



# PLANNING COMMISSION

October 15, 2015

**CITY OF PORTAGE PLANNING COMMISSION**

**FINAL AGENDA**

**October 15, 2015**

**(7:00 p.m.)**

**Portage City Hall Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF MINUTES:**

- \* September 17, 2015

**SITE/FINAL PLANS:**

**PUBLIC HEARINGS:**

**OLD BUSINESS:**

**NEW BUSINESS:**

- \* 1. Vacation of South Portion of Harris Drive

**STATEMENT OF CITIZENS:**

**ADJOURNMENT:**

**MATERIALS TRANSMITTED**

September 8, 2015 City Council regular meeting minutes  
September 22, 2015 City Council regular meeting minutes  
September 14, 2015 Zoning Board of Appeals meeting minutes  
August 2015 Summary of Environmental Activity Report

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

## PLANNING COMMISSION

September 17, 2015

 DRAFT

The City of Portage Planning Commission meeting of September 17, 2015 was called to order by Chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Six citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

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

### **IN ATTENDANCE:**

Michael West, Senior City Planner and Randy Brown, City Attorney.

### **ROLL CALL:**

Mr. West called the roll and the following Commissioners were present: Bosch (yes), Stoffer (yes), Welch (yes), Patterson (yes), Somers (yes) and Schimmel (yes). A motion was made by Commissioner Patterson, seconded by Commissioner Bosch, to approve the roll excusing Commissioners Dargitz, Felicijan and Richmond. The motion was unanimously approved 6-0.

### **APPROVAL OF MINUTES:**

Chairman Welch referred the Commission to the September 3, 2015 meeting minutes contained in the agenda packet. A motion was made by Commissioner Patterson, seconded by Commissioner Stoffer, to approve the minutes as submitted. The motion was unanimously approved 6-0.

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

None.

### **PUBLIC HEARINGS:**

1. Preliminary Report: Rezoning Application #15/16-1, 710 and 732 East Centre Avenue. Mr. West summarized the staff report dated September 11, 2015 regarding a request from Donald Zeimke and Timothy Dockerty to rezone 710 and 732 East Centre Avenue from B-1, local business and R-1A, one family residential to OS-1, office service. Mr. West stated the rezoning would facilitate construction of an approximate 32,000 square foot memory care facility at the former Centre Street Market site. Mr. West discussed the 2014 rezoning of the subject parcels and several other East Centre Avenue properties from B-3, general business to B-1, local business and indicated institutional land uses including the proposed memory care facility are not allowed in the B-1 district, but are allowed in the OS-1 zone as a special land use. Mr. West also discussed City Council's decision to retain the west 5-foot strip of 710 East Centre Avenue in R-1A, one family residential zoning to prevent vehicular access to/from Lakewood Drive. Mr. West stated this decision was first decided in 1998 and reaffirmed with the 2014 rezoning. Mr. West discussed the applicant's request to the Planning Commission to waive the second meeting and formulate a recommendation to City Council at the September 17<sup>th</sup> meeting. Mr. West stated the proposed zoning change was consistent with the Comprehensive Plan, Future Land Use Map and surrounding land use/zoning pattern along this stretch of East Centre Avenue and was supported by staff. Mr. West referred the Commission to the final agenda packet and an email communication from Mrs. Nancy Centers, 8038 Lakewood Drive, supporting the proposed zoning change to OS-1.

 DRAFT

Commissioner Stoffer discussed the possible elimination of the 5-foot strip of R-1A zoning along the west side of 710 East Centre Avenue since the intensity of land use would be far less under the proposed OS-1 zoning. Mr. West indicated the purpose of the 5-foot strip of R-1A zoned land was to restrict access to/from Lakewood Drive since the Zoning Code does not allow access to a nonresidential use through property zoned residential. Mr. West also stated the 5-foot strip of R-1A zoned land does not increase building or parking setbacks since these measurements are taken from the property line. Attorney Brown indicated there were other areas of the city that have similar residential zoned strips of land for the purposes of restricting access or enhancing neighborhood protection.

Mr. Timothy Dockerty (applicant) was present to support the zoning change and to discuss the proposed memory care facility. Mr. Dockerty stated the facility would be one-story and house approximately 40 residents upon full build-out with between 20-25 full and part-time employees. Mr. Dockerty discussed the growing demand for senior and memory care services with the increasing aging population. Mr. Dockerty described the facility and security measures that are taken to ensure the safety of the residents.

The public hearing was opened by Chairman Welch. No citizens spoke regarding the proposed rezoning. After a brief discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to waive the second meeting. The motion was unanimously approved 6-0. A motion was then made by Commissioner Bosch, seconded by Commissioner Stoffer, to close the public hearing. The motion was unanimously approved 6-0. After a brief discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to recommend to City Council that Rezoning Application #15/16-1 be approved and 710 and 732 East Centre Avenue be rezoned from B-1, local business to OS-1, office service with the exception of the west 5-feet of 710 East Centre Avenue which is to remain zoned R-1A, one family residential. The motion referenced the analysis contained in the staff report and included a finding that the proposed OS-1 district was consistent with the Comprehensive Plan, Future Land Use Map and land use/zoning pattern and retention of the 5-foot strip of R-1A zoning along the west side of 710 East Centre Avenue was still valid to control access and provide neighborhood protection. The motion was unanimously approved 6-0.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

None.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

Mr. West discussed two upcoming events being hosted by the City of Portage and encouraged all citizens, business owners, Commissioners and other interested individuals to participate. On Monday, September 28, 2015 from 7-9pm at Portage City Hall, Mr. West stated the city will be hosting a Capital Improvement Program (CIP) Open House. Mr. West indicated a survey regarding the CIP process and existing/potential projects can still be taken by visiting the city website. On Saturday, October 3, 2015 from 9am-2pm at Portage Central High School Auditorium, Mr. West stated the city will be hosting the Portage 2025 Renewal Event. Mr. West indicated on-line registration for this event is still available through September 25<sup>th</sup>; however, registration is not required and anyone can attend even if they missed the on-line registration period.

 **DRAFT**

There being no further business to come before the Commission, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Michael K. West, AICP  
Senior City Planner

**TO:** Planning Commission

**DATE:** October 9, 2015

**FROM:** Vicki Georgeau, Director of Community Development

**SUBJECT:** Request to Vacate South Portion of Harris Drive

## I. INTRODUCTION

An application has been received from Craig and Nancy Bahner requesting that the south approximate 57-feet of Harris Drive (unimproved portion) be vacated to facilitate construction of a new single family home on the adjacent parcels to the south addressed as 10214 and 10220 East Shore Drive. As information for the Commission, the applicants own 10220 East Shore Drive and 10214 East Shore Drive. Both parcels are vacant (the dwelling shown on the aerial photograph on 10220 East Shore Drive was razed after the photograph was taken). The applicants intend to combine 10214 and 10220 East Shore as a single lot of record and construct a new dwelling.

## II. STREET VACATION REVIEW

Street Vacation Process. The process to vacate a public street and associated right-of-ways is established in the State of Michigan Land Division Act and the City Charter. The Land Division Act specifies that when the municipality determines that it necessary for the public health, welfare, comfort and safety of the people in the community to discontinue a public street, a resolution or ordinance must be adopted and recorded with the County Register of Deeds and with the State of Michigan Department of Commerce. Consistent with the statutory requirements, one-half of the vacated right-of-way is conveyed to each abutting property owner (the applicants own the property on either side of the right-of-way). Planning Commission and City Administration recommendations are provided to City Council, which makes the final decision. The City Charter requires that Council place the proposed vacation request on file for 28 days to allow for adequate public comment before taking final action.

Existing Conditions. The south terminus of the paved portion of Harris Drive ends in front of 10208 Harris Drive and 10210 East Shore Drive, providing access to an existing residence and accessory garage. The remaining southern approximate 57-feet of Harris Drive is an unimproved "paper" street which is encumbered by an existing sanitary sewer main. This sewer main extends approximately eight feet south of the southern end of the unimproved right-of-way. According to the applicant, the presence of this approximate 57-foot strip of unimproved public right-of-way creates redevelopment limitations for construction of a new single family home and have asked that it be vacated. Given the existing development pattern and surrounding land ownership, a future southerly extension of Harris Drive is not practical and this unimproved public right-of-way is not needed by the city. However, if approved by City Council, the applicants will convey to the City of Portage a 20-foot wide easement for the existing public sanitary sewer main.

