

5:30 p.m. Committee of the Whole Meeting - Electronic City Council Participation.

7:00 p.m. Call to Order.

Invocation: Pastor Aaron Johnson of the Valley Family Church.

Pledge of Allegiance.

Roll Call.

Proclamations:

1. Resolution of Respect for the 100th Birthday of Helen L. Hoogenboom.

A. Consent Agenda:

1. Approval of City Council Meeting Minutes:
  - a. Regular Meeting of January 23, 2018.
  - b. Pre-Council of February 12, 2018.
2. Approval of the Accounts Payable Register of February 13, 2018 as presented.
3. Approve a Legal Services agreement with Miller Canfield in the amount of \$145,700 to represent and advise the City of Portage in obtaining real estate interest in property for development of the Austin