAMPBELL AUTO SUPPLY	437		36.15
07/05/2013	285657	CITY OF KALAMAZOO TREASURER	540		20.00
07/05/2013	285658	CLAREY, JIM	999999		26.84
07/05/2013	285659	COLE CENTURY BUICK PONTIAC GMC	902		21,732.00
07/05/2013	285660	COLLETTE TRAVEL SERVICE, INC	1935		5,533.00
07/05/2013	285661	COLLETTE TRAVEL SERVICE, INC	1935		5,513.00
07/05/2013	285662	COLLETTE TRAVEL SERVICE, INC	1935		5,513.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
07/05/2013	285663	CONSUMERS CONCRETE CORP.	187	1,675.32
07/05/2013	285664	CONSUMERS ENERGY-BILL PMT CNT	189	12,011.86
07/05/2013	285665	CROSSROADS CAR WASH	195	325.00
07/05/2013	285666	D & R SPORTS CENTER, INC.	4222	47.48
07/05/2013	285667	DAVE DELOOF	999999	1,355.00
07/05/2013	285668	DECKER, JENNIFER	999999	100.00
07/05/2013	285669	DEER CONTRACTING & LANDSCAPE	2544	13,681.95
07/05/2013	285670	JOHN DEERE LANDSCAPES	4448	689.07
07/05/2013	285671	DEMING, WILLIAM	999999	430.26
07/05/2013	285672	DENOOPER BROTHERS, INC.	210	355.66
07/05/2013	285673	DIGITAL HIGHWAY WIRELESS SOLUT	4839	4,201.28
07/05/2013	285674	DISTRICT 3A COURT	999999	500.00
07/05/2013	285675	DRIESENGA & ASSOCIATES, INC.	3277	1,834.65
07/05/2013	285676	DUNLOP, JOHN W	4896	120.00
07/05/2013	285677	EMERGENCY VEHICLE PRODUCTS	2348	8,813.84
07/05/2013	285678	ENGINEERING SUPPLY & IMAGING	2615	839.75
07/05/2013	285679	FAASS, DONALD L.	999999	23.50
07/05/2013	285680	FADER EQUIPMENT, INC.	688	1,195.26
07/05/2013	285681	FLETCHER ENTERPRISES	1399	105.00
07/05/2013	285682	SAMUEL FRENCH INC.	3754	384.00
07/05/2013	285683	GOODRICH, AUSTIN	999999	70.00
07/05/2013	285684	GORDON FOOD SERVICE	502	72.24
07/05/2013	285685	GORDON WATER SYSTEMS	517	269.00
07/05/2013	285686	GRANDPA JIM'S FISHING ADVENTUR	4799	120.00
07/05/2013	285687	GREATER KALAMAZOO FOP LODGE 98	623	2,636.16
07/05/2013	285688	GREATER KALAMAZOO FOP LODGE 98	623	1,549.20
07/05/2013	285689	GREATER KALAMAZOO UNITED WAY	628	1,267.68
07/05/2013	285690	GRIFFIN PEST SOLUTIONS, INC.	598	392.00
07/05/2013	285691	GUEST SERVICES, INC.	3526	300.48
07/05/2013	285692	HARASIM, VIVIAN	999999	146.00
07/05/2013	285693	HARRISON, KEVIN & SUSAN ANN	999999	130.00
07/05/2013	285694	HARRISON, KEVIN OR SUSAN ANN	999999	350.00
07/05/2013	285695	HARTMAN, CHARLES	913	188.00
07/05/2013	285696	HESS, JILL	532	110.00
07/05/2013	285698	HOME DEPOT	691	1,037.37
07/05/2013	285699	INTEGRATED WEED CONTROL	4800	575.00
07/05/2013	285700	IRWIN JR., LOUIS A	3303	1,000.00
07/05/2013	285701	JOHNSON'S WELDING, ETC.	76	3,713.00
07/05/2013	285702	KALAMAZOO COUNTY ROAD COMMISSI	87	537.50
07/05/2013	285703	KALAMAZOO COUNTY TREASURER	514	3,052.56
07/05/2013	285704	KALAMAZOO IN BLOOM, INC.	1022	1,746.00
07/05/2013	285705	KALAMAZOO LANDSCAPE SUPPLIES	90	26.00
07/05/2013	285706	KAR LABORATORIES	1899	95.00
07/05/2013	285707	KENNEDY, JEANNE	999999	2,608.25
07/05/2013	285708	KIESER & ASSOCIATES	234	851.92
07/05/2013	285709	KLOSTERMAN DISTRIBUTING	3805	243.95
07/05/2013	285710	KZOO TIRE COMPANY	564	7,238.94
07/05/2013	285711	LAWSON PRODUCTS, INC	240	12.90
07/05/2013	285712	LOCEY SWIM POOL CO.	243	200.00
07/05/2013	285713	LOMAN, CHANCE	999999	188.00
07/05/2013	285714	LOUTHAN, WILLIAM F	3021	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
07/05/2013	285715	LOWE'S HOME CENTER	2630	319.61
07/05/2013	285716	LUDENS, JUDY	999999	920.40
07/05/2013	285717	M P E L R A	2305	25.00
07/05/2013	285718	MCDONALD'S TOWING & RESCUE, IN	728	125.00
07/05/2013	285719	MCGINNIS, GEORGE	999999	384.00
07/05/2013	285720	MENARDS, INC	258	22.63
07/05/2013	285721	MI ASSOC. OF CHIEFS OF POLICE	2157	100.00
07/05/2013	285722	STATE OF MICHIGAN (MGT & BUDGE	2498	4,180.00
07/05/2013	285723	MICH MUNICIPAL POLICE & FIRE R	4777	1,652.19
07/05/2013	285724	MIDWEST ENERGY COOPERATIVE	2030	258.58
07/05/2013	285725	MOSES FIRE EQUIPEMENT, INC.	993	953.00
07/05/2013	285726	MOTOROLA SOLUTIONS, INC.	2915	36,849.75
07/05/2013	285727	NATIONAL FIRE PROTECTION ASSOC	4099	243.20
07/05/2013	285728	NEW FRESH CLEANING SERVICE	4351	1,380.00
07/05/2013	285729	NOYES, DAVID	999999	1,400.00
07/05/2013	285731	OFFICE DEPOT, INC.	1721	2,767.19
07/05/2013	285732	OFFICEMAX INCORPORATED	301	533.10
07/05/2013	285733	PATESEL, TERRY	4455	174.50
07/05/2013	285734	PCM SALES, INC.	4852	6,235.59
07/05/2013	285735	PERRY BALLARD INCORPORATED	4348	2,324.00
07/05/2013	285736	PETERMAN CONCRETE CO.	310	1,432.94
07/05/2013	285737	PETTY CASH-SENIOR CENTER	537	472.52
07/05/2013	285738	POER, BRAD	999999	1,200.00
07/05/2013	285739	PORTAGE GREAT 'SCAPES	999999	184.00
07/05/2013	285740	PRINTEK, INC.	4711	82.42
07/05/2013	285741	PROFESSIONAL LAKE MANAGEMENT	461	210.13
07/05/2013	285742	PROGRESSIVE MEDICAL INTERNAT'L	829	112.00
07/05/2013	285743	PUBLIC MEDIA NETWORK	4582	89,688.51
07/05/2013	285744	PURITY CYLINDER GASES, INC	323	2,467.00
07/05/2013	285745	QUALITY PRECAST, INC.	4875	875.00
07/05/2013	285746	RATHCO SAFETY SUPPLY, INC.	327	144.00
07/05/2013	285747	RIDGE AUTO NAPA	438	14,127.29
07/05/2013	285748	ROBERTS LANDSCAPE	4294	131.53
07/05/2013	285749	ROWLEY BROTHERS, INC.	346	1,767.80
07/05/2013	285750	SCHAEFFER MANUFACTURING COMPAN	4635	1,028.48
07/05/2013	285751	SCHIPPERS, ANGIE	999999	68.00
07/05/2013	285752	SEHY JULIE	999999	100.00
07/05/2013	285753	SELLES, HELEN	999999	68.00
07/05/2013	285754	SHARP, DENNIS OR JOAN	999999	100.00
07/05/2013	285755	SHORT, MARY	999999	68.00
07/05/2013	285756	SKILLQUEST INTERNATIONAL LLC	456	700.00
07/05/2013	285757	STAP BROS LAWN & LANDSCAPE,INC	366	6,390.33
07/05/2013	285758	STATE OF MICHIGAN (DOT)	368	441,032.63
07/05/2013	285759	STATE SYSTEMS RADIO, INC	369	3,604.00
07/05/2013	285760	STEENSMA LAWN & POWER EQUIPME	3222	265.91
07/05/2013	285761	SWEM, TRACY	4899	120.00
07/05/2013	285762	TERMINAL SUPPLY CO.	380	2,840.24
07/05/2013	285763	JOHANNA THOMPSON	4682	5,516.65
07/05/2013	285764	TRACTOR SUPPLY CORP.	2817	49.84
07/05/2013	285765	TRAFFIC CONTROL CORP.	4880	4,884.44
07/05/2013	285766	TRUCK & TRAILER SPECIALTIES	639	867.98

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
07/05/2013	285767	UNDERGROUND PIPE & VALVE, INC.	1363	924.75
07/05/2013	285768	UNITED PARCEL SERVICE	545	38.58
07/05/2013	285769	UNITED PARTY & EVENT SERVICES	2177	2,990.00
07/05/2013	285770	VALLEY FAMILY CHURCH	999999	100.00
07/05/2013	285771	VANDERBILT, JOHN	668	211.50
07/05/2013	285772	VANDERVEEN, RHONDA	999999	100.00
07/05/2013	285773	WATKINS, GREG	4231	315.00
07/05/2013	285774	WEST MICHIGAN GLASS SOCIETY	4518	210.00
07/05/2013	285775	WEST SHORE SERVICES, INC	417	37,198.94
07/05/2013	285776	WINDER POLICE EQUIPMENT, INC.	429	243.78
07/05/2013	285777	WINTHER, BETTY	999999	68.00
07/05/2013	285778	DAN WOOD COMPANY	2019	744.00
07/05/2013	285779	WYOMING ASPHALT PAVING CO. INC	1222	987.66
07/05/2013	285780	XEROX CORPORATION	2684	463.32
07/05/2013	285781	10TH DISTRICT COURT	999999	460.00
07/05/2013	285782	GILL, JIM	999999	450.00
07/05/2013	285783	.UDENS, JUDY	999999	.00
07/05/2013	285784	Terminal Depot	999999	.00