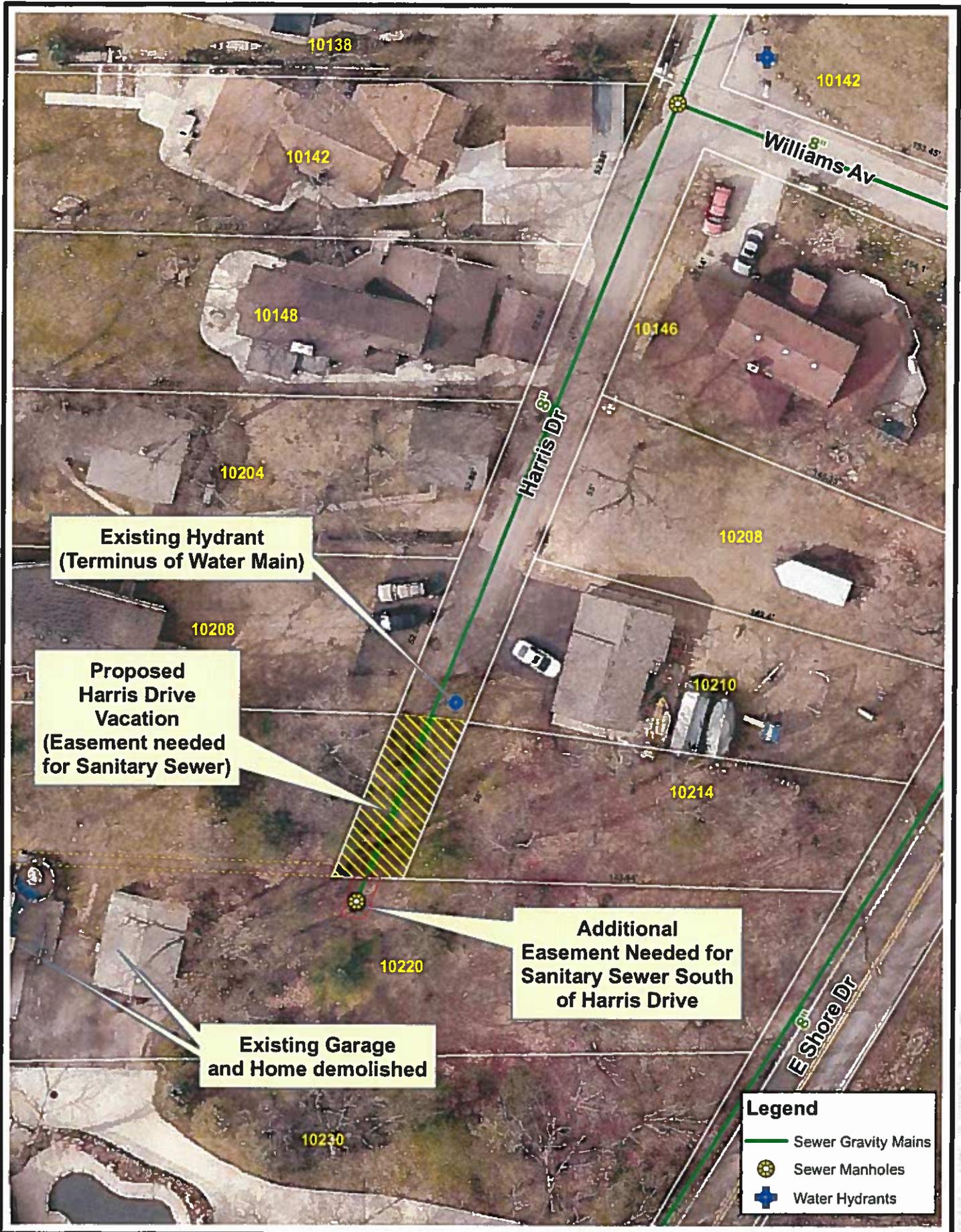
The applicant has also provided a copy of the Consent Judgement concerning a four foot wide walkway. When this area was platted in 1925, the plat of Oakland Beach included a four foot wide walkway along the south property line of Lot 1, which was intended to pedestrian access to Austin Lake. In 1990, Kalamazoo County Circuit Court issued a Consent Judgement conveying ownership of this walkway to the previous owner of the property.

Finally, and for Commission information, vacation of this portion of Harris Drive does not amend the Oakland Beach plat. Amendments to a previously recorded plat require action by Circuit Court as was the case involving the four foot walkway.

### III. RECOMMENDATION

Based on the above analysis, staff advises that the Planning Commission recommend to City Council that the south approximate 57-feet of Harris Drive be vacated subject to the applicants conveying to the City of Portage a 20-foot wide easement for the existing sanitary sewer main and the applicant combine 10214 East Shore Drive, 10220 East Shore Drive and the vacated approximate 57-foot strip of Harris Drive into one parcel.

Attachments:           Zoning/Vicinity Map  
                                  September 18, 2015 Communication from the Applicant (with attachments)



# Proposed Harris Drive Vacation Location Map



BUILD SOMETHING BETTER.

RECEIVED

SEP 18 2015

COMMUNITY DEVELOPMENT

September 18, 2015

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

RE: Vacation of a portion of Harris Drive near Austin Lake

Dear Mr. Forth;

At the request of Craig & Nancy Bahner, property owners of 10220 & 10214 East Shore Drive on Austin Lake, AVB is requesting that the City of Portage take into consideration vacating a portion of Harris Drive that has never been improved. This roadway is a peninsula in the almost one acre lake front property that creates limitations on how the parcel can be developed.

The reasons for vacating this property are as follows;

1. That portion of the roadway that is being requested to be vacated has never been improved.
2. If the roadway was improved, it would only service this property and would thus serve no meaningful purpose. This parcel also has roadway access along East Shore Drive.
3. The existing fire hydrant was installed in a manner that would indicate that the roadway will never be improved.
4. By vacating a portion of the roadway, it would create no safety or other limiting issues for the residence or guests who live on Harris Drive or the residence of the City of Portage.
5. The roadway plus the required setbacks creates limitations on how the parcel can be developed. The Bahner's would like to move their home further away from the lake to create more yard area between the home and the lake.
6. The two parcels that make up the Bahner property will be combined to one parcel to build one home.

The following documentation is enclosed for your review;

1. Letter of Authorization for AVB to represent the Bahner's in this matter.
2. City of Portage parcel reports for the properties

3. Survey illustrating the two parcels, the location of Harris Drive, and the location of the fire hydrant.
4. Photo of fire hydrant location and where the asphalt ends
5. Legal description of the requested area to be vacated
6. Copy of judgement releasing the 4' easement to the lake

If the vacation of the parcel is approved, Mr. & Mrs. Bahner will provide the City of Portage with the following;

1. Application to combine both parcels 10220 East Shore Drive, Oakland Beach lot #1, parcel #05880001A, and 10214 East Shore Drive, Oakland Beach lot #22, parcel # 058800220.
2. Provide a 20' wide easement for the sanitary sewer as installed.

We very much appreciate you taking this into consideration. Please call me at 269.217.205 or email [jack@avbinc.com](mailto:jack@avbinc.com) after your review with any questions or comments.

Kindly,



Jack S. Gesmundo  
Principal

September 10, 2015

Mr. Christopher Forth, AICP  
Deputy Director of Planning, Development and Neighborhood Services  
City of Portage Department of Community Development  
7900 South Westnedge Avenue  
Portage, Michigan 49002Mr. & Mrs.

Dear Mr. Forth,

We have engaged AVB to work with us on designing and building a new home on our property on Austin Lake. More particularly 10220 East Shore Drive, Oakland Beach lot #1, parcel #05880001A and 10214 East Shore Drive, Oakland Beach lot #22, parcel # 058800220. We would like to combine these parcels into one parcel number and build a single home on the property.