DATE RANGE TOTAL * 1,150,856.95 *

Bank	Vendor	Payment Amount	Date	Vendor Name
00	0000597	11,562.84	7/05/2013	ABONMARCHE CONSULTANTS, INC
00	0002071	4,854.25	7/05/2013	GAIL ANDRUS TRAVEL
00	0003428	150.00	7/05/2013	ANIMAL REMOVAL SERVICE, LLC
00	0003495	318.46	7/05/2013	BATTERIES PLUS
00	0003844	4,600.00	7/05/2013	BELL EQUIPMENT COMPANY
00	0003808	425.00	7/05/2013	BLUESTONE PSYCH
00	0004842	323.50	7/05/2013	C C I SOUTH, INC.
00	0002690	419.69	7/05/2013	C D W GOVERNMENT, INC.
00	0001647	7,492.00	7/05/2013	CARRIER & GABLE
00	0001821	2,950.03	7/05/2013	CLEAN EARTH ENVIRONMENTAL SERV
00	0000191	43.88	7/05/2013	CONTINENTAL LINEN SERVICES
00	0002790	591.50	7/05/2013	CROWN TROPHY
00	0004741	97.95	7/05/2013	DATA CONSTRUCTS LLC
00	0000211	395.50	7/05/2013	DEPATIE FLUID POWER CO., INC.
00	0000226	1,420.60	7/05/2013	E J USA, INC.
00	0000692	1,312.59	7/05/2013	ETNA SUPPLY, INC.
00	0000017	2,202.00	7/05/2013	FISBECK THOMPSON CARR & HUBER, INC
00	0001455	330.00	7/05/2013	FORSHEE, MARK
00	0004891	3,733.70	7/05/2013	GLOBAL TELEMATIC SOLUTIONS LLC
00	0000699	2,958.16	7/05/2013	W W GRAINGER INC
00	0001327	2,100.00	7/05/2013	HI-TECH ELECTRIC CO.
00	0000063	748.16	7/05/2013	INDUSCO SUPPLY CO., INC.
00	0002868	240.00	7/05/2013	KAHN, WILMA
00	0003783	300.00	7/05/2013	KEHOE, EDWARD J
00	0000235	16,110.00	7/05/2013	KNAPP ENERGY, INC.
00	0004409	135.00	7/05/2013	KOPEC, CASEY
00	0004454	1,000.00	7/05/2013	KUIPER BUILDING SERVICES, LLC
00	0004750	4,924.83	7/05/2013	LAND & RESOURCE ENGINEERING & SURVE
00	0004371	838.62	7/05/2013	LIBRA INDUSTRIES, INC. OF MICHIGAN
00	0000662	135.00	7/05/2013	MALZ, DONALD
00	0004746	302.02	7/05/2013	MAURER'S TEXTILE RENTAL SERVICES
00	0004406	104.00	7/05/2013	MEDEMA, TIMOTHY
00	0003971	60.00	7/05/2013	MORRIS, JOY E
00	0000440	736.65	7/05/2013	ONE WAY PRODUCTS
00	0004878	240.00	7/05/2013	ORTNER, RICHARD
00	0004828	240.00	7/05/2013	PECKELS, CHRISTINE
00	0000625	1,414.60	7/05/2013	PORTAGE FIREFIGHTERS
00	0000504	240.00	7/05/2013	PORTAGE ON-CALL FIREFIGHTERS
00	0000624	1,573.44	7/05/2013	PORTAGE POLICE OFFICERS ASSOC
00	0002584	1,453.54	7/05/2013	PRECISION PRINTER SERVICES INC
00	0004386	677.71	7/05/2013	RIETH-RILEY CONSTRUCTION CO INC
00	0000339	157.03	7/05/2013	ROAD EQUIPMENT PARTS CENTER
00	0002300	94.00	7/05/2013	ROBERTS, CHARLES D
00	0001505	144.00	7/05/2013	SNELL, DEBRA
00	0004612	1,000.00	7/05/2013	TECHNOLOGY SOLUTIONS
00	0001862	528.14	7/05/2013	U A W, LOCAL 2290
00	0004775	211.50	7/05/2013	VANDERBERG, WARD M
00	0004408	325.50	7/05/2013	WEST, STEVEN R
00	0000425	1,050.00	7/05/2013	WIGHTMAN & ASSOCIATES, INC.
00	0002613	692.37	7/05/2013	WINGFOOT COMMERCIAL TIRE
00	0004758	3,650.00	7/05/2013	WOOD PLUMBING LLC, D
	<u>Total Amount</u>	<u>87,607.76</u>		

Total EFT Counts: 51

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: South Westnedge Park - 2013 Groundwater and Methane Investigation

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

ACTION RECOMMENDED: That City Council award a contract to American Hydrogeology Corporation to perform the 2013 annual groundwater sampling and reporting for the South Westnedge Park and former Parks Maintenance Facility in the not to exceed amount of \$45,800 annually, with an option to renew the contract for two additional years, and authorize the City Manager to execute all documents related to this contract on behalf of the city.

EXECUTIVE SUMMARY:

City Council has an adopted goal to “*enhance environmental quality and protect natural resources.*” As an objective to reach this goal, Council is to “*promote environmental protection, planning, monitoring, and educational programs.*” To this end, the city has for years, monitored the groundwater cleanup efforts at a former municipal land fill located off of South Westnedge Avenue. In order to continue this monitoring effort, a contract to perform the 2013 groundwater sampling and report, to include methane investigation, is being recommended.

BACKGROUND INFORMATION:

Prior to the current development and use of South Westnedge Park, the area was used as a municipal landfill for many years. In 1989, the city began a major groundwater cleanup effort when contamination was found to be migrating off-site into the Crocket Avenue neighborhood. The groundwater recovery pumping and cleanup ceased in 1999, but the site is still being monitored annually for groundwater quality in accordance with the requirements of the Michigan Department of Environmental Quality (MDEQ). A report of the groundwater sampling is compiled and submitted annually to the MDEQ.

Historically, contamination levels in the groundwater samples continue to drop, however, some wells do continue to show contamination above MDEQ cleanup levels. All of the residential properties in the Crocket Avenue neighborhood are connected to city water and all private wells have been abandoned. Through city staff discussion with the MDEQ, it has been determined that it will be necessary to continue monitoring the groundwater in this area for the foreseeable future.

Since 1989, the groundwater cleanup and monitoring has been managed by American Hydrogeology Corporation (AHC). In December 2011, AHC recommended performing baseline methane investigation of the area. Their recommendation was based upon an analysis of previous groundwater samples as well as the age and location of the former landfill site. This was a result of MDEQ having some instances of methane gas entrained into the groundwater in areas surrounding

facilities such as the former landfill. As groundwater levels rise, the risk exists that methane gas could come out of suspension in the water and migrate into residential basements. The possibility of this instance occurring is remote, but MDEQ has documented a few cases in Michigan where methane gas in groundwater can reach dangerous levels and is currently drafting guidelines to require such investigations. Methane samples from areas outside of South Westnedge Park in the Parkland Terrace neighborhood showed minimal methane levels.

During the methane investigation, AHC also encountered methane gas in one location on the former landfill property. The presence of methane gas is more of a concern because at high levels methane gas is combustible. As a precaution, methane gas detectors have been installed and are monitored in the park restroom building and the fire training facility. Methane gas levels detected to date have not reached combustible levels.

AHC has done a fine job of performing the necessary sampling, reporting and negotiating with MDEQ to define the limits of the required sampling. In light of AHC's past experience with the contamination issue, city staff requested that AHC submit a three-year plan and cost estimate for continued monitoring.

In addition, in order to verify the technical aspects of this proposed work, a peer review of the proposed work effort was performed by, Envirologic, Incorporated, a local firm which has engaged in a number of methane investigations and also performed other environmental services for the city. Envirologic concluded that the work proposed by AHC was reasonable and in compliance with MDEQ guidelines and procedures.

It is recommended that City Council award a contract to American Hydrogeology Corporation to perform the 2013 annual groundwater and methane sampling and reporting for the South Westnedge Park and former Parks Maintenance Facility in the not to exceed amount of \$45,800 annually with an option to renew the contract for two additional years and authorize the City Manager to execute all documents related to this contract on behalf of the city.

FUNDING: To complete the 2013 groundwater and methane investigation, City Administration requested a scope of services proposal from AHC. The estimation of this work is \$38,900 for direct work performed by AHC and \$6,900 for laboratory testing costs. These costs have been budgeted in the 2013-2014 Fiscal Year Water Fund.

Attachments: N/A

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: The Homestead of Portage No. 3 – sidewalk extension request

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

ACTION RECOMMENDED: That City Council consider granting an extension until November 2015 for completion of sidewalk and street tree installation at The Homestead of Portage No. 3 plat subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney.

EXECUTIVE SUMMARY:

Requests for extension of sidewalk installation completion in area subdivisions have occurred over the past few years. Such requests have been submitted primarily due to the slow recovery in the economy. The City Administration recognizes the housing market continues to make progress and recommends the granting of the request that has been submitted subject to the defined terms.

BACKGROUND INFORMATION:

On August 9, 2011, City Council granted final plat approval for The Homestead of Portage No. 3 subject to installation of sidewalks and street trees by July 2013. During the past two years, building permits have been issued for single family home construction on six of the 23 lots within this subdivision. Sidewalks have been installed at these six home sites which provides a direct connection to the existing sidewalk network located in the established portions of The Homestead of Portage subdivision to the east, along Hollow Wood Drive and McGullicuddy Lane. A total of 17 lots (74 percent of the plat) remain vacant. As identified in the attached correspondence, Mr. Jack Gesmundo, American Village Builders (AVB) is requesting an extension until November 2015 for installation of remaining sidewalks and street trees within the subdivision citing cost concerns, construction hazards and damage/replacement of sidewalk if installed on vacant lots prior to home construction.

Given the continued slow recovery of the local residential housing market and consistent with previous sidewalk extensions granted by City Council for other residential subdivisions, the City Administration supports an extension until November 2015 as requested by AVB. Consistent with Section 42-831 of the Land Development Regulations, AVB will provide a new or extended irrevocable bank letter of credit or other surety acceptable to the City Attorney for this additional approximate two-year extension period.

FUNDING: Not Applicable

Attachments: Correspondence from Mr. Jack Gesmundo (AVB) dated July 11, 2013
The Homestead of Portage No. 3 – parcel map



BUILD SOMETHING BETTER.

RECEIVED
JUL 12 2013
COMMUNITY DEVELOPMENT

July 11, 2013

Mr. Christopher T. Forth
Deputy Director of Planning, Development and Neighborhood Services
7900 South Westnedge Avenue
Portage, MI 49024

RE: The Homestead No. 3 plat sidewalks

Dear Chris,

We would like to formally request a two-year extension for installation of the remaining sidewalks for The Homestead no. 3 neighborhood until November 2015. Please refer to the attached map; the area we are requesting the extension for is on vacant sites 41 - 53 and 59 - 62.

We are making this request for several reasons. First, all of the homes currently built, have sidewalks installed that link directly to the community sidewalk system. It is our plan to continue to build speculative homes adjacent to each other and linking the walks. We may get a custom home that does not follow this pattern of development, if so; we would plan to install the sidewalk from lot line to lot line. This would be consistent with how we have developed the entire community.

Second, there is an extensive amount of sidewalks to be installed, most of which would be damaged during the course of construction of each home. This creates a hazard during construction and it would require us to pay for installing the walks twice plus removal expenses.

All the home sites throughout the community, phases 1, 2 and North have 100% of the sidewalks installed. If the extension is approved, we will continue to install the sidewalks on each individual site as we built the homes and we will provide a letter of credit to cover the costs to complete the all the remaining sidewalks.

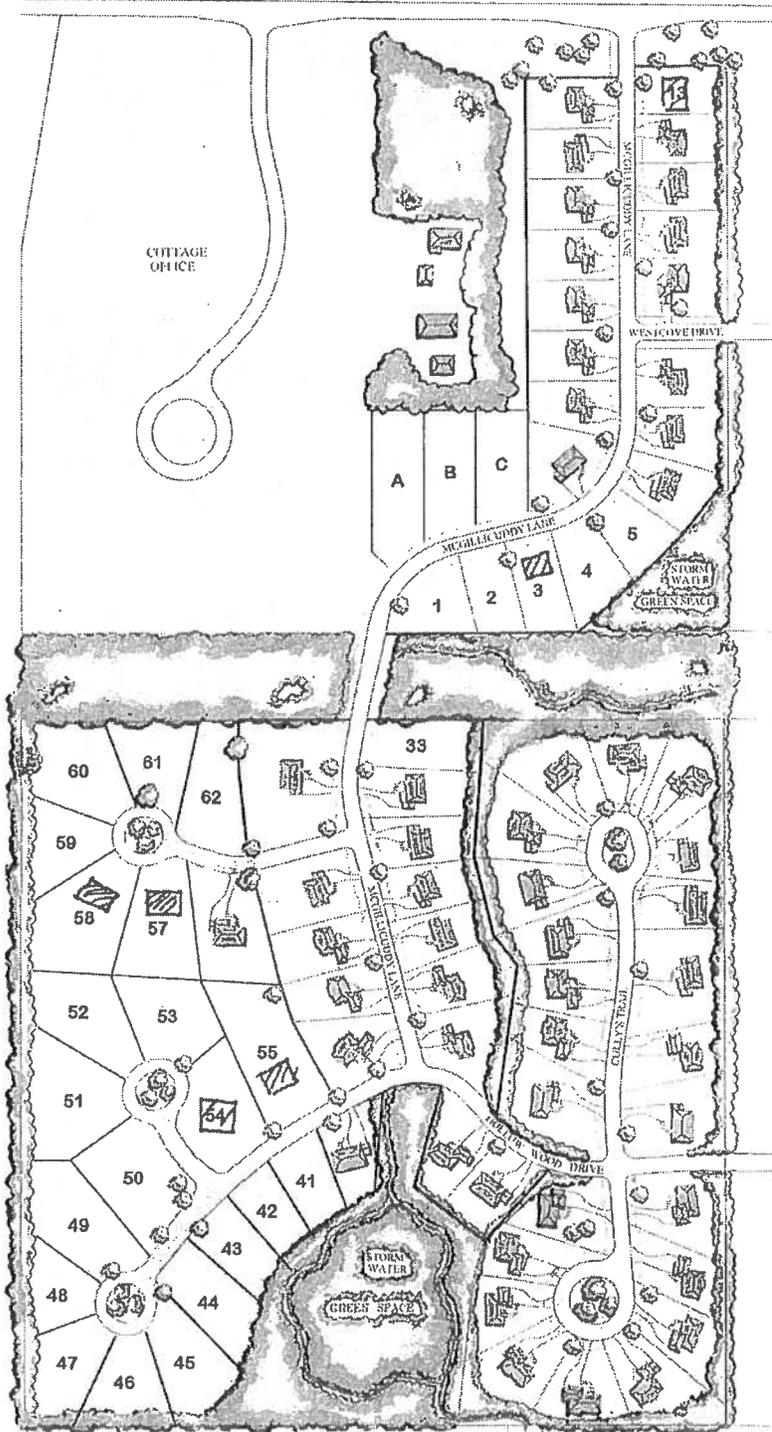
We appreciate your consideration, please feel free to call me at 217.2057 or email me at jack@avbinc.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Jack S. Gesmundo', written over a light blue horizontal line.

Jack S. Gesmundo
Principal

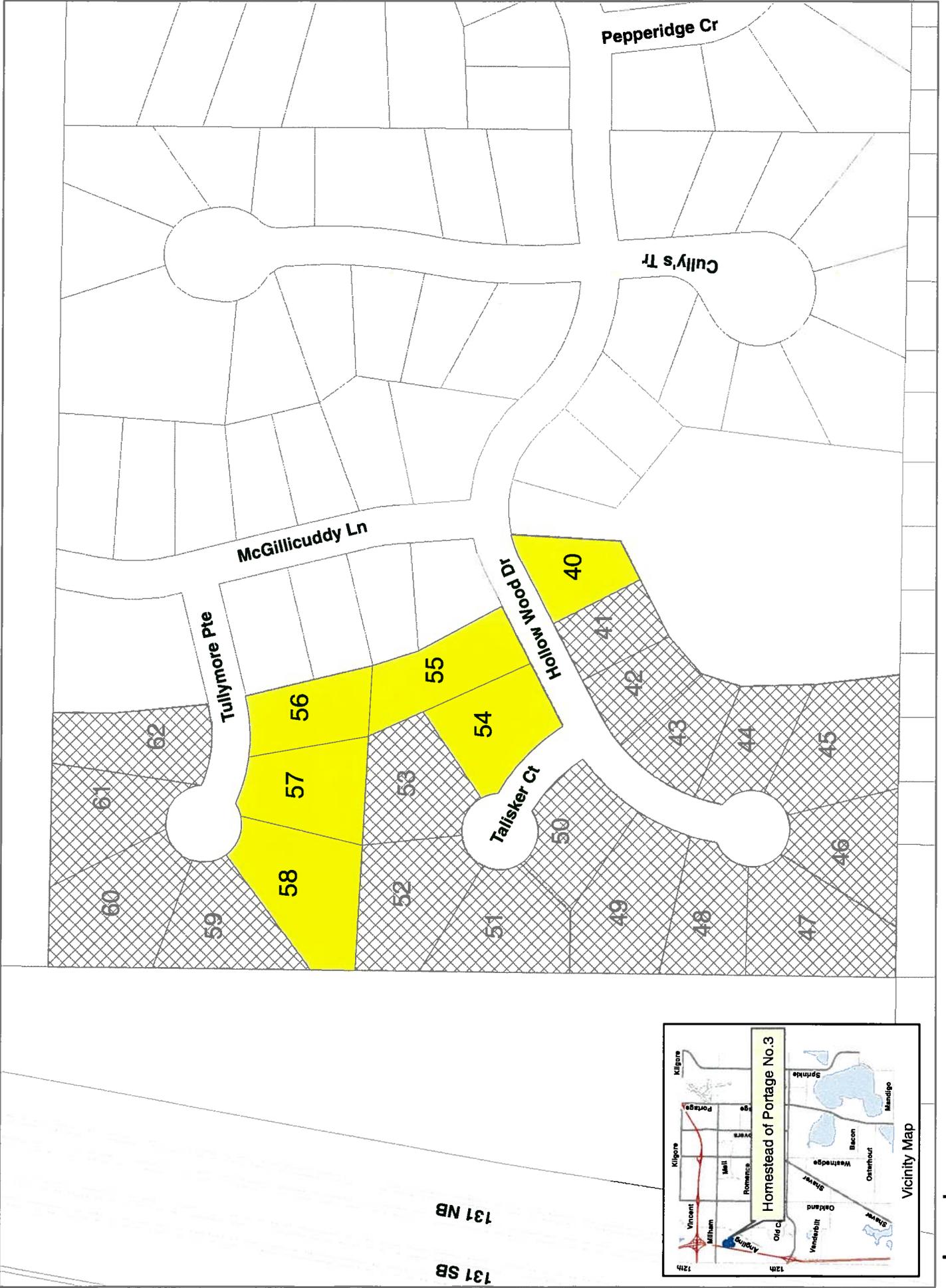
MILHAM ROAD



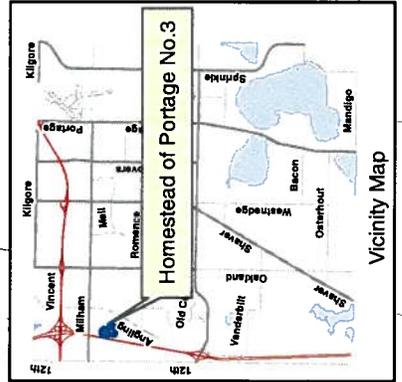
THE ARCTUS TRAIL NEIGHBORHOOD

☐ = home





131 SB
131 NB



Vicinity Map

Legend

- Sidewalks to be installed by July 2015
- Sidewalks installed



Homestead of Portage No. 3

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Parks Parking Lot Upgrades – Recommendation

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

ACTION RECOMMENDED: That City Council approve Change Order #2 to the Major and Local Street Mill & Fill Asphalt Repair Contract with Michigan Paving & Materials Company to provide parking lot upgrades at South Westnedge Park and West Lake Nature Preserve in the not to exceed amount of \$39,667.82 and authorize the City Manager to execute all documents related to this contract on behalf of the city.

EXECUTIVE SUMMARY:

Whenever possible the City Administration attempts to capture the best prices for paving work by requesting contractors extend unit pricing. Council is being asked to approve a change order with the contractor awarded the Local Street Mill & Fill paving bid, who has agreed to extend the unit prices for the paving of two park parking lots.

BACKGROUND INFORMATION:

The 2013-2014 Capital Improvement Program budget provides funding for parking lot upgrades at South Westnedge Park and the West Lake Nature Preserve. Capitalizing on the recent major and local street mill and fill bids received on June 25, 2013, the City Administration approached the paving contractor to extend unit prices for these planned parking lot upgrades. The contractor, Michigan Paving & Materials Company of Kalamazoo, Michigan, has agreed to extend its pricing for these asphalt repairs. Accordingly, Michigan Paving & Materials Company of Kalamazoo, Michigan, will extend its paving unit pricing for Contract Change Order #2 to perform parking lot upgrades at the South Westnedge Park and West Lake Nature Preserve parking lots in the not to exceed amount of \$39,667.82.

Therefore, it is recommended that City Council award Contract Change Order #2 to Michigan Paving & Materials Company in the not to exceed amount of \$39,667.82 to perform parking lot upgrades at the South Westnedge Park and the West Lake Nature Preserve; and that the City Manager be authorized to execute all documents related to this change order on behalf of the city.

FUNDING: Funds are budgeted and available for this work in the 2013-2014 Parks and Recreation Capital Improvement Project budget.

Attachments: N/A

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: June 2013 Environmental Activity Report

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

EXECUTIVE SUMMARY:

City Council has a quality of environment goal to “*enhance environmental quality and protect natural resources.*” As a result, a monthly informational report with updates is provided to the Council that addresses numerous environmental projects and/or activities.

BACKGROUND INFORMATION:

Attached please find the June 2013 Summary Environmental Activity Report from Department of Transportation & Utilities Director, W. Christopher Barnes, P.E. New material, or material of specific interest to City Council is presented in italics.

The summary report is intended for informational purposes to comply with the goals and objectives adopted by City Council emphasizing the need to enhance environmental quality and protect natural resources. This report also serves to keep the Council, Planning Commission and Environmental Board apprised of current environmental issues.

FUNDING: N/A

Attachments: June 2013 Environmental Activity Report

SUMMARY ENVIRONMENTAL ACTIVITY REPORT

June 2013 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation (AHC) on February 23, 2010 to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. 2011 sampling completed in March. Investigation into methane gas presence in the groundwater continues. First round of sampling completed in April 2012. Second round of sampling completed in June 2012. Initial results indicate no off-site impact. Annual report submitted to MDEQ. Review meeting held September 21, 2012 with MDEQ with follow-up in October. AHC currently compiling MDEQ sampling requirement costs necessary for closure at the former landfill site. <i>Weekly methane sampling is continuing on-site to collect base line data.</i>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. <i>-Review of 3 site/building plans and/or plats completed in June 2013.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>-Sanitary sewer hookup permits issued in June 2013: 4 residential; 0 commercial. One connection made in conjunction with the mandatory sewer connection program.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. Lake Association has completed 2012 plan and lake treatment completed in May 2012. Permitting complete for the 2013 season. Treatment to be performed by Aquatic Services, Inc. The Association has selected to use Restorative Lake Services for consulting services for 2013. <i>Treatment application completed in mid-June. Follow-up inspection of treatment success will be done by Restoration Lake Services.</i>
Retention Basin Sampling Program (Groundwater Elevation)	Investigation regarding potential impact of retention basins on groundwater levels.	-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to storm water infiltration. Alternative road salt practices continue to be

considered and evaluated. On March 23, 2010, City Council awarded a four-year contract to Wightman Environmental. This program will focus primarily on groundwater level information. The 2012 report received and groundwater levels, especially on the east side of Portage, have decreased as a result of seasonal rainfall deficiencies. *Groundwater table elevations show about a one-foot increase over 2012 levels due to recent rain events.*

-Wellhead Protection Grant award received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. Staff has met internally to discuss the future needs to update the plan pending grant opportunities. Staff has been invited by MDEQ to participate in Water Supply Emergency Planning. Emergency planning roundtable held on June 10, 2013. Plan implementation is ongoing.

-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi annual sampling was performed from 2002 to 2011 in June and January. Sampling and analysis results continue to show no groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. Sampling completed in June 2012 with minimal groundwater impacts. *Sampling completed in June 2013 with results pending.*

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Storm Water Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) completed December 11, 2009. SWIPPI was submitted for MDEQ approval on June 25, 2010. Received a notice from MDEQ rescinding the 2008 permit due to a recent court case ruling. MDEQ reinstated the 2003 permit for implementation. Information on new permit requirement was received in February 2011. MDEQ expected to issue new permit in 2014. The 2010-11 annual report was submitted on January 20, 2012. Storm water informational talk was given to Pfizer, Inc., employees on April 28, 2012. MDEQ scheduled an audit of the program on July

Wellhead Protection Program (WHPP)
 Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

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

National Pollution Discharge Elimination System (NPDES) permit implementation
 Five year plan to implement the current NPDES stormwater permit.

12, 2012. Audit completed with satisfactory results. Several follow-up items with MDEQ were addressed by staff in December 2012. City website updated in February to provide education of Illicit Storm Water Discharge. Currently, staff is working on proposals with other local governments to use a billboard advertising campaign for pollution awareness. Program implementation is ongoing.

National Pollution Discharge Elimination System (NPDES) permit implementation

Kalamazoo River Mainstem Watershed Management Plan

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

Portage River Watershed Management Plan

-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. Interest has been raised by local conservation groups to update the current Watershed Plan using grant funds. Meeting held on May 9, 2011 among stakeholders to determine interest in updating the current Watershed Plan. Second meeting held on June 20, 2011, and grant application submitted by Kalamazoo and Calhoun County Conservation District to update the Watershed Plan. Grant for watershed update was awarded to Calhoun County Conservation District. First kick-off meeting held December 13, 2012 to introduce working partners and information gathering. A meeting was held on March 12, 2013 to discuss the designated uses of the Portage River/Little Portage Creek watershed, the total maximum daily load of E-coli from samples taken and a review of community ordinances and policies that help protect the Watershed. *Meeting held on June 11, 2013 to discuss identified water quality problems in the watershed.*

Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP).