It is our desires to have the City of Portage vacate that portion of Harris Drive that our home site encompasses. When combined, the property will be almost one acre in size and the road including the required setbacks creates some limitations. If the portion of the road is vacated, we understand that we will need to provide a 20' wide sewer easement for the existing line.

We are hereby authorizing AVB to represent us in this process. Should you have any questions, please feel free to contact me directly at 513-484-3387 or [csbahner@me.com](mailto:csbahner@me.com). Enclosed you will find the \$550 application fee. Thank you very much for taking this into consideration.

Sincerely,

   
Craig & Nancy Bahner

**Property Address**

10220 EAST SHORE DR  
PORTAGE, MI 49002

**Owner Address**

BAHNER, CRAIG S & NANCY E  
10220 EAST SHORE DR  
PORTAGE, MI 49002

 No property photo available



**General Information for Current Tax Year**

**Parcel Number:** 05880001A  
**Property Class Name:** Residential Improved  
**ECF Neighborhood:** 9002  
**School District:** Vicksburg  
**State Equalized Value:** \$191100  
**Taxable Value:** \$115444  
**Exemption Percent:** 100%

**Land Information**

**Acreage:** 0.812  
**Year Built:** 1925  
**Total Floor Area:** 1620 sq. ft  
**Lot Area (GIS):** 36808 sq. ft

**Legal Information**

SUP PLAT OF OAKLAND BEACH LOT 1 ALSO BEG AT SE COR OF LOT 22 SD PLAT, TH S 26 DEG W 58.50 FT, TH S 87 DEG W 254.30 FT, TH N 85 DEG W 146.31 FT, TH N 21 DEG E 55.80 FT, TH ELY 405.55 FT TO P.O.B.

**Disclaimer**

These maps are intended to be used for generalized citywide planning and there are no warranties that accompany this product. City of Portage recommends that users of this product confirm the data used in production of this map by visual inspection of the geographic area. In no event shall City of Portage be liable to the user or any third party for errors, omissions or positional accuracy of this product, regardless of the form of claim or action, whether in contract or tort, including negligence, in the amount that exceeds the sum paid by the user for the product. City of Portage reserves all rights of authorship granted under U.S. and International copyright laws and agreements.

**Property Address**

10214 EAST SHORE DR  
PORTAGE, MI 49002

**Owner Address**

BAHNER, CRAIG S & NANCY E  
10220 EAST SHORE DR  
PORTAGE, MI 49002

No property photo available



**General Information for Current Tax Year**

**Parcel Number:** 058800220  
**Property Class Name:** Residential Vacant  
**ECF Neighborhood:** 4SF02  
**School District:** Vicksburg  
**State Equalized Value:** \$17500  
**Taxable Value:** \$3856  
**Exemption Percent:** 100%

**Land Information**

**Acreage:** 0.15  
**Year Built:** 0  
**Total Floor Area:** 0 sq. ft  
**Lot Area (GIS):** 5931 sq. ft

**Legal Information**

SUPERVISORS PLAT OF OAKLAND BEACH LOT 22

**Disclaimer**

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# Harris Drive Location Map

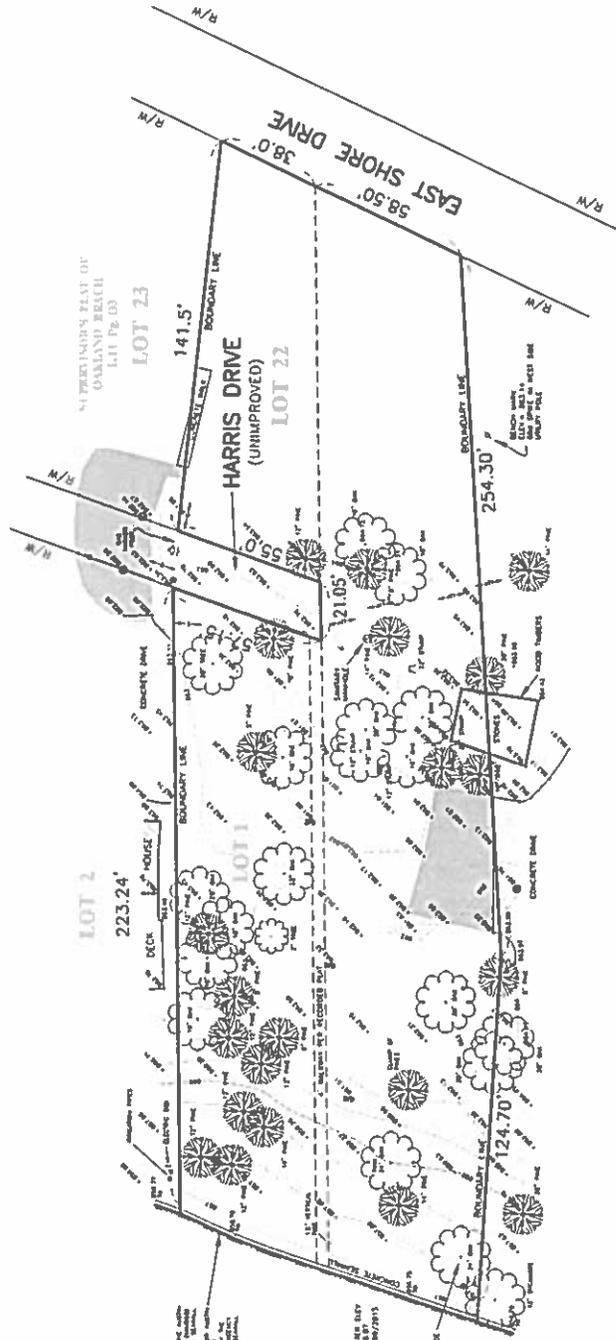




GRAPHIC SCALE



CONTOUR INTERVAL = 3'



LEGEND

- CATCH BASIN
- ⊕ FIRE HYDRANT
- ⊙ WATER METER PIT
- ⊕ UTILITY POLE
- ⊕ GUY ANCHOR
- ⊕ SOIL BORING LOCATION AS STATED
- SKIN
- ⊕ TREE
- ⊕ PINE TREE
- MARKER FOR BURIED COMMUNICATION LINE
- MARKER FOR BURIED ELECTRIC LINE
- MARKER FOR BURIED GAS LINE
- OVERHEAD UTILITY LINE
- SPOT ELEVATION
- TOP OF CONCRETE SEWER
- EXISTING CONTOUR
- RAVED AREAS
- CONCRETE AREAS

NOTE:  
THE ELEVATIONS SHOWN HEREON ARE BASED  
ON NAVD-88 DATUM

THE UTILITIES SHOWN HEREON ARE BASED ON  
OBSERVABLE UTILITY APPURTENANCES.  
UNOBSERVABLE UTILITIES THAT EXIST ON SITE WHICH  
ARE NOT SHOWN HEREON.

DATE	10/9/15
REVISION	ADDED SURVEY MARKERS
DATE	6/10/2015
JOB NO.	36397
SHEET NO.	1

TOPOGRAPHIC MAP  
**CRAIG & NANCY BAHNER**  
 10220 EAST SHORE DRIVE, PORTAGE, MICHIGAN  
**Ingersoll, Watson & McMachen, Inc.**  
 CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS  
 1132 East Main Street • Portage, Michigan 49802 • Area 269-244-6168 • Fax 269-244-0233



HARRIS DRIVE LOOKING SOUTH, THE HYDRANT IS LOCATED NEAR THE CENTER OF THE ROADWAY, VERY NEAR THE PROPOSED NORTHER PROPERTY LINE, SEE THE ATTACHED SURVEY.



# *Ingersoll, Watson & McMachen, Inc.*

CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS

#36397

Bahner

SEPTEMBER 17, 2015

## PROPOSED PARCEL DESCRIPTION OF THAT PORTION OF HARRIS DRIVE TO BE VACATED

A parcel of land being situated in the Northeast quarter of Section 36, T. 3 S., R. 11 W., City of Portage, County of Kalamazoo, Michigan being more particularly described as follows:

Beginning at the Northeast corner of Lot 1, "Supervisor's Plat of Oakland Beach" according to the plat thereof as recorded in Liber 11 of Plats on Page 03, Kalamazoo County Records; thence S. 20 deg. 36 min. W. 57.15 feet along the East line of said Lot 1 and along the southerly extension of said East line to the South line of said "Supervisor's Plat of Oakland Beach"; thence East 21.36 feet along said South line to the Southwest corner of Lot 22 of said "Supervisor's Plat of Oakland Beach"; thence N. 20 deg. 36 min. E. 55.0 feet along the West line of said Lot 22 to the Northwest corner of said Lot 22; thence N. 84 deg. 25 min. 16 sec. W. 20.70 feet to said Northeast corner of Lot 1 and the Place of Beginning, containing 1121 square feet of land. Subject to easements, conditions and restrictions of record.