-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new

ordinance as required by the NPDES permit titled “Storm Water Illicit Discharges and Connections.” On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of \$152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of \$184,264 for the remainder of the IDEP for the entire city. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDEQ on June 25, 2010, and part of the SWIPPI. Two potential illicit discharges were investigated with MDEQ in February 2012. Completed an area-wide brochure to educate the public on Illicit Storm Water Discharges in conjunction with the Kalamazoo County Drain Commissioner. *The 2013 program began in June.* Implementation is ongoing.

Storm Sewer Outfall Testing

On March 23, 2011, City Council awarded a four year contract to Wightman Environmental to perform testing of selected storm sewers which discharge to surface water. This work is required as part of the NPDES permit. The 2011 annual report received with minor surface water impacts from the Woodland Avenue discharge. The 2012 report received with continuing minor impacts from the Woodland Avenue outfall. Testing results are reported to MDEQ as part of the NPDES annual report.

Garden Lane Arsenic Removal Facility
 Construction of a water treatment facility at the Garden Lane Wellfield to remove arsenic, iron and manganese from the groundwater.

Facility is in operation with ribbon cutting held August 2, 2010. The facility is producing approximately one million gallons of water per day. Facility is in regular operation. Plant tour for Stryker Engineering group was held on June 19, 2012. City Staff in conjunction with the Environmental Board is working on a sustainable native planting landscape design with Native Connections, Inc., for the facility. Regrading and installation of native landscaping seeding completed on November 16, 2012. Spring 2013 germination shows promising results. Area will require weeding of non-native species in summer. Staff currently working with the Environmental Board on informative signs.

Environmental Incident/Spill Clean Up Notification
 Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.

-The number of environmental incident/spill investigations performed in June 2013 – 0. Number of environmental cleanups in June – 0. Emergency spill response contract for 2013-14 with Terra Contracting has been renewed.

Hampton Wetland Area Water Level
 Assistance with the Inverness Condominium Association to Review Surface Water Levels

-Ongoing assistance with the Condominium Association to develop appropriate measures to regulate the rising water level in Hampton Wetlands Area located on the north side of West Centre Avenue and east of Angling Road. Met with MDEQ staff to determine feasible method to lower water levels. Association currently working with MDEQ permit staff on February 26, 2010 to clarify

permit requirements. Lower groundwater table elevation has reduced the concerns from the Condominium Association. Conference call with MDEQ held on December 8, 2010 to discuss permit submission updates. Condo Association discussing project with other property owners for support. Association submitted a letter to City Administration asking that the city consider the Wetland Water Level Regulation a municipal project. On March 22, 2011, city staff response recommending the Association consider Governmental Lake Board. The Association is considering next steps. No new developments. Seasonal low water levels have reduced the urgency to control water levels.

Southwest Michigan Regional Sustainability Covenant Collaborative effort with local government, academic, and other stakeholders to lead toward environmental, economic and social sustainability.

-On May 12, 2009, City Council approved the Southwest Michigan Regional Sustainability Covenant. A sustainability work session was held April 14, 2010, to review elements of the covenant in cooperation with the City of Kalamazoo and the City of Battle Creek. A grant application was made to MDEQ for a greenhouse gas inventory study of the area. Notice received July 15, 2010 that the grant application was not successful. City staff attended a September 10, 2010 meeting in Grand Rapids to discuss sustainable economic, environmental, and society programs. No new developments.



July 11, 2013



James Hudson
City Clerk, City of Portage
7900 S. Westnedge Ave.
Portage, MI 49002

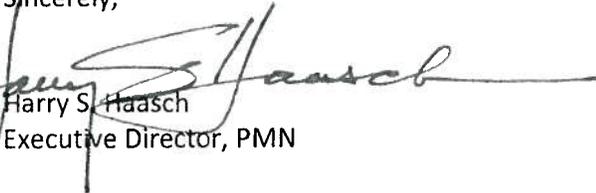
Dear Mr. Hudson:

The Public Media Network (PMN) Board of Directors has requested that we provide regular information to each of our municipal partners about the various activities and projects PMN undertakes. The enclosed report covers PMN's FY 12/13 4th Quarter (April 1, 2013 – June 30, 2013).

Please include this letter and report in your next regular meeting packet. If there are questions about this report, or any of the information contained in it, please contact me at PMN (343-2211). Of course, you can also contact your representative serving on the PMN Board.

Thank you for your attention to this request.

Sincerely,



Harry S. Haasch
Executive Director, PMN

Public Media Network

Quarterly Report: April 1, 2013 – June 30, 2013

Administrative Activity:

- PMN Expansion/Renovation at Epic Center: PMN's Board approved expansion and renovation project at the Epic Center received major financial support when the Irving S. Gilmore Foundation and Kalamazoo Community Foundation both approved grant applications submitted by the Arts Council of Greater Kalamazoo. The foundation support, along with funding provided by PMN, will allow the project to launch mid-summer of 2013 and conclude around December 1, 2013.
- PMN FY 2013/2014 Budget: PMN's Executive Director and the Board Finance Committee spent considerable time preparing an operating and capital budget plan for the organization's FY 13/14 (7/1/13 – 6/30/14). Significant aspects of the budget – approved by the Board of Directors on 6/27/13 – are the allocation of capital reserve funds for the expansion and renovation of PMN's administrative and production facility in the Epic Center and the addition of a part-time position to coordinate, support, and monitor PMN's government meeting production services. This new position will allow PMN to allocate other staff resources to planning and creating new content for our Education Channel.
- New I.T. Support: PMN has been working with our new I.T. support contractor, cyberMIND, to provide maintenance of our administrative and programming distribution systems/networks. It has become apparent that as we complete the renovation of our administrative and production facility, we will need to update and expand our I.T. systems – in particular, we are looking for ways to create redundancy and backup systems for quick transition when we experience equipment failures.
- Updated Strategic Plan: PMN completed a Strategic Plan Review/Update process, utilizing Mr. Peter Dams as an expert consultant. This newly updated strategic plan will guide our organizational decisions and work plans for the next 3 – 5 years. All PMN staff performance goals for FY 13/14 and general organizational planning are tied directly to key elements of this newly updated strategic plan.

Technical Developments:

- PMN Master Control Transition: PMN has now completely converted to a "file-based" programming playback system using media file servers instead of dozens of video tape decks and DVD players. A future goal is to create a secure process for "File Transfer Protocol" (FTP) delivery of media content to PMN rather than requiring a program producer/presenter to visit PMN to deliver media and complete required forms.

- **Meeting Audio Testing:** PMN staff continues to work with municipal staff to perform audio testing from various “live” meeting locations. Some issues have been identified with meeting room audio systems and the connection to telecast equipment. As always, we want to provide quality transmission and upgrades to production systems when necessary.

Programming Activity:

“CONNECT” Municipal News Program: PMN’s Government Production Services Unit (GPSU) has continued to produce content related to municipal news and activities in addition to our regular meeting coverage.

GPSU SPECIALS:

April 10 - Began shooting interviews for program on history of Oshtemo Fire Dept.
 April 13 – Saturday Morning Special Meeting –Portage Sign Forum
 May 8 – Dr. Rice In Studio – 30 min on Literacy Program interview
 June 10 – Special Kalamazoo City Commission Meeting
 June 12 & 13 – 3 Public meetings interviewing 3 candidates for PPS Superintendent
 June 19 – final candidate interview public meeting PPS superintendent

Connect Topics:

April

Portage Senior Center Remodel
 Roundabout Overview and Construction Preview
 Red Cross Project Hero Day at Oshtemo
 Comstock Community Gardens
 Parchment Stars Dance
 Kalamazoo Central High Mock Trial team

May

Area Road Construction Preview
 May’s Special Elections
 Kalamazoo River Valley Trail Expansion and Programs
 Portage Recycled Art in the Park
 County Jail Expansion Completion

June

Project Connect, County wide gathering of public assistance
 Portage Youth Advisory Committee
 Kalamazoo Township Open House
 Portage Family Fishing Fair/Water Safety
 Oshtemo Township Hosts visitors from Greece/Rotary International
 Clean Up not Cover Up Rally

PMN Program Production Projects:

4/24/13: KRESA Excellence in Education Awards Ceremony
4/28/13: KVCC Graduation Ceremony
4/28/13: Kalamazoo Valley Museum on the Air (monthly series)
5/8/13: Portage Central v. Portage Northern Girls Soccer
5/21/13: YWCA Women of Achievement Recognition Ceremony
5/23/13: Portage Northern HS Graduation
5/27/13: Portage Community HS Graduation
5/28/13: KAMSC Graduation
5/30/13: (2) Girls HS Soccer playoff games
6/4/13: Phoenix HS Graduation
6/5/13: Loy Norrix HS Graduation
6/5/13: Parchment HS Graduation
6/6/13: Kalamazoo Central HS Graduation
6/7/13: Comstock HS Graduation
6/8/13: Do Dah Parade
6/11/13: 2013 USTA Preview Show + :30 promo spot
6/13/13: Colleagues International – studio interview with Russian media journalists
6/22/13: Taste of Portage

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Fireworks Regulation

SUPPORTING PERSONNEL: Brian J. Bowling, Deputy City Manager

ACTION RECOMMENDED: That City Council amend the Code of Ordinances to include *Article 7, Consumer Fireworks, of Chapter 34 Fire Prevention and Protection*, as revised.

EXECUTIVE SUMMARY:

At its last meeting, City Council referred a Fireworks Ordinance that was presented for first reading, back to the City Administration and City Attorney for further review. Specifically, Council asked for a draft ordinance that would contain language for a permit that allows for fireworks on days other than those mandated by State Law. With this in mind, the attached draft ordinance is presented for Council's consideration.

BACKGROUND INFORMATION:

In 2012 the sale of consumer fireworks was permitted in the state of Michigan. Though the city retained the ability to apply its Noise Ordinance in response to complaints regarding the use of fireworks, enforcement of the Noise Ordinance is generally dependent upon the facts and circumstances associated with each case, which can be problematic in these situations.

Following recently adopted amendments to the Fireworks Safety Act providing expanded authority to local units of government to regulate the use of consumer fireworks, the City Council enacted an emergency ordinance to prohibit the discharge of fireworks between the hours of 1 a.m. to 8 a.m. from June 26, 2013 to September 10, 2013. A violation of any provision of the ordinance results in a civil infraction punishable by a fine of up to \$100. Additionally, a person found responsible for violation of the emergency ordinance would be required to reimburse the city for storing, disposing of or destroying consumer fireworks that were confiscated for a violation of this ordinance.

With the emergency fireworks ordinance in place for the July 4th Independence holiday, City Council and the City Administration continued to examine and review the parameters and options for the continual regulation of consumer fireworks within the City of Portage. The City Administration proposed an ordinance amendment at the July 9, 2013 City Council meeting which prohibited the sale of consumer fireworks to a minor, as well as discharge of consumer fireworks except on the day preceding, day of and day after a national holiday. This proposal also prohibited the use of consumer fireworks on these 30 days between the hours of 1 a.m. and 8 a.m. in accordance with the provisions of the recently adopted amendments to the state Fireworks Safety Act.

Following Council discussion at the July 9th meeting, additional language was included in the proposed ordinance to allow for the use of consumer fireworks by permit only. As drafted, a permit would be issued by the Department of Public Safety – Fire Division only after an applicant has

provided proof of liability insurance and the Fire Marshal has inspected the application and proposed site.

Although the ordinance has been drafted to include the requested permit language, the City Administration continues to recommend that the use of consumer fireworks be restricted to the day before, day of and day after national holidays. It is believed the interests of public safety and welfare outweigh the personal benefit associated with commercial fireworks discharge during other days of the year. In addition, the potential for added liability to the city for implementing a firework permit process, as well as the administrative burden associated therewith, weigh against expanding the use of commercial fireworks in the community. As a final point, a survey (attached) of select Michigan communities to determine fireworks ordinance standards reveals that the two communities in Kalamazoo County that have established regulations ban the use of commercial fireworks except for the 30-day period associated with national holidays. Maintaining consistency with other ordinance standards in place within the county is advised.