8535

STATE OF MICHIGAN

7- IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

HARRY W. HARMEYER and JAN L. HARMEYER,

Plaintiffs,

LIBER 1483 PAGE 704

v

FILE NO.: C89-3112 CH

CITY OF PORTAGE, a Michigan Municipal Corporation, et al,

Defendants.

SEYBURN, HENCKEN & MILLS, P.C.  
LOWELL M. SEYBURN (P20247)  
Attorney for Plaintiffs  
3315 Greenleaf Blvd.  
Kalamazoo, MI 49008  
(616) 372-2120

RANDALL L. BROWN (P34116)  
Attorney for Defendant City of Portage  
1125 E. Milham Road  
Suite B  
Portage, MI 49002  
(616) 343-8812

CLERK - REGISTER  
*[Signature]*

STATE OF MICHIGAN  
COUNTY OF KALAMAZOO  
RECEIVED FOR RECORD  
90 NOV 28 AM 10 27

CONSENT JUDGMENT

At a session of said Court held in the Courthouse in the City and County of Kalamazoo, State of Michigan on the 19 day of Oct, 1990.

PRESENT: HONORABLE RICHARD RYAN LAMB, Circuit Judge

Upon reading the Consent of the Defendant City of Portage in this case and all other Defendants having been defaulted and the Court being fully informed of the premises:

IT IS HEREBY ORDERED that Harry W. Harmeyer and Jan L. Harmeyer and their heirs, successors and assigns shall hereafter be the owners of a four foot walkway immediately to the south of lot 1 of the Supervisor's Plat of Oakland Beach, City of Portage, County of Kalamazoo and State of Michigan free and clear of the

claims of the City of Portage and any other person claiming an interest in said walkway.

IT IS HEREBY FURTHER ORDERED that a copy of this Judgment be recorded in the office of the Register of Deeds for the County of Kalamazoo, State of Michigan.

RICHARD RYAN LAMB

Circuit Judge

Consented To:

CITY OF PORTAGE

By: *Randall L. Brown*  
Randall L. Brown  
Attorney for Defendant

STATE OF MICHIGAN  
11TH JUDICIAL CIRCUIT  
COUNTY OF KALAMAZOO

I, JAMES W. YOUNG, Clerk of said court do hereby certify that the foregoing is a true and correct copy of the original on file in said court. Signed and sealed this 26 day of

Oct, 1990

*Shawn A. Thomas*  
DEPUTY CLERK



# **MATERIALS TRANSMITTED**

## CITY COUNCIL MEETING MINUTES FROM SEPTEMBER 8, 2015

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

At the request of Mayor Strazdas, Pastor Chad Wells of the First Baptist Church of Portage gave the invocation and City Council and the audience recited the Pledge of Allegiance.

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

**APPROVAL OF MINUTES:** Motion by Ansari, seconded by Ford, to approve the Regular Meeting Minutes of August 25, 2015, as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Reid to read the Consent Agenda. Motion by Reid, seconded by Pearson, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF SEPTEMBER 8, 2015:** Motion by Reid, seconded by Pearson, to approve the Accounts Payable Register of September 8, 2015. Upon a roll call vote, motion carried 7 to 0.

### REPORTS FROM THE ADMINISTRATION:

\* **ADOPTION OF BOND RESOLUTIONS:** Motion by Reid, seconded by Pearson, to adopt the Resolution Authorizing Refunding of the City of Portage Capital Improvement Refunding Bonds, Series 2007, and Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2015C. Upon a roll call vote, motion carried 7 to 0. Resolutions recorded on pages 31 and 41.

\* **ICE CONTROL SALT PURCHASE:** Motion by Reid, seconded by Pearson, to award a contract to Compass Minerals America, Inc. in the low bid amount of \$62.59 per ton for 2,800 tons of ice control salt at a total cost not to exceed \$175,252 for early delivery; Compass Minerals America, Inc., in the low bid amount of \$64.50 per ton for 1,500 tons of ice control salt at a total cost not to exceed \$96,750 for seasonal back up on an as-needed basis; and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **EXTENSION OF THE AT&T MASTER CONTRACT AGREEMENT:** Motion by Reid, seconded by Pearson, to approve the extension of the AT&T Master Contract Agreement for the continuation of telecommunication services through October 2017 in the annual amount of approximately \$59,000 and authorize the City Manager to execute all related documents. Upon a roll call vote, motion carried 7 to 0.

\* **REQUEST FOR A NEW RESORT A-HOTEL LIQUOR LICENSE:** Motion by Reid, seconded by Pearson, to grant the request for a New Resort A-Hotel Liquor License from TMI Hospitality at 500 Trade Centre Way (Portage Homewood Suites). Upon a roll call vote, motion carried 7 to 0.

\* **BOARD AND COMMISSION INTERVIEWS:** Motion by Reid, seconded by Pearson, to set a Special Meeting on Tuesday, October 6, 2015, beginning at 5:15 p.m., to interview Board and Commission applicants. Upon a roll call vote, motion carried 7 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of the Portage Historic District Commission of August 5 and August 14, 2015.

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

**CITY MANAGER SALARY REVIEW/EVALUATION COMMITTEE:** Mayor Strazdas indicated that the Committee agreed to use the same performance instrument as in past years; that it will be distributed tomorrow; and, that it needs to be returned to the City Manager's Office by Tuesday, September 29, 2015. He said that the Committee will be working with the City Manager's Office by October 2, 2015, to receive compensation information from other municipalities and will review all results. Finally, a closed session will be held on October 6, 2015, to discuss the appraisal and make a public decision at the Regular Meeting. Motion by Pearson, seconded by Reid, to receive the City Manager Salary Review/Evaluation Committee report from Mayor Strazdas. Upon a roll call vote, motion carried 7 to 0.

**NEW BUSINESS:** Councilmember Urban requested that an amendment be prepared to address the recent amendments to the Firearms and Ammunition Act, MCL 123.1101 *et seq.*

#### **BID TABULATIONS:**

\* **CONSTITUTION BOULEVARD, SOUTH WESTNEDGE AVENUE AND EAST CENTRE AVENUE – TABULATION OF PROPOSALS:** Motion by Reid, seconded by Pearson, to award an engineering services contract to Paradigm Design, Incorporated, for the reconstruction of Constitution Boulevard (Romence Road to West Milham Avenue), South Westnedge Avenue (Shaver Road to East Centre Avenue) and East Centre Avenue (Shaver Road to South Westnedge Avenue) in the amount not to exceed \$87,950 and authorize the City Manager to execute all documents related to the contract on behalf of the City. Upon a roll call vote, motion carried 7 to 0.

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

**STATEMENTS OF CITIZENS:** Pat Buckley, 2805 Brahms Avenue, indicated that he was a 40-year resident, spent 37 years as a Portage Police Officer and, based upon the leadership of City Manager Larry Shaffer and the direction of City Council, indicated that morale has never been higher among the City employees.

Jan Sackley, 10314 Archwood Drive, took exception to what she termed inaccurate or incomplete representations by members of City Council that could leave incorrect impressions about City matters. She indicated that she has observed many instances over the past several years of partial truths and omissions in Councilmember statements that have resulted in misleading information in the official record of Council meetings that are really Councilmember opinions or uniformed comments not based on fact. She cited the August 25, 2015 Council Meeting and the comments by Councilmember Randall as lack of due diligence regarding the contract renewal of the City Attorney. She reviewed her employment background giving credence to her position and discussion on this matter, as she has held Vice President and CEO positions over the past thirty years, worked extensively with a variety of Attorneys and hired Attorneys as part of her duties. She said she has a lot of familiarity with the legal services that can be commoditized and those that cannot be and commended City Council, except Councilmember Randall because she voted "no" ostensibly on the basis of price, for the contract renewal for legal services provided by Randall Brown and Associates. She cited the extensive research compiled by then City Manager Evans and provided to City Councilmembers Randall, Reid and Urban

and Mayor Strazdas on March 19, 2010, to assess the fairness in Mr. Brown's pricing in the prior contract. She acknowledged that this research was not as formal as a Request for Proposal process, City Council was educated that soliciting bids for a replacement City Attorney would be highly unusual for any city absent a performance or pricing issue. She indicated that this research showed that Mr. Brown's law firm provides the City with comprehensive services at a cost lower than that of cities of similar size in the State of Michigan. She said that some citizens may have been left with the incorrect impression that no due diligence has been conducted by the Administration or City Council for decades when, in fact, substantial work had been conducted and provided to City Council. She indicated that from her own work experience, considering only price for professional services is short-sighted and somewhat foolish and akin to hiring a City Manager based on the lowest bid and suggesting such an approach to hiring a professional City Attorney is emblematic of inexperience and naïve purchasing. She surmised that a good experienced attorney saves time and aggravation for his or her client, unlike services that are rote in nature such as form filing or document reviews, and quality advice to a client cannot be commoditized since unnecessary legal time usually results in increased costs, not in the short term, but in the long term. She emphasized that City Council received extensive documentation on comparative fees for City Attorney at the time of the last contract renewal five years ago, and she commended the six Councilmembers who showed wisdom by voting "yes" on the renewal based on the quality of the legal services, and not voting based on price.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Ansari asked for a moment of silence and a prayer for Portage Central High School graduate, Dahlia Yehia, who traveled to Nepal to help with earthquake victims, but was murdered. He asked that her friend be included, also.

In recognition of National Preparedness Month, Councilmember Reid indicated that the State of Michigan has a preparation plan for emergencies at [michigan.gov/miready](http://michigan.gov/miready) for information on what to do in case there is an emergency and [michigan.gov/miprepared](http://michigan.gov/miprepared) for a phone app. She and Mayor Strazdas had great conversations with representatives from two Indonesian countries who were interested in regionalization and how the governments in the U.S. and Michigan were broken down and how information and cooperation "moves up and down the line." Mayor Strazdas later concurred. She announced that the PCOC Strut would take place on Saturday September 12, 2015, with a 10K run, a 5K run/walk and a 1 Mile kids Fitness Caper event and details could be found at [www.portgecommunitycenter.org/pcocstrut](http://www.portgecommunitycenter.org/pcocstrut). She also mentioned that the Kalamazoo Area Foot Chase, a 3.5 mile fun run which simulates a police foot pursuit of fleeing suspects, will take place on Saturday, 9 a.m. on September 12, 2015, at the Crossroads Mall, as a benefit run for MI-COPS a national non-profit group that aids the survivors of police officers who have lost their lives in the line of duty. She noted that registration is from 7 a.m. until 8:30 a.m. and more information can be obtained at [kafl1.wordcraft.com](http://kafl1.wordcraft.com).

Councilmember Ford announced a Public Open House for information on single-stream recycling on Wednesday, September 16, 2015, at 7:00 p.m. City Hall Council Chambers and bins can still be obtained through the city website at [portagemi.gov/public\\_services/curbside\\_recycling](http://portagemi.gov/public_services/curbside_recycling). City Manager Shaffer indicated that everyone will be brought along in the program because it will result in close to a 40% increase in recycling, cost savings and less traffic on City roads. In answer to Councilmember Ford, Mr. Shaffer indicated that a tentative date for the discussion of the options for any surplus funds is the second meeting in October, but nothing has been confirmed and explained that the original \$2.4 million projected amount could be closer to \$3.3 million to \$3.4 million. He restated the suggestion that 50 % of the unappropriated Fund Balance above 24% would be used for debt avoidance, meaning that the City would pay cash for an item instead of the using the bonding option, and the other 50% would be utilized as an accelerator to fund items on the 2016-17 Capital Improvement Plan. He gave the reconstruction of roads as an example as well as the repair of the Pumper Fire Truck that was struck at the corner of Romence Road and Portage Road.

Councilmember Randall thanked Mr. Pat Buckley for coming forward with his comments and for his 37 years of service as a Portage Police Officer keeping the City safe, and mentioned that it is a

very unpopular time to be a Police Officer. She responded to the comments and discussion from Jan Sackley by referring to a conversation she had with Catherine Kaufman of the low bid law firm of Bauckham, Sparks, Lohrstorfer, Thall & Seeber, who said that they spent three days of attorney time compiling the bid and that she felt their bid did not receive fair diligence by City Council. She said that they (the firm) thought it was a very fair bid and pointed out that the firm specializes in municipal work and happens to be located in the City of Portage. She said that the last time that a Request for Proposal (RFP) was put out for this Professional Service was in 1997 when seven (7) local firms applied for this Contract and they did not receive it. She also said the past Administration compiled information, but was simply provided for what they "want to show." She indicated that a true RFP process is what guarantees all contracts are fairly bid out and are competitive in nature as this is the only way we can judge accuracy of value. She pointed out that there was nothing personal (in her decision), but Randall L. Brown and Associates was 16% higher or \$153,640 more expensive over a five year contract which she expressed as considerable and worth the discussion. She expressed her hope that Ms. Kaufman would come back at a future meeting and explain the work they did to bring it forward, and she opined that she did not think there was a member of Council who thought that the process utilized was good. With that, she thanked Jan Sackley for coming. She indicated that she received a Portage Alert message that there would be a meeting on September 28, 2015, at 7 p.m. when the City of Portage will be launching the annual update of the Capital Improvement Program (CIP) and input from Portage residents, business owners and other interested persons is encouraged. She pointed out that it will not be staff-driven, but driven by the citizens and complimented the Administration for this as a welcomed change in the process. City Manager Shaffer indicated that in the past, the CIP Program has been initiated by staff, but Best Practices suggests that the way to initiate a CIP Program is to seek citizen input and ideas which percolate through staff and the Planning Commission giving the CIP extra legitimacy before it is presented to City Council for consideration. He then explained the importance of this approach.

Councilmember Urban explained that he was among those who did not sign up for streamline recycling and welcomed the opportunity to attend the upcoming meeting set for those who still need to know about the process at this juncture. He asked that citizens recognize that the children are back in school, so they will be walking to the bus in the morning and from the bus in the evening which may place them in different areas for motorists than in the summer; or, please be careful.

Mayor Pro Tem Pearson thanked Mr. Pat Buckley for coming and providing an update of the morale of employees, and recognized his son, Chris Buckley, who is the Executive Director of the Portage Community Center and a fellow Rotarian, and is doing a great job there. He said that the Rotary Club had its biggest fundraiser, a golf tournament on August 31<sup>st</sup> to provide many scholarships for high school students. He recognized the co-chairs who organize this tournament every year: Bonnie Granado, Dick Anderson and Randy Legman and expressed his appreciation to all participants.

Mayor Strazdas outlined the challenge with the City of Kalamazoo offered by Consumers Energy regarding the installation of smart electric meters and encouraging non-profit organization participation by going to [consumersenergy.com](http://consumersenergy.com) on the smart meter page, signing up to receive a monetary incentive and a prize for the non-profit with the most web contacts.

Councilmember Reid announced the debate with all of the Council candidates at the Portage Senior Center, 7-8:30 p.m., tomorrow night.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:15 p.m.

James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.

## CITY COUNCIL MEETING MINUTES FROM SEPTEMBER 22, 2015

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

At the request of Mayor Pro Tem Pearson, Pastor Adam Davidson of the Portage Free Methodist Church gave an invocation, and City Council and the audience recited the Pledge of Allegiance.