FUNDING: N/A

Attachments: 2013 Fireworks Survey
Proposed Fireworks Ordinance (as revised) – redline/strike out
Proposed Fireworks Ordinance (as revised) – clean
Permit Fee Resolution

2013 FIREWORKS SURVEY (OF SELECT MICHIGAN COMMUNITIES)

July 10, 2013

Municipality	Population (2010 Census)	Local Fireworks Ordinance	Time Period	Fine	Other Fines / Consequences	Additional Restrictions	NOTES
Ann Arbor	113,934	yes	12 a.m. - 8 a.m.	\$500		Consumer Fireworks prohibited sale to minor; Banned except for holiday list (30 days)	Noise restrictions applicable
Kalamazoo	74,262	yes	12 a.m. - 8 a.m.	\$500	Reimburse city for costs of storing, disposing and destroying	Banned except for holiday list (30 days)	
Novi	55,224	yes	12 a.m. - 8 a.m.	\$500	Reimburse city for costs of storing, And / or 90-day misdemeanor;	Banned except for holiday list (30 days)	Noise restrictions applicable (**Hours per Noise Ordinance)
Battle Creek	52,347	yes	11 p.m. - 7 a.m.**	\$500	Reimburse city for costs of storing, disposing and destroying; injunction / restraining order	Banned except for holiday list (30 days)	
Kentwood	48,707	yes	1 a.m. - 8 a.m.	\$500	And / or 90-day misdemeanor	Consumer Fireworks prohibited sale to minor; Banned except for holiday list (30 days)	
Portage	46,262	yes	1 a.m. - 8 a.m.	\$100	Reimburse city for costs of storing, disposing and destroying	Consumer Fireworks prohibited sale to minor	Noise restrictions applicable
Midland	41,863	yes	N/A	Not Available		Consumer Fireworks prohibited sale to minor; Banned except for holiday list (30 days)	Noise restrictions applicable
Holland	33,051	yes	1 a.m. - 8 a.m.	\$500	And / or 90-day misdemeanor	Consumer Fireworks prohibited sale to minor; Banned except for holiday list (30 days)	Regulations apply to "Consumer Fireworks" only. "Low Impact" Fireworks not regulated.
Kalamazoo Twp	21,918	yes	N/A	Graduated (\$75 - \$500)	Reimburse city for costs of storing, disposing and destroying; injunction / restraining order	Banned except for holiday list (30 days)	Each day a violation occurs shall constitute a separate violation.
Oshtemo Twp	21,705	no					
Texas Twp	14,679	no					
Schoolcraft Twp	8,214	no					
Pavilion Twp	6,222	no					
Brady Twp	4,248	no					
Vicksburg Village	2,906	no					
Galesburg Twp	2,009	no					
Schoolcraft Village	1,525	no					
Richland Twp	791	no					

[ORDINANCE FOR ADOPTION]

**ORDINANCE TO
AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY ADDING ARTICLE 7, CONSUMER FIREWORKS, OF CHAPTER 34
FIRE PREVENTION AND PROTECTION
AND BY REPEALING SECTION 50-82, FIREWORKS, OF ARTICLE 3, OFFENSES AGAINST
PUBLIC SAFETY, OF CHAPTER 50**

THE CITY OF PORTAGE ORDAINS:

That Chapter 34 shall be amended as follows:

ARTICLE 7. CONSUMER FIREWORKS.

Sec. 34-157. Purpose.

1. Since the adoption of the Michigan Fireworks Safety Act, MCLA 28.451, et. seq., which has legalized the sale, possession and use of consumer fireworks in Michigan with some restrictions, there has been disruptions to the peace and quiet in areas of the city resulting in a negative impact to the quality and life of the city's residents. An amendment to this Act now permits greater local regulation over the use and regulation of consumer fireworks. This ordinance enables the City to effectively exercise that authority.
2. The purpose of this Article is to provide for the regulation of the ignition, discharge and use of consumer fireworks within the city of Portage, as permitted under the Michigan Fireworks Safety Act, MCL 28.451.

Sec. 34-158. Definitions.

As used in this chapter, the following definitions shall apply:

1. "Act" means Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et sec., as it may be amended from time to time. (The Michigan Fireworks Safety Act.)
2. "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5 as defined in the Act. Consumer fireworks does not include low-impact fireworks.
3. "Public property" means any public park, street right-of-way (including the unimproved portions), city owned property and any other public place open to the public.

4. "Firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation as defined in the Act.
5. "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 2.1, 3.1.1.1 to 3.1.1.8, and 3.5.
6. "Minor" means an individual who is less than 18 years of age.
7. "National holiday," as used in this Chapter, means the following legal public holidays:
 - a. New Years' Day
 - b. Birthday of Martin Luther King, Jr.
 - c. Washington's Birthday
 - d. Memorial Day
 - e. Independence Day
 - f. Labor Day
 - g. Columbus Day
 - h. Veteran's Day
 - i. Thanksgiving Day
 - j. Christmas Day
8. "Person" means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
9. "Property of another person" includes hotel and motel property, apartment property, and condominium property, where an owner, management company, or association has or retains authority and control over the use of the property or common areas.
10. "Use of consumer fireworks" includes the ignition, discharge and use of consumer fireworks.

Sec. 34-159. Consumer Fireworks Prohibited; exceptions.

1. A person shall not ignite, discharge or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday.
2. In addition to the prohibitions contained in Section 34-159(1), a person shall not ignite, discharge or use consumer fireworks on the day preceding, the day of, or the day after a national holiday between the hours of 1 A.M. and 8 A.M.
3. Notwithstanding the prohibitions contained in Section 34-159(1) and (2) above, the fire marshal may grant a permit to ignite, discharge and use consumer fireworks pursuant to Section 34-161, Consumer Fireworks Permit.

43. Consumer fireworks shall not be sold to a minor.

Sec. 34-160. Certain Uses of Fireworks Prohibited.

When consumer fireworks are permitted pursuant to the exception in Section 34-159(1), the following shall apply:

1. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission.
2. Consumer and low-impact fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.
3. No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.

Sec. 34-161. Consumer Fireworks Permit.

1. A permit may be granted for the ignition, discharge and use of consumer fireworks during those times the use of consumer fireworks is prohibited by this article. Such permit may be issued by the fire marshal after an inspection of the site. A permit for the use of consumer fireworks is subject to the conditions contained in this subsection, the International Fire Code as adopted by Section 34-61 and all other applicable codes including rules adopted by the Portage Department of Public Safety, Fire Division. The permit shall be subject to the following conditions and specifications:

- A. Application for a permit to use consumer fireworks at a specific property must be made by either: an owner of record; a contract vendee or a lessee with an owner's written consent.
- B. The permit shall state the day, date, specific times and location (address and parcel number) of the proposed use of consumer fireworks. The fire marshal may restrict the use of consumer fireworks to specific locations on the site if necessary in the interest of public safety and may change the day, date, and times of the permit by 48 hours if requested by the applicant for good cause without the need for a new application.
- C. The permit shall specifically prohibit the use of consumer fireworks between the hours of midnight and 8:00 a.m.
- D. The use of consumer fireworks shall be attended, without interruption, by a competent person of 18 years of age or older.
- E. No person under the age of 18 years shall use consumer fireworks.

F. The use of consumer fireworks under the permit is only permitted on the day, date, time and location approved by the fire marshal. The permit shall be non-renewable.

G. A permit shall only be granted for the use of consumer fireworks on property zoned or used for single family residential or attached residential.

H. Application for a permit shall be filed no less than forty-five (45) days before the day on which consumer fireworks are to be used.

2. The fire marshal may order the revocation of a permit or the immediate discontinuance of the use of consumer fireworks when: a) atmospheric conditions or other circumstances make such use hazardous to life or property of any person; b) such use would constitute a fire hazard; or c) an activity is in violation of any condition or requirement of the permit.

3. A permit under this subsection is not necessary at any time the use of fireworks is otherwise permitted by this article.

4. No permit shall be granted under this subsection until the Portage Department of Public Safety has passed rules and regulations providing for standards and requirements for the issuance of permits under this subsection.

5. The applicant for a permit shall provide proof of liability insurance covering any loss resulting from the personal injury, death, or property damage caused by the exercise of any activity permitted under the permit. The amount of such liability insurance shall be no less than \$250,000.00 per occurrence. The fire marshal may increase the amount if, in the fire marshal's opinion, the circumstances and risks presented require an additional insurance.

6. The property owner and applicant of the permit (if different than the property owner), shall reimburse the City for the reasonable cost of control, investigation and/or suppression of any fire which is caused by the use of consumer fireworks under the permit.

7. The penalties provided in Section 34-162 of this article shall apply to any violation of this subsection.

8. Chapter 24, Article 4 of this Code, (Noise Ordinance) shall not apply to the use of consumer fireworks if the use is conducted in accordance with and not in violation of a valid permit issued under this subsection.

9. Written notice of the approval of a permit shall be given by first class mail to owners of property abutting and across the street from the property requesting the permit. "Owner" for purposes of this subsection shall mean the person whose name appears on the assessment roll. Such notice shall be mailed no

later than seven (7) days before the date on which the use of consumer fireworks will take place under the permit. Failure to give or receive notice shall not invalidate the permit.

10. A permit fee may be established by resolution of Council.

Sec. 34-16~~24~~. Penalties.

1. A person violating the provisions of this Article shall be responsible for a civil infraction punishable by a civil fine of not more than \$500.00 for each violation.
2. A police officer, fire marshal or other person employed by the City Department of Public Safety are authorized city officials pursuant to Section 2-202 of this Code and may issue and serve civil infraction citations for violations of this Article.
3. Following final disposition of a finding of responsibility for violating Section 34-160(1), (2) or (3) of this Article, the City may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.
4. A person who is found responsible for violation of this Article shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this Article.
5. No provision of this Article shall prevent a prosecution or a civil infraction under state law for violation of the provisions of the Act

That Article 3, Offenses Against Public Safety, of Chapter 50 shall be repealed in its entirety, amended as follows:

~~**ARTICLE 3. OFFENSES AGAINST PUBLIC SAFETY.**~~

~~**Section 50-82. Fireworks.**~~

~~This section is hereby repealed in its entirety.~~

That Article 7, an Emergency Ordinance adding Article 7, Consumer Fireworks of Chapter 34, adopted June 25, 2013, is hereby repealed in its entirety.

Dated: _____, 2013

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)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 7/19/13
[Signature]

City Attorney

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[ORDINANCE FOR ADOPTION]

**ORDINANCE TO
AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY ADDING ARTICLE 7, CONSUMER FIREWORKS, OF CHAPTER 34
FIRE PREVENTION AND PROTECTION
AND BY REPEALING SECTION 50-82, FIREWORKS, OF ARTICLE 3, OFFENSES AGAINST
PUBLIC SAFETY, OF CHAPTER 50**

THE CITY OF PORTAGE ORDAINS:

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 - h. Veteran's Day
 - i. Thanksgiving Day
 - j. Christmas Day
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9. "Property of another person" includes hotel and motel property, apartment property, and condominium property, where an owner, management company, or association has or retains authority and control over the use of the property or common areas.
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3. Notwithstanding the prohibitions contained in Section 34-159(1) and (2) above, the fire marshal may grant a permit to ignite, discharge and use consumer fireworks pursuant to Section 34-161, Consumer Fireworks Permit.

4. Consumer fireworks shall not be sold to a minor.

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- F. The use of consumer fireworks under the permit is only permitted on the day, date, time and location approved by the fire marshal. The permit shall be non-renewable.
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- 3. A permit under this subsection is not necessary at any time the use of fireworks is otherwise permitted by this article.
- 4. No permit shall be granted under this subsection until the Portage Department of Public Safety has passed rules and regulations providing for standards and requirements for the issuance of permits under this subsection.
- 5. The applicant for a permit shall provide proof of liability insurance covering any loss resulting from the personal injury, death, or property damage caused by the exercise of any activity permitted under the permit. The amount of such liability insurance shall be no less than \$250,000.00 per occurrence. The fire marshal may increase the amount if, in the fire marshal's opinion, the circumstances and risks presented require an additional insurance.
- 6. The property owner and applicant of the permit (if different than the property owner), shall reimburse the City for the reasonable cost of control, investigation and/or suppression of any fire which is caused by the use of consumer fireworks under the permit.
- 7. The penalties provided in Section 34-162 of this article shall apply to any violation of this subsection.
- 8. Chapter 24, Article 4 of this Code, (Noise Ordinance) shall not apply to the use of consumer fireworks if the use is conducted in accordance with and not in violation of a valid permit issued under this subsection.
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later than seven (7) days before the date on which the use of consumer fireworks will take place under the permit. Failure to give or receive notice shall not invalidate the permit.