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

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Ansari, to approve the Regular Meeting Minutes of September 8, 2015, as presented. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Pro Tem Pearson asked Councilmember Urban to read the Consent Agenda. Councilmember Urban requested that Item M.3, Reminder of Meetings, under Other City Matters, be added to the Consent Agenda. Councilmember Reid asked that Item F.1, Computer Replacement, 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.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF SEPTEMBER 22, 2015:** Motion by Urban, seconded by Randall, to approve the Accounts Payable Register of September 22, 2015. Upon a roll call vote, motion carried 6 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Katherine Kaufmann, 7640 East Saint Andrews Circle, expressed her reservations about the process used to select a City Attorney law firm for the City of Portage, and City Manager Shaffer responded to her concerns at the request of Mayor Pro Tem Pearson. Discussion followed.

### REPORTS FROM THE ADMINISTRATION:

**COMPUTER REPLACEMENT:** In response to Councilmember Reid, who asked for a clarification of why the City has as many as 400 computers and only 190 employees, City Manager Shaffer deferred to IT Director Devin Mackinder to explain why the proposal is for 150 computers and why it is important to replace them presently and in the manner in which we are proposing; describe the rest of the devices that will be used to support those computers; explain why it is important to acquire them through leasing; and, what is the mechanism used to acquire them and how can we be sure what we are paying is the most reasonable price. Mr. Mackinder said he agreed with Mr. Shaffer and explained that 299 computers should read 150 desk tops, work stations, lap tops and iPads and the 299 includes all of the accessories to the computers. He indicated that the City provides computers to the contract employees: five with United Water and six with Technology Services. He explained that the difference in cost between leasing and purchasing is approximately \$12,800 more for leasing spread over a four year period. He explained the advantages of leasing in bulk commodities, including but not limited to: timely replacement and upgrades in order to keep up with technology requirements; limiting maintenance issues by providing a continuously standardized fleet of computers; reducing the time and expense of equipment disposal; allows for a predictable year to year budget instead of large spikes every three to four years; the leasing vendor is a vendor in good standing with the City who provides competitive lease rates, several flexible terms such as no cost equipment disposal and reimbursement for

non-functioning equipment and more. He offered to elaborate further acknowledging that the rest of the justifiers are in the e-mail he sent out earlier.

In answer to Councilmember Reid, Mr. Mackinder noted that there are five additional units over the current lease, and indicated that that includes the twelve iPads that will reside on the dais to be used for the electronic agenda system. With regard to Capital Advantage Leasing, the lease is up in October 2015; and, in answer to her question of why push the lease to four years instead of having it remain a three-year lease, Mr. Mackinder said it is anticipated that the new computers will be sufficiently capable of handling the anticipated software upgrades of various applications utilized by the City and the City has had very good success rates with the Lenovo Units. He indicated that the new computers come with the most up-to-date operating system, and the City of Portage participated in the special cooperative Federal pricing program called ITA; and while this does meet the purchasing requirements, the City obtained two additional quotes and both came back higher than the CDWG vendor quote and explained.

Finally, Mr. Mackinder indicated that the remaining 25 % of the computers are leased and the past practice was to stagger these leases in a timeframe of approximately six months which was ideal, but the recession compelled the City to come off of that schedule which allowed the Administration to combine two of the leases which resulted in this one large lease. He noted that owing to the quantity of computers contemplated by this lease, it will take as much as three months to roll them all out. Discussion followed. In answer to Councilmember Reid, Mr. Mackinder described the other devices and their location that are part of the "related equipment" portion of the request. Discussion followed.

Motion by Urban, seconded by Ansari, to approve the four-year lease of 299 Lenovo replacement computers and related equipment from Capital Advantage Leasing of Grand Rapids, Michigan, at a lease price of \$146,760 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.

\* **AMENDMENT TO THE GENERAL APPROPRIATIONS ACT:** Motion by Urban, seconded by Randall, to amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2016. Upon a roll call vote, motion carried 6 to 0.

\* **2015-2025 CAPITAL IMPROVEMENT PROGRAM AMENDMENTS:** Motion by Urban, seconded by Randall, to approve the amendments to the 2015-2025 Capital Improvement Program. Upon a roll call vote, motion carried 6 to 0.

\* **PORTAGE PUBLIC SCHOOLS/PORTAGE ATHLETIC FOUNDATION AGREEMENT TO LOCATE SIGN IN RIGHT-OF-WAY:** Motion by Urban, seconded by Randall, to renew the Agreement To Locate Sign in Right-of-Way between the City of Portage and Portage Public Schools/Portage Athletic Foundation and authorize the City Manager to execute the agreement on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **STORY POINT SENIOR LIVING PROJECT - PUBLIC FINANCE AUTHORITY REVENUE BONDS:** Motion by Urban, seconded by Randall, to adopt the resolution approving the issuance of Public Finance Authority Revenue Bonds for Portage Care, LLC, for the Story Point Senior Living Project (3821 West Milham Avenue). Upon a roll call vote, motion carried 6 to 0.

\* **AUGUST 2015 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Urban, seconded by Randall, to receive the August 2015 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

\* **DEPARTMENTAL MONTHLY REPORTS:** Motion by Urban, seconded by Randall, to receive the Departmental Monthly Reports from the various departments. Upon a roll call vote, motion carried 6 to 0.

## COMMUNICATION:

### **LINDA TEETER, CHAIRPERSON FOR THE KALAMAZOO COUNTY**

**TRANSPORTATION AUTHORITY:** Linda Teeter, Chairperson for the Kalamazoo County Transportation Authority (KCTA), 3757 Cedar Ridge, Kalamazoo, and Paul Ecklund 2013 Winters Drive, two original members of KCTA appointed in 2005 at a time when METRO ridership was 90,000. Mr. Ecklund emphasized the importance of transit to the citizens of Portage and analyzed the ridership numbers for the Fixed Routes in Portage; the Metro County Connect S; and the Community Service Van. In response to Mayor Pro Tem Pearson, Ms. Teeter indicated that there were 150,000 rides in 2014. Discussion followed. Ms. Teeter thanked Mayor Pro Tem Pearson and Councilmember Urban for serving on the CCTA; thanked the citizens for their vote in favor of the Transportation Authority millage in August that will be collected in Portage in July.

Ms. Teeter reviewed the work thus far on the comprehensive agreement among the KCTA, the CCTA, the Transportation Authority for the Kalamazoo City and the Kalamazoo City Commission and the plan for review and discussion. She indicated that the agreement includes all of the details regarding the employees affected by the changes; all of the financial implications; the lease agreement for the property; the transfer of all of the capital assets; and, the special services agreement between the City of Kalamazoo and the CCTA. She remarked that this document is transformational and can be a model of how communities in the area work together going forward. Discussion followed. Ms. Teeter discussed Metro County Connect which has 0.4 mills countywide, and she inferred that the goal is for it to go down to 0.3 mills by 2016.

Mayor Pro Tem Pearson indicated that the Council was divided at first on whether to include all of the precincts in the millage election; noted the importance to people trying to get to work and to young people who are looking forward to mass transportation. He cited the days of buying a new car every three years are over and young adults are interested in countywide transit and included Councilmember Urban when he expressed his appreciation for working with other County leaders in this effort.

Councilmember Ford expressed his support and expressed his appreciation for being able to reduce the millage and stressed the importance of countywide transit in Kalamazoo. Discussion followed.

In answer to Councilmember Reid, Ms. Teeter indicated that in the interest of transparency, the draft of the comprehensive agreement among the KCTA, the CCTA, the Transportation Authority for the Kalamazoo City and the Kalamazoo City Commission will be made available as soon as it is distributed as a public document, hopefully online, and will let Mr. Shaffer know when so he can let everyone know. Discussion followed.

Councilmember Randall asked whether consideration had been given to having a shuttle between the Kalamazoo Airport and the Detroit Metro Airport and discussion followed.

Motion by Ansari, seconded by Reid, to receive the presentation by Linda Teeter, Chairperson for the Kalamazoo County Transportation Authority, with an update on transportation in the county. Upon a voice vote, motion carried 6 to 0.

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

- Portage Zoning Board of Appeals of July 13, 2015.
- Portage Youth Advisory Committee of August 3, 2015.
- Portage Human Services Board of August 6, 2015.
- Portage Planning Commission of September 3, 2015.