10. A permit fee may be established by resolution of Council.

Sec. 34-162. Penalties.

1. A person violating the provisions of this Article shall be responsible for a civil infraction punishable by a civil fine of not more than \$500.00 for each violation.
2. A police officer, fire marshal or other person employed by the City Department of Public Safety are authorized city officials pursuant to Section 2-202 of this Code and may issue and serve civil infraction citations for violations of this Article.
3. Following final disposition of a finding of responsibility for violating Section 34-160(1), (2) or (3) of this Article, the City may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.
4. A person who is found responsible for violation of this Article shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this Article.
5. No provision of this Article shall prevent a prosecution or a civil infraction under state law for violation of the provisions of the Act

That Article 3, Offenses Against Public Safety, of Chapter 50 shall be repealed in its entirety.

That Article 7, an Emergency Ordinance adding Article 7, Consumer Fireworks of Chapter 34, adopted June 25, 2013, is hereby repealed in its entirety.

Dated: _____, 2013

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)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 7/19/13
[Signature]

City Attorney

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**CITY OF PORTAGE
RESOLUTION FOR CONSUMER FIREWORKS PERMIT FEE UNDER
ARTICLE 7 OF CHAPTER 34
FIRE PREVENTION AND PROTECTION**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 2013 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, under Chapter 34, Fire Prevention and Protection, Article 7, Consumer Fireworks, Council may establish by resolution a permit fee for the ignition, discharge and use of consumer fireworks;

NOW, THEREFORE, BE IT RESOLVED that the permit fee of \$50 is hereby established for each permit involving the ignition, discharge and use of consumer fireworks.

YES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on _____, 2013, the original of which is in the official proceedings of the City Council.

James R. Hudson, City Clerk

Approved as to form:

Date 7/19/13

[Signature]

City Attorney

CITY OF PORTAGE

COMMUNICATION

TO: Portage City Council

DATE: July 16, 2013

FROM: Ad Hoc Property Committee*

SUBJECT: Committee Activity Update

The Ad Hoc Property Committee met on July 15, 2013 at 8:00 a.m. to review and discuss the following matters:

10323 Archwood Drive: The offer by Mr. Jim Talbert to purchase the property at 10323 Archwood Drive was withdrawn on June 14, 2013. Per the attached July 5th communication, it is recommended that the city again proceed with listing the property for sale and utilize a real estate professional for the marketing of the property and facilitating any sale transaction. It is recommended this effort be initiated following Council approval and the property be marketed for sale for a period of nine months. If no offers are received during this time period, the Committee will then re-evaluate the use of the property, including the potential for a community garden as proposed by a neighbor resident.

City-owned residential property: With regard to the city-owned outlots at 7200 Balfour Drive, 7138 Capri Street and 1600 Friendly Avenue, the Committee reviewed the attached June 11th communication from the City Administration and recommends the following:

- The City Administration proceed with efforts to dispose of the above referenced outlots as non-buildable properties.
- The City Administration extend an opportunity (in writing) to adjacent property owners to purchase half or all of the subject outlots for a period of 60 days.
- The revised estimated market values (based on the presumption the lots are to be considered non-buildable) would be communicated to adjacent property owners, but should not be established as the minimum sale price for the outlots. In this regard, the Property Committee recommends the city be flexible in regard to sales price for the outlots given the intent is to dispose of the outlots which no longer have a public use or purpose.
- Concurrent with extending an opportunity to adjacent property owners to purchase the outlots, the City Administration will also mail written notice to all property owners within 300 feet of the outlots regarding the city's intent to dispose of the outlots.

Attachments: July 5, 2013 communication from Community Development Director Georgeau
June 11, 2013 communication from City Manager Evans

* Councilmember Elizabeth Campbell (Chair)
Councilmember Patricia Randall
Councilmember Ed Sackley

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: July 5, 2013

FROM: Vicki Georgeau^{VG}, Director of Community Development

SUBJECT: 10323 Archwood Drive – update

On May 14, 2013 City Council authorized the City Manager to proceed with negotiations to sell the city-owned property at 10323 Archwood Drive to Mr. Jim Talbert, pursuant to the offer he submitted to the city for the list price of \$18,000. Subsequent to this action, the Department of Community Development and City Attorney prepared a Real Estate Purchase Agreement, which was submitted to Mr. Talbert for review and approval. On Friday, June 14th, Mr. Talbert contacted the Department of Community Development and withdrew his offer to purchase the property, citing personal issues and construction time lines as problematic with moving forward with the purchase of the property.

As previously indicated, the Department had undertaken efforts to market the sale of this vacant property, with stipulations as approved by City Council. Efforts utilized included: direct mailings to approximately 30 contractors that obtained new home construction permits over the past five years, advertisements in the Kalamazoo Gazette, the Home Builders Association of Greater Kalamazoo e-newsletter, postings on Craigslist and the city web site, and placement of a For Sale sign on the property. To date, the city received only one written offer to purchase the property which was withdrawn after Council approval.

Based on the above, it is recommended that the city again market the sale of this property and obtain the services of a real estate professional to list and market the property for sale for a period of nine months. The marketing and sale of the property through a real estate professional typically involves a commission of 6-8% of the sales price with a \$2,000 minimum, which is often split between the buyer and seller.

If you have any questions or comments, I am available to meet with you at your convenience. Otherwise, I am prepared to discuss this matter in more detail with the Ad Hoc Property Committee scheduled for July 15, 2013.

C: Brian J. Bowling, Deputy City Manager

TO: City Council Property Committee

FROM: Maurice S. Evans, City Manager 

SUBJECT: City outlots at 7200 Balfour Drive, 7138 Capri Street and 1600 Friendly Avenue

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

EXECUTIVE SUMMARY:

It is my recommendation that the Property Committee request City Council authorize the City Manager to proceed with the sale and disposition of city outlots at 7200 Balfour Drive, 7138 Capri Street and 1600 Friendly Avenue as non-buildable outlots to adjacent property owners.

At the May 28, 2013 meeting, Council referred back to the Property Committee a proposal to market for sale the above referenced outlots. At the subsequent Property Committee meeting on June 5, 2013, there was a consensus to offer the three referenced outlots as non-buildable lots to adjacent property owners. Disposition of the outlots would address the Committee's objective to reduce any city maintenance and liability costs that may be associated with these properties. In addition, the Committee did not establish a minimum sales price for the outlots but there was a discussion about the prior established minimum outlot price of \$1,500. Since the Committee meeting, contact was made with PRO Appraisal Services that provided market values today for the outlots in question.

BACKGROUND INFORMATION:

Upon further review, and as summarized in the attached communications, there was consensus among the Property Committee to offer the three subject outlots as non-buildable property to adjacent property owners in an effort to reduce any city maintenance and liability costs.

The Department of Community Development requested a revised appraisal based on the presumption that the outlots would be designated as non-buildable. In this regard, the estimated market valuation of the outlots are as follows: 1) 7138 Capri Street, half of outlot (33' x 125'): \$6,600 or \$200 per foot of frontage; 2) 7200 Balfour Drive, half of outlot (33' x 133'): \$5,280 or \$160 per foot of frontage; 3) 1600 Friendly Avenue, half of outlot (33' x 165'): \$5,940 or \$180 per foot of frontage. The attached excerpts from the appraisal Addendums provide more detail in regard to the estimated values.

If Council concurs with the Committee's recommendation, the City Administration would extend an opportunity to adjacent property owners for a period of 60 days to purchase half or all of the subject outlots. It is further recommended that the above estimated market values be communicated to adjacent property owners, but not be necessarily established as the minimum sales price for the outlots. Subsequent to the receipt of offers or expiration of the offer period, the Committee would further review the disposition of the outlots and provide an additional recommendation to Council for approval.

FUNDING: Not applicable

Attachments: June 6, 2013 email communication from City Manager Evans
June 6, 2013 communication from City Attorney Brown
June 11, 2013 revised appraisal addendum excerpts from PRO Appraisal
Services

Victoria Georgeau - Re: Ad Hoc Property Committee - June 5, 2013 meeting summary

From: Maurice Evans
To: Randall, Patricia
Date: 6/6/2013 3:42 PM
Subject: Re: Ad Hoc Property Committee - June 5, 2013 meeting summary
CC: Ed Sackley; Georgeau, Victoria; campbell4portage@yahoo.com

Good afternoon Patricia,

Attorney Brown will be putting together and initial response to your questions in regard to adverse possession. It will take additional research to fully address the questions. Please let me know if I can be of further service.

Respectfully,

Maurice

>>> Patricia Randall <Randallp> 6/5/2013 3:15 PM >>>

It was my understanding that Randy's legal counsel would be sought regarding the adverse possession now, as opposed to only if it is brought to the City's attention. The shed on Capri may or may not be the only issue. If someone has mowed it and used it four decades.....would that have a bearing on the "squatter's rights?"

As it was stated, Randy may have this knowledge readily available.

Patricia

Sent from my iPad

On Jun 5, 2013, at 11:02 AM, "Maurice Evans" <evansm@portagemi.gov> wrote:

Greetings Property Committee Members!

For your records, following is a summary of the Committee meeting from this morning.

Questions, revisions - please let me know. Thanks.

Respectfully,

Maurice

>>> Victoria Georgeau 6/5/2013 10:49 AM >>>

Good morning Maurice,

As requested, the following summarizes the discussion during the Council Ad Hoc Property Committee meeting today:

A communication was provided from staff that recommended the Committee determine its primary objective with regard to disposing of the three outlots at 7200 Balfour, 1600 Friendly and 7138 Capri. In this regard, the following were discussed:

- It has been determined there is no public use or purpose for these properties and disposition appears appropriate. Potential objectives for disposition include:
 - Disposition for development (highest and best use): If this is the primary objective, adherence to the Outlot Valuation Policy is appropriate, and the lots should be offered for sale as buildable lots for the estimated market value.

However, there was concern that the lots are nonconforming with regard to size within the R-1B zoning districts in which they are located, and have been vacant outlots for over 40 years. Therefore, another approach in regard to the three outlots may be more appropriate.

- Disposition to reduce city maintenance and liability costs: If this is the primary objective, deviation from the Outlot Valuation Policy may be appropriate. Disposing the property for less than the estimated market value would provide an added incentive for adjacent property owners to purchase half or all of an outlot.

Under this scenario, it was discussed that if the outlots are sold for less than the estimated market value, it may be appropriate to deed restrict the outlots from construction of a dwelling.

Note: two of the three outlots, 7200 Balfour and 7138 Capri, have not been maintained by the city, but rather by an adjacent property owner. In addition, an adjacent property owner constructed a shed at 7138 Capri, which appears to have been in existence since the late 1980s. It is possible that an adjacent property owner may claim "adverse possession". If this issue were to arise, additional review by the City Attorney and potentially the court may be needed.

- Based on the above, there was consensus amongst the Committee to offer the outlots as non-buildable lots to adjacent property owners in an effort to reduce the city maintenance and liability costs. The Committee did not establish a minimum sales price for the outlots, but discussion of the prior established minimum outlot price of \$1,500 did occur.
- If Council concurs, the City Administration would contact adjacent property owners in writing, extending the opportunity to purchase half or all of the outlot. In addition, it was recommended that notice be provided to property owners in a manner similar to other public notices (e.g., property owners within 300 feet) so that the proposed disposition of the outlots by the city was known by the neighborhood.
- Once a response is received from adjacent property owners, the Committee would further review the outlot disposition and provide additional recommendations to Council.

I hope the above is an accurate summary of the discussion this morning. If you have any questions, comments or revisions, please let me know.

Thanks,
Vicki

RANDALL L. BROWN
& ASSOCIATES, PLC

ATTORNEYS AND COUNSELORS AT LAW

RANDALL L. BROWN
CHARLES R. BEAR
JULIE A. BRADFIELD

DENNIS E. KORDISH (1996-2008)

June 6, 2013

1662 EAST CENTRE AVENUE
PORTAGE, MICHIGAN 49002

TELEPHONE (269) 323-8812
FACSIMILE (269) 323-0055
brownandassociates@arr.net

PERSONAL & CONFIDENTIAL
ATTORNEY/CLIENT PRIVILEGE

Ad Hoc Property Committee
City of Portage
7900 South Westnedge Avenue
Portage, MI 49002

Via Email

Re: Ad Hoc Property Committee

Dear Ad Hoc Committee:

I received the emails today summarizing the Ad Hoc Property Committee meeting, as well as Patricia's email concerning the adverse possession issue. This is the first time I learned of this issue and I briefly discussed it with Vicki and Maurice late this morning. Given that there has been no investigation regarding the factual background of the situation, it is impossible to respond to the strength of an adverse possession case this quickly. However, I did want to respond to Patricia's question quickly, so please accept this correspondence as my initial thoughts on the topic.

The theory of adverse possession is that if a person, by clear and cogent proof, possession that is actual, visible, open, notorious, exclusive, hostile and under a claim of right, and is continuous and uninterrupted for a statutory period of 15 years, may establish marketable title to the property. Whether a claim of adverse possession is successful is dependent on the number and weight of all of the above factors. There can be a multitude of actions taken or not taken, words spoken and testimony of neighbors, as well as City staff, over a period of many years which is relevant to either prove or disprove a claim of adverse possession. Although the situation with regard to a structure being built on the outlot, mowing, and other uses which may have occurred during the statutory period may seem at first glance simple, the actual circumstances comprising such actions over many years must be investigated. Additionally, we have no knowledge of the a potential claimant's testimony of the history of use of the outlot which may or may not be favorable to a claim.

However, I can say as an initial reaction that a structure that has been on the outlot for more than 15 years, without permission of the City, and also the mowing of the property on a regular basis, certainly opens the door to a possible claim of adverse possession. Remember, once the owner of the land in any way gives permission to use the land, a claim of adverse possession is eliminated. The whole idea behind adverse possession is that it is without permission from the owner and, in essence, is a trespass. Also, a claim of adverse possession of an undeveloped parcel of land which there is general or occasional periodic entry will not

always constitute the actual possession needed for adverse possession.¹ Cases may succeed or not based on some of the relatively minor actions of the parties or even the character of the land. Further, occupation of the land which is concurrent with the title holder may not result in adverse possession. For example, if the City maintained the property even though a shed was located on it, this would impact the strength of the claim. It is the cumulative effect of all of the factors and the proof presented for each one which determines the strength of the claim.

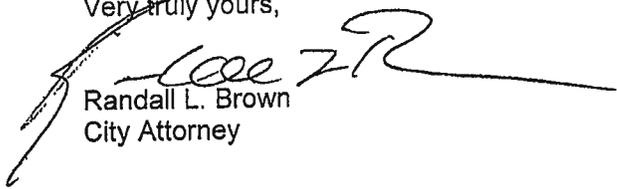
Another complicating factor to adverse possession issues is that the statute in Michigan is written so that a period of limitations with regard to a claim of adverse possession does not apply if a lawsuit is "brought by" the municipality.² Therefore, to defeat a claim of adverse possession (or prescriptive easement) the municipality must initiate a lawsuit. However, a claim of adverse possession brought by the claimant, if proven, would succeed.³ In the present case, if the property is being offered for \$1,500.00, it may not be worth the claimant's time and expense to hire a lawyer to proceed to litigation.

Lastly, defeating an adverse possession claim by the municipality bringing suit would only apply to public highways, streets, alleys and other "public ground". Public ground has been defined to be publicly owned property "open to the public for common use". This definition certainly could be open to interpretation, but if an outlot is not open for public use, which it may not be, then the statutory requirement of bringing the lawsuit may not apply to this claim.

The bottom line, in my opinion, is that if the City desires to sell the outlot to adjacent neighbor(s) for \$1,500.00, it should begin to do so and those who may potentially have a claim for adverse possession may raise it or not. If it is raised, detailed analysis of the facts and circumstances for the 15 year period would be necessary. Even if a neighboring property owner claims adverse possession, it would still be necessary to file a lawsuit to establish those rights. Again, for \$1,500.00, this may not be a financially realistic course of action.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,


Randall L. Brown
City Attorney

RLB/jat

cc: City Council
Maurice Evans
Victoria Georgeau

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¹ A court may also limit the area of land awarded under an adverse possession claim only to that part of the parcel which has been used by the claimant for the statutory period which certainly raises further issues of proof with regard to the location of the claimant's use.

² This only applies to municipalities since, under the statute, claims for adverse possession cannot be asserted against the State of Michigan.

³ This assumes the 15 years is entirely after the March 1, 1988 amendment of the statute since before the amendment took effect, the law did not provide protection to municipalities.

ADDENDUM

Borrower: N/A	File No.: 01010571
Property Address: 7138 Capri	Case No.: 060893
City: Portage	State: MI Zip: 49002-9415
Lender: City of Portage	

Neighborhood Description

06/11/2013; Amendment to the property estimate of value based on effective date and original inspection notes. Appraised value as defined on page two of report based on the hypothetical condition that the parcel is buildable and legally permissible indicated the highest and best use for the parcel is as a buildable site valued 04/09/2013 at \$18,000. (66 x 125.15 +/-).

Client inquiry 06/11/2013, regarding the feasibility of land value based on a non conforming, non buildable use as a hypothetically condition that the adjacent owners split between them resulting in surplus land.

- This suggests the land is not needed to serve or support their existing parent parcel improvements, would not allow for improvements to create a residential multi family use, but for improvements which fall legally within the current zoning code.
- This split would likely create a new parent parcel in which the proposed split of subject parcel would be absorbed into the adjoining parcel(s) and therefore would not be sold separately, nor valued separately in future use.
- This surplus land will result in a parcel which is greater than the predominate size of the neighborhood/market. Often, the surplus land contributes less per front foot by comparison, due to a lower rate of return.

Under an extraordinary assumption of equal land division, the estimate of value for this parcel split of 33x125.15 +/- reflecting a surplus land value range of \$45-\$400 per front foot rate;

\$6,600 (weighed at \$200). Parcel in total \$13,200 (subject to a lower rate of return in combination to the adacent parcel).

NEIGHBORHOOD DESCRIPTION

Homes in the area are a mixture of single and multi-level residences which appear to be properly maintained. No adverse conditions were noted. Schools, employment and shopping are within a reasonable distance and do not appear to have an effect on market value. Commercial and 2-4 family noted in present land use percentage is in the general area (typically secondary arterial roadways), and does not appear to have an effect on the overall market value of the subject at this time (subject basically located in a residential area).

City of Portage is the county's second largest city with a population of over 44,000. It is part of the regional center/economic hub for the area. Police and Fire Departments provided. Property taxes are assessed according to the school district in which the subject is located (typical for Michigan). Municipal water and sewer typically available. Crossed by I-94 and US-131 Highways, the City is considered one of the fastest growing in the area.

Neighborhood Market Conditions

PREDOMINATE VALUE NOTED ON PAGE ONE:

It should be noted that the predominate value for this area includes sales of properties that are on multi-acre sites, waterfront and/or superior developments with gross living areas that exceed 6,000 sq.ft. The Neighborhood Description portion of the report addresses the eclectic range of dwellings within the area. The marketability of the subject is not affected by the diversity of the market area as properties that bracket the subjects' site and amenities have sold within the past several months. These sales are utilized within the report as comparables and show that properties similar to the subject are marketable. It should also be noted that these sales are within a reasonable distance and have sold within the past six months.

PREDOMINATE PRICING WITHIN THE SURROUNDING AREA/MARKET CONDITIONS:

For all Single Family residential dwellings within the greater Portage city area, the current predominate median List price is \$137,550 (92/130 CDOM) and the predominate median Sale price is \$130,000 (70/96 CDOM) with 591 sales from the last 12 months 97.5% List to Sale ratio. By comparison, findings from the prior 12 month period, or 2010/2011; predominate Sale price indicated \$122,500 (78/111 CDOM) with 545 sales at 96% List to Sale ratio. Overall improved results in values from an increased volume of reported MLS sales at improved L/S ratios (this was researched over the same 12 month period). Stable general market conditions.

SUBJECT MARKET WITHIN NEIGHBORHOOD BOUNDARIES:

Subject defined marketing area for comparable base is considered the criteria used by a prospective buyer of the subject property.

Demand for this vacant residential land is low as reflected in lack of new construction and financing available. Typically buyers in this area will consider other competing neighborhoods outside of the subject's immediate neighborhood (traveling upwards of 8 miles away). For this report, a search within a 2 mile radius of the subject area was considered appropriate as the subject is located in a well defined, yet large suburban location. Any adjustments for any submarket neighborhood differences of these areas will be reflected in the site comparison section of the grid on page two.

Property value trends as a Nation, Michigan and within the Greater Kalamazoo area market have been noted as mixed rating, by comparison, the subject marketing area (as defined above) appears to reflect a stable trend. This market appears to have an over supply. The next 120 days may see seasonal change, going into the "summer" market. See sales comparison grid for market reaction to comparables; when most properties are priced appropriately to market conditions, few have still shown to have more than 180 days of marketing.

Seller paid financial assistance is prevalent, yet does not appear to have a noticeable impact on this market. Seller contributions have remained consistent at an estimated rate of 1-6% noted over the last 12 months. Foreclosures also appear to have a significant impact on the general marketing conditions.

Data for these conclusions is largely based on the Association of Realtors' Southwestern Michigan Listing Service; SWMRIC-MLS, supported by this appraiser's knowledge, online census/county records, use of prior appraisal assignments within this market.

ADDENDUM

Borrower: N/A		File No.: 01010570
Property Address: 7200 Balfour Dr		Case No.:
City: Portage	State: MI	Zip: 49024-4006
Lender: City of Portage		

Neighborhood Description

06/11/2013; Amendment to the property estimate of value based on effective date and original inspection notes. Appraised value as defined on page two of report based on the hypothetical condition that the parcel is buildable and legally permissible indicated the highest and best use for the parcel is as a buildable site valued 04/09/2013 at \$16,000. (66 x 133.7 +/-).

Client inquiry 06/11/2013, regarding the feasibility of land value based on a non conforming, non buildable use as a hypothetically condition that the adjacent owners split between them resulting in surplus land.

- This suggests the land is not needed to serve or support their existing parent parcel improvements, would not allow for improvements to create a residential multi family use, but for improvements which fall legally within the current zoning code.
- This split would likely create a new parent parcel in which the proposed split of subject parcel would be absorbed into the adjoining parcel(s) and therefore would not be sold separately, nor valued separately in future use.
- This surplus land will result in a parcel which is greater than the predominate size of the neighborhood/market. Often, the surplus land contributes less per front foot by comparison, due to a lower rate of return.

Under an extraordinary assumption of equal land division, the estimate of value for this parcel split of 33 x 133.7 +/- reflecting a surplus land value range of \$45-\$400 per front foot rate; \$5,280 (weighed \$160 ±).

Parcel in total \$10,560 (subject to a lower rate of return in combination to the adjacent parcel).

NEIGHBORHOOD DESCRIPTION:

Homes in the area are a mixture of single and multi-level residences which appear to be properly maintained. No adverse conditions were noted. Schools, employment and shopping are within a reasonable distance and do not appear to have an effect on market value. Commercial and 2-4 family noted in present land use percentage is in the general area (typically secondary arterial roadways), and does not appear to have an effect on the overall market value of the subject at this time (subject basically located in a residential area).

City of Portage is the county's second largest city with a population of over 44,000. It is part of the regional center/economic hub for the area. Police and Fire Departments provided. Property taxes are assessed according to the school district in which the subject is located (typical for Michigan). Municipal water and sewer typically available. Crossed by I-94 and US-131 Highways, the City is considered one of the fastest growing in the area.

Neighborhood Market Conditions

PREDOMINATE VALUE NOTED ON PAGE ONE:

It should be noted that the predominate value for this area includes sales of properties that are on multi-acre sites, waterfront and/or superior developments with gross living areas that exceed 6,000 sq.ft. The Neighborhood Description portion of the report addresses the eclectic range of dwellings within the area. The marketability of the subject is not affected by the diversity of the market area as properties that bracket the subjects' site and amenities have sold within the past several months. These sales are utilized within the report as comparables and show that properties similar to the subject are marketable. It should also be noted that these sales are within a reasonable distance and have sold within the past six months.

PREDOMINATE PRICING WITHIN THE SURROUNDING AREA/MARKET CONDITIONS:

For all Single Family residential dwellings within the greater Portage city area, the current predominate median List price is \$137,550 (92/130 CDOM) and the predominate median Sale price is \$130,000 (70/96 CDOM) with 591 sales from the last 12 months 97.5% List to Sale ratio. By comparison, findings from the prior 12 month period, or 2010/2011; predominate Sale price indicated \$122,500 (78/111 CDOM) with 545 sales at 96% List to Sale ratio. Overall improved results in values from an increased volume of reported MLS sales at improved L/S ratios (this was researched over the same 12 month period). Stable general market conditions.