## **COUNCIL COMMITTEE REPORTS:**

**CENTRAL COUNTY DISPATCH AUTHORITY:** As Chair of the Executive Director Search Team for the Central County Dispatch Authority (CCDA), Mayor Pro Tem Pearson extended his appreciation to Councilmember Claudette Reid for her service on the Authority and extended a special tribute to City Manager Shaffer, who has done most of the work. He explained the Authority had 18 candidates, met for nine hours and interviewed extensively, scored them and brought two candidates back the next day to the full Authority and "grilled" them. He indicated that all of those meetings were held in City Council Chambers and expressed his surprise that Police Chiefs, Fire Chiefs and elected officials from throughout the County commented that they had never been in Portage City Hall before. He confirmed that the Authority has two excellent finalists and their background checks are currently being conducted. He deferred to Councilmember Reid, who added that the entire Board did the final interviews of the two candidates and the Authority authorized the group to conduct face to face investigations of each of the candidates with a report back for a decision of which candidate should get a job offer. As a member of the Budget Committee, she reported that one of the things the Committee identified was that the by-laws did not include a position for a Treasurer, and it will take 60 days to make the necessary addendum to the by-laws. She noted that in the meantime, the Committee is working on getting the banking and legal service needs in place. Discussion followed.

Motion by Reid, seconded by Ansari, to receive the update from Mayor Pro Tem Pearson and Councilmember Reid regarding the Central County Dispatch Authority. Upon a voice vote, motion carried 6 to 0.

**CENTRAL COUNTY TRANSIT AUTHORITY:** Mayor Pro Tem Pearson deferred to Councilmember Urban, who provided an update regarding the September 4, 2015 Central County Transit Authority (CCTA) meeting. Councilmember Urban indicated that the Kalamazoo County Transportation Authority hired a consultant who provided a ten-year vision for the Authority and fielded a number of questions from the members of the Authority. He said that a final version of the ten-year vision will be available sometime in the future.

Motion by Reid, seconded by Ansari, to receive the report from Councilmember Urban regarding the Central County Transit Authority (CCTA). Upon a voice vote, motion carried 6 to 0.

## **BID TABULATIONS:**

**SOUTH WESTNEDGE AVENUE AND ROMENCE ROAD LOCAL SAFETY PROJECT – TABULATION OF PROPOSALS:** At the request of Mayor Pro Tem Pearson, City Clerk Jim Hudson explained that this item was not on the Consent Agenda because City Council needed to first approve Item F.3, 2015-2025 Capital Improvement Program amendments, in order to release the funds. Motion by Randall, seconded by Ansari, to award an engineering services contract to Abonmarche Consultants, Incorporated, for the South Westnedge Avenue and Romence Road Local Safety Project in the amount not to exceed \$47,840 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0. Mayor Pro Tem explained that the purpose for this action and the action taken in Item L.2, Design Engineering Services for Intersection Improvements, is for safety reasons. He explained that people have been asking what ever happened to the need to redesign the intersection at Lakeview Drive and Portage Road after that tragic accident where a young girl lost her life. He indicated that the City has made some adjustments and that there has been some discussion of constructing a roundabout or moving the intersection to the south, so an engineering study is necessary.

\* **DESIGN ENGINEERING SERVICES FOR INTERSECTION IMPROVEMENTS:** Motion by Urban, seconded by Randall, to award a contract to perform design engineering services for the improvements at the intersections of South Westnedge Avenue / Kilgore Road and Portage Road / Lakeview Drive to Abonmarche Consultants, Incorporated, in the amount not to exceed \$46,835 and

authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **2016 PORTAGE SENIOR CENTER MOTOR COACH SERVICES:** Motion by Urban, seconded by Randall, to approve the low bid from Cardinal Buses, Inc., for motor coach services for the 2016 Portage Senior Center travel program in the estimated amount of \$35,924.25 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.

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

**STATEMENTS OF CITIZENS:** In response to Monifa Jumanne, 6286 Silver Fir Street, Mayor Pro Tem Pearson explained that his awareness of the increased use of public transportation by the younger generation comes from articles he has read in the *Wall Street Journal*; Councilmember Randall provided personal examples of her son in Grand Rapids and her son in Denver as further support; and Councilmember Ford cited his own experience living in Chicago for six years.

**STATEMENTS OF CITY COUNCIL CANDIDATE:** Tim Earl, 6862 Shallowford Way, spoke as a candidate for City Council which will be determined at the November 3, 2015 City Election, explained that respect for City Employees is the theme of his campaign, and cited the layoff of a 26-year City employee while she was on medical leave as an example of his perception of reduced morale among employees at City Hall.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Ford indicated that he attended the two single-stream recycling events and spoke to the merits of the program. He also announced that he has been appointed as the President of the Kzoo Spartans as of October 2015.

Councilmember Randall encouraged citizens to obtain the new recycling bin in order to be able to participate in the recycling program. She also announced the partnership between the City of Portage and the People's Food Co-op, a world class market, to form a Farmer's Market featuring more than 20 small businesses that will take place twice this fall on Sunday, October 4 and Sunday, October 18 from 12 noon until 4 p.m. at the Portage Senior Center, 320 Library Lane. She also mentioned the Candidate Forum sponsored by MLive held September 30, 2015, at 6 p.m., Portage District Library, 300 Library Lane. Finally, she wished all of our Jewish friends and neighbors a happy Yom Kippur, which began at sundown and ends at sundown on September 23, 2015.

Councilmember Urban concurred with Council Candidate Tim Earl and said the way this employee was treated does not represent the values of this City, of past Administrators, nor the values that he has held during his 34 years with the City. He emphasized that with the City of Portage form of government, the City Council as a whole and as individuals should have no influence with personnel matters, but the courts may. He discussed the cuts in personnel by the City, but found no value in eliminating the Benefit Services Department. With regard to the employee in question and her decision not to interview, he pointed out that she was on medical leave and not cleared for business activities by her physician.

Councilmember Reid announced that the Listening Post would be having a meeting at 8 a.m. on Friday, September 25, 2015, at the Hampton Inn to discuss the Kalamazoo County Local Housing Assistance Fund Millage for families with children of low income who are homeless or at risk of homelessness. She also encouraged all to attend the Portage 2025 Strategic Planning Initiative Renewal that will take place on Saturday, October 3, 2015, from 9 a.m. until 2 p.m. at Portage Central High School Auditorium, 8135 South Westnedge Avenue; and, at her request, City Manager Larry Shaffer indicated that if someone wishes to sign up to participate in the event, he or she should call Mary Beth Block at 329-4405.

City Manager Shaffer indicated that new Pickleball Courts will be dedicated at Ramona Park, Monday, September 28, 2015, at 1 p.m. He congratulated Kendall Klingelsmith and Rod Russell for

their hard work on that project and explained. He also announced that the public session regarding the Capital Improvement Program (CIP) will take place Monday, September 28, 2015, at 7 p.m. as an opportunity for public comment and input for staff review and consideration.

Mayor Pro Tem Pearson expressed his appreciation for Mr. Shaffer's use of a Best Practice to begin the CIP process with the citizens instead of with the staff as was the past practice and encouraged all citizens to attend. He recounted his presentation as a Planning Commissioner regarding single-stream recycling to the Environmental Board and expressed his appreciation for the persistence of the Board over the last six years, the willingness of Mr. Shaffer to make the change and the appreciation of his neighbors who have approached him to thank him for the improvement.

**ADJOURNMENT:** Mayor Pro Tem Pearson adjourned the meeting at 8:55 p.m.

James R. Hudson, City Clerk

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

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – September 14, 2015

The City of Portage Zoning Board of Appeals meeting was called to order by Jeffrey Bright at 7:00 p.m. in the Council Chambers. Four people were in the audience.

**MEMBERS PRESENT:** Glenn Smith, Jeffrey Bright, Michael Robbe, John Byrnes, Phillip Schaefer, Chadwick Learned, Randall Schau, and Alexander Philipp.

**MEMBERS EXCUSED:** A motion was made by Learned, seconded by Smith to excuse Lowell Seyburn. Upon voice vote, motion was approved 7-0.

**IN ATTENDANCE:** Jeff Mais, Zoning & Codes Administrator and Charlie Bear, Assistant City Attorney.

**APPROVAL OF THE MINUTES:** Learned moved and Philip seconded a motion to approve the July 13, 2015 minutes as submitted. Upon voice vote, the motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA #15-3, Allied Signs on behalf of Earth Fare, 531 West Kilgore Road, 5024, 5036, 5050, 5070 South Westledge Avenue:** Mais summarized the request for a variance to erect a 125 square-foot wall sign on the west elevation where no additional signage is permitted. Patrick Stieber with Allied Signs stated the sign is needed to help identify the business to traffic using the Lowe's Kilgore Road access drive. Mr. Stieber stated the building's setback is also a visibility issue. Philipp inquired if there was some reason the freestanding sign on Kilgore was ineffective. Mr. Stieber responded their panel was small. Schau noted the freestanding sign identifying Earth Fare is located just west of the second Kilgore Road access drive and if motorists travelling east on Kilgore Road miss the first drive, there is a second entrance drive that can be used as they approach South Westledge. Bright inquired if the applicant had investigated allocating sign area from one of the other walls to the west elevation. Mr. Stieber stated they had but considered all of the signage on the east and north elevations necessary due to the setbacks.

The public hearing was opened. No one spoke for or against the request. The public hearing was closed.

Schaefer stated he has been to Earth Fare several times and based on the amount of business he observed, it seemed people were not having problems finding the location. Smith stated the building did have a large setback but noted they received extra wall signage and the freestanding sign was quite visible to eastbound West Kilgore traffic. A motion was made by Smith, seconded by Schaeffer, to deny a variance to erect a 125 square-foot wall sign on the west elevation where no additional signage is permitted for the following reasons: there are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district; the variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available, such as erecting directional signs; the variance would be detrimental to adjacent property and the surrounding neighborhood, and; the variance would materially impair the intent and purpose of the zoning ordinance. Upon roll call vote: Smith-Yes, Philipp-Yes, Robbe-Yes, Bright-Yes, Learned-yes, Schau-Yes, Schaeffer-Yes. The motion passed 7-0.

**ZBA #15-4, 204, 212, 220 West Milham Avenue:** Mais summarized the request for a variance from the parking requirements to provide 96 off-street parking spaces where a minimum 114 spaces are required. The applicant, Mark Tomasik, provided a letter dated September 8, 2015 to the Victory Baptist Church, 308 West Milham Avenue, proposing a lease agreement to use 18 church parking spaces for the applicant's employees Mondays through Saturdays during operating business hours. The applicant also provided an email response from the church minister dated September 14, 2015 indicating tentative agreement, pending church board approval. Mr. Tomasik stated the business owner, Larry Walt, currently operates several other facilities in the state with comparable building area that provide fewer parking spaces than the proposed plan with no parking problems. Mr. Tomasik stated they needed fewer spaces than required by city code because of the staggered employee schedules and the same salon-spa employees perform multiple tasks in different locations in the building. Consequently, all the styling chairs will not be in use at the same time.

Schau inquired if the applicant had looked at different parking configurations to maximize the number of spaces. Mr. Tomasik responded yes. Learned requested clarification concerning the lease agreement with the church. Mais stated staff suggested the applicant could investigate the possibility of a parking agreement with neighboring properties as a potential condition should the Board approve the variance. Such an arrangement could serve as a means to address overflow parking in the event the applicant's parking projections prove incorrect. Schau inquired if code permitted parking on someone else's property. Mais stated no, but in this instance the Board may find it meets the spirit and intent of the code. Attorney Bear stated a condition requiring an applicant to provide parking on someone else's property was problematic, as the church property could, for example, be sold to someone who may not consent to continue the parking agreement. Learned noted the parking standards might change with different occupancy in the future. Mais stated staff had considered this and if the building's occupancy were to change to general retail or office, the parking requirements would decrease. However, a combination of more intensive uses was a possibility as well. Learned inquired if the Board were to grant the variance, could a use requiring more parking locate there. After conferring with Attorney Bear, Mais responded the appeal was specifically to provide 96 parking spaces where 114 spaces are required and that if future occupants wished to locate there requiring a greater number of parking spaces than 114, they would need Board approval to do so.

The public hearing was opened. Larry Walt reiterated he has operated similar stores successfully for many years with less parking than the proposed plan. Mr. Walt added if the Board wanted him to enter into a lease agreement with the church for 18 parking spaces he had no objections, but thought it very unlikely they would ever be needed. There being no further comments, the public hearing was closed.

Robbe noted the applicant had conforming alternatives available and could simply reduce the number of chairs to meet code. Bright stated he appreciated staff's efforts to work with the applicant in devising possible solutions. Schau stated if the characteristics of the applicant's business operations were to be considered a practical difficulty, then it is essentially a self-created hardship. A motion was made by Learned, seconded by Schaeffer, to grant a variance from the parking requirements to provide 96 off-street parking spaces where a minimum 114 spaces are required with the condition that staff may, at its discretion at any time during the next two years, require the applicant to enter into a parking agreement for 18 spaces with the owner of 308 West Milham Avenue if they find parking to become a problem, for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the unique nature of the applicant's business that requires less parking; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to run a business that will not create a hardship for the public which is similar to that possessed by other properties in the vicinity; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and; and the variance will not impair the intent and purpose of the Zoning Code. Upon roll call vote: Smith-Yes, Philipp-Yes, Robbe-No, Bright-Yes, Schau-No, Schaeffer-Yes, Learned-Yes. The motion passed 5-2.

**OTHER BUSINESS:** Mais announced interested citizens could comment on the 10-year capital improvement program either online or at the 7 p.m. community open house at City Hall on September 28, 2015. Interested parties could also attend the Portage 2025 Renewal event at Portage Central High School on October 3, from 9 a.m. to 2 p.m.

Chairman Bright stated he was running for City Council but would continue to serve on the Board, and would step down in the event he is elected.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator

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

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	<p>-Beginning in 1991, South Westledge Park (landfill) has been monitored for on-site and off-site contamination. On July 23, 2013, City Council approved a three-year contract with American Hydrogeologic Corporation (AHC) to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. Initial groundwater and methane results indicate no off-site impact. AHC currently compiling MDEQ sampling requirement costs necessary for closure at the former landfill site. Weekly methane sampling is continuing on-site to collect base line data. AHC is completing the installation of private methane detection devices at several adjacent properties. Soil boring installation was completed on May 28, 2014. Current methane readings have been below detection levels. The 2<sup>nd</sup> year of AHC's contract is underway with annual report pending.</p>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	<p>-Coordination with property owners and City or State agencies ongoing. -Review of 5 site/building plans and/or plats completed in August 2015.</p>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<p>-Sanitary sewer hookup permits issued in August 2015: 20 residential; 1 commercial.</p>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	<p>-Five Year Lake Management Assessment District process was approved by City Council. The West Lake Improvement association has completed a five year plan for a new special assessment district. Special assessment process for 2015-2019 began on August 26, 2014. Resolution No. 5 completing the assessment was adopted October 21, 2014. Year-end report by the consultant is complete. The Association has selected to use</p>

Restorative Lake Sciences, LLC for consulting services for 2015. Treatment application completed in mid-June. Follow-up inspection of treatment will be done by Restorative Lake. The 2015 weed treatment bids were received on February 24, 2015. City Council approved weed treatment contract with Professional Lake Management Company on April 10, 2015. Weed treatment was completed in June.

Retention Basin  
Sampling Program  
(Groundwater  
Elevation)

Investigation regarding potential impact of retention basins on groundwater levels.

-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to storm water infiltration. Alternative road salt practices continue to be considered and evaluated. The 2013 report was received noting minimal impacts. The 2013 report is available on the website for public information. Bids were received for a new four year program on April 16, 2014. The low bidder, Nova Consultants, was awarded a four-year contract by City Council on April 29, 2014. *Monitoring performed in October 2014 and July 2015. Monthly sampling at two retention basins continues. Current findings show a rise in groundwater levels of approximately 6 inches over 2014 levels.*

Wellhead Protection  
Program (WHPP)

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

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

Leaf Compost  
Monitoring Program

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

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

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

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

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

National Pollution Discharge Elimination System (NPDES) Permit Implementation  
Kalamazoo River Mainstream Watershed Management Plan

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

## Portage River Watershed Management Plan

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

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

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

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