SUBJECT MARKET WITHIN NEIGHBORHOOD BOUNDARIES:

Subject defined marketing area for comparable base is considered the criteria used by a prospective buyer of the subject property.

Demand for this vacant residential land is low as reflected in lack of new construction and financing available. Typically buyers in this area will consider other competing neighborhoods outside of the subject's immediate neighborhood (traveling upwards of 8 miles away). For this report, a search within a 2 mile radius of the subject area was considered appropriate as the subject is located in a well defined, yet large suburban location. Any adjustments for any submarket neighborhood differences of these areas will be reflected in the site comparison section of the grid on page two.

Property value trends as a Nation, Michigan and within the Greater Kalamazoo area market have been noted as mixed rating, by comparison, the subject marketing area (as defined above) appears to reflect a stable trend. This market appears to have an over supply. The next 120 days may see seasonal change, going into the "summer" market. See sales comparison grid for market reaction to comparables; when most properties are priced appropriately to market conditions, few have still shown to have more than 180 days of marketing.

Seller paid financial assistance is prevalent, yet does not appear to have a noticeable impact on this market. Seller contributions have remained consistent at an estimated rate of 1-6% noted over the last 12 months. Foreclosures also appear to have a significant impact on the general marketing conditions.

Data for these conclusions is largely based on the Association of Realtors' Southwestern Michigan Listing Service; SWMRIC-MLS,

ADDENDUM

Borrower: N/A	File No.: 01010572
Property Address: 1600 Friendly Ave	Case No.:
City: Portage	State: MI Zip: 49002-1652
Lender: City of Portage	

Neighborhood Description

06/11/2013; Amendment to the property estimate of value based on effective date and original inspection notes. Appraised value as defined on page two of report based on the hypothetical condition that the parcel is buildable and legally permissible indicated the highest and best use for the parcel is as a buildable site valued 04/09/2013 at \$12,000. (66 x 165 +/-).

Client inquiry 06/11/2013, regarding the feasibility of land value based on a non conforming, non buildable use as a hypothetically condition that the adjacent owners split between them resulting in surplus land.

- This suggests the land is not needed to serve or support their existing parent parcel improvements, would not allow for improvements to create a residential multi family use, but for improvements which fall legally within the current zoning code.
- This split would likely create a new parent parcel in which the proposed split of subject parcel would be absorbed into the adjoining parcel(s) and therefore would not be sold separately, nor valued separately in future use.
- This surplus land will result in a parcel which is greater than the predominate size of the neighborhood/market. Often, the surplus land contributes less per front foot by comparison, due to a lower rate of return.

Under an extraordinary assumption of equal land division, the estimate of value for this parcel split of 33x165 +/- reflecting a surplus land value range of \$45-\$400 per front foot rate;

\$5,940 (weighed \$180 ±). Parcel in total \$11,880 (subject to a lower rate of return in combination to the adjacent parcel).

NEIGHBORHOOD DESCRIPTION:

Homes in the area are a mixture of single and multi-level residences which appear to be properly maintained. No adverse conditions were noted. Schools, employment and shopping are within a reasonable distance and do not appear to have an effect on market value. Commercial and 2-4 family noted in present land use percentage is in the general area (typically secondary arterial roadways), and does not appear to have an effect on the overall market value of the subject at this time (subject basically located in a residential area). City of Portage is the county's second largest city with a population of over 44,000. It is part of the regional center/economic hub for the area. Police and Fire Departments provided. Property taxes are assessed according to the school district in which the subject is located (typical for Michigan). Municipal water and sewer typically available. Crossed by I-94 and US-131 Highways, the City is considered one of the fastest growing in the area.

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Data for these conclusions is largely based on the Association of Realtors' Southwestern Michigan Listing Service; SWMRIC-MLS, supported by this appraiser's knowledge, online census/county records, use of prior appraisal assignments within this market, conversations with local assessors, realtors and/or appraiser's peers. Statistical data also from online agencies such as the National Bureau of Economic Research, Michigan Department of Energy, Labor & Economic Growth and Michigan.gov. Recent sales should reflect any market change due to the current market conditions. Short term appreciation or depreciation, as found in market analysis above, will be adjusted within the grid on page two, when considered necessary. The most similar sales were provided as support for the estimated market value of the subject.

Market Influences: Mixed results to the economic recovery within the region, State of Michigan and the USA as a nation. Improved employment conditions both State and National reports. Yet, foreclosure trends, consumer confidence and lending standards have contributed to slow change, yet recovering in many markets. National Bureau of Economic Research

CITY OF PORTAGE

COMMUNICATION

TO: Portage City Council

DATE: July 19, 2013

FROM: 2012 Ethics/Rules/Procedures Committee*

SUBJECT: Mayor Pro Tem Election Procedures

The following is offered as a final update for the activities of the 2012 Ethics/Rules/Procedures Committee for charges completed and remaining to date. The delay in this communication is the responsibility of the Chairman. The charges of the committee for 2012 were: clarify Mayor Pro Tem selection process; review and improve structure of Councilmember attendance policy, and; review Ethics Policy pertaining to campaign comments / speech in public meetings.

During the committee's meeting in March 2012, there was discussion on the City Council committee procedures, which ultimately resulted in the *City Council Best Practices on Formation of City Council Committees* document being presented and voted upon by City Council at the regular meeting of August 14, 2012. The Committee next examined the attendance policy for Councilmembers. The current policies in the *City Council Rules of Order & Procedure* were found to be sufficient by the Committee, effectively closing further review of attendance matters. The Committee subsequently reviewed the topic of campaign comments / speech during public meetings as it related to Council. An opinion dated June 18, 2012 by City Attorney Brown outlines the potential legal issues entailed with efforts to limit the content of Council comments. Furthermore, the provisions outlined in the City Council "Code of Ethics and Values Policy" dated January 13, 2009 were deemed to adequately address any concerns with this particular item. After review, the Committee chose to retain the current policies and practices on speech and attendance as they have proven effective to date.

Lastly, Committee members examined the current process for selection of the Mayor Pro Tem position. The *City Council Rules of Order and Procedure* lists the election of the Mayor Pro Tem to occur at the first meeting following the election to "serve for a period of one year and thereafter until a successor is appointed." This procedure is further outlined in Chapter 2 - Article 2 of the Code of Ordinances. Councilmembers Campbell and Randall expressed a desire to elect a Mayor Pro Tem on an annual basis. While the City ordinances are inconsistent in their language the City Charter specifies the election of the Mayor Pro Tem after each City election. Since the Charter supersedes any ordinance that may be in conflict, election of the Mayor Pro Tem each year would require a Charter amendment. The committee did not feel seeking a Charter amendment was appropriate. The preference for an election by the City Council utilizing a written ballot method was expressed. Any redirection to this method would require incorporation into the Council's *Rules of Order and Procedure*. City Attorney Brown further opined that a written ballot voting method would additionally require a signature to denote the voting member for the City Clerk, who would tally and facilitate the Mayor Pro Tem selection.

Therefore, it is the recommendation of the Ethics/Rules/Procedures Committee that the City Council modify the Rules of Order and Procedure for the City Council, Portage, Michigan as follows:

Section 5, second paragraph which reads:

“The Council shall hold an organizational meeting, which may be combined with its first regular meeting in November for the purpose of organizing and choosing a Mayor Pro Tem who shall serve for a period of one year and thereafter until a successor is appointed.”

To be amended to read as follows:

“The Council shall hold an organizational meeting, which may be combined with, but in no event shall be later than its first regular meeting November immediately following the regular City election. At such meeting, or within one week thereafter, Council shall elect from its membership a Mayor Pro-Tempore who shall serve for a period of two years and thereafter until a successor is appointed. Nominations for Mayor Pro Tem shall be entertained by the presiding officer and after all nominations desired are made, the nominations shall be closed by motion. Discussion shall be permitted after nominations are closed. Voting by the Council shall be by a signed ballot. The City Clerk shall announce and record in the record each Council member’s vote. A majority of Council members present shall be required to elect the Mayor Pro Tem. If the first vote does not result in a majority, voting shall continue until a majority is achieved.”

- * Councilmember Terry Urban, chair
- Councilmember Elizabeth Campbell
- Councilmember Patricia Randall

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Angling Road Reconstruction Project, Vanderbilt Avenue to West Centre Avenue

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

ACTION RECOMMENDED: That City Council award a contract to Michigan Paving & Materials Company of Kalamazoo, Michigan for reconstruction of Angling Road (Vanderbilt Avenue to West Centre Avenue) in the not to exceed amount of \$243,555.77 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

EXECUTIVE SUMMARY:

City Council has an adopted goal to “*continue to plan and implement improvements to move people and commerce safely and effectively through the community.*” The planned reconstruction of Angling Road from Vanderbilt Avenue to West Centre Avenue falls under that goal and Council’s objective to “*implement projects proposed within the major thoroughfare plan.*” Council is being asked to approve the contract with the low bidder on this project in an amount not to exceed \$243,555.77. It is anticipated this project will commence this coming September and conclude by the end of October 2013.

BACKGROUND INFORMATION:

The Fiscal Year 2013-2014 Capital Improvement Program contains projects for the 2013 Major Street Reconstruction Program. Major street reconstruction projects are selected based on pavement condition and average daily traffic as well as potential development activities. The subject section of Angling Road (Vanderbilt Avenue to West Centre Avenue) does not have municipal sanitary sewer service available and is rated as one of the streets in poorest condition in the City of Portage.

As detailed in the 2013-14 Capital Improvement Program, sanitary sewer installation/street reconstruction procedures now allow for a tiered approach for reconstruction of streets without sanitary sewer that exhibit little or no environmental risk associated with the lack of sewer availability. The section of Angling Road (Vanderbilt Avenue to West Centre Avenue) is identified as a “Tier 3” area not requiring sanitary sewer installation as a condition of reconstruction.

This project includes pulverizing the entire roadway, new guardrail, widening of substandard shoulder widths and repaving of the roadway and bicycle lanes. On July 10, 2013, three construction bids were received for the project with the low bid submitted by Michigan Paving & Materials Company. Michigan Paving & Materials Company has successfully completed many similar types of projects for the city and is very capable of completing this project. The Angling Road Reconstruction Project (Vanderbilt Avenue to West Centre Avenue) will be initiated in September 2013 with an anticipated completion by October 31, 2013.

Therefore, it is recommended that City Council award a contract to the low bidder, Michigan Paving & Materials Company, for reconstruction of Angling Road (Vanderbilt Avenue to West Centre Avenue) in the not to exceed amount of \$243,555.77 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

FUNDING: Funds are budgeted and available for this \$243,555.77 expenditure in the Fiscal Year 2013-2014 Capital Improvement Program budget.

Attachments: Bid Tabulation

BID TABULATION
ANGLING ROAD RECONSTRUCTION

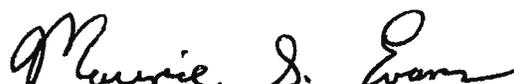
<u>Bidder</u>	<u>Bid</u>
Michigan Paving & Materials 2300 Glendenning Rd. Kalamazoo, MI 49001	\$243,555.77
Rieth-Riley Construction Co. 911 Hatfield St. Kalamazoo, MI 49001	\$244,722.12
Northern Construction Services Po Box 1299 Niles, MI 49120	\$265,886.00



MATERIALS TRANSMITTED

Friday, July 5, 2013

1. July 3, 2013 Letter to Ms. Mary Prange regarding the Discontinuance of the Senior Citizen Discount Program – Information Only.


Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager



MATERIALS TRANSMITTED

Tuesday, July 9, 2013

1. **FOR REPLACEMENT IN ITEM H.2 ON THE JULY 9, 2013 CITY COUNCIL AGENDA:** *Corrected* communication from the City Manager recommending that City Council amend the Code of Ordinances to include *Article 7, Consumer Fireworks, of Chapter 34 Fire Prevention and Protection*. (hours prohibited corrected in Background Information section)
2. Communication from the City Manager regarding an addition to the June 25, 2013 Regular Meeting Minutes.
3. Communication from the City Manager regarding Citizen Comments on Fireworks Regulations – Information Only.
4. Communication from the City Manager regarding the Citizen Comment Summary for June 2013 – Information Only.
5. July 8, 2013 Letter from the City Manager to Steve Kirk of Kendall Auto (8441 Portage Road)

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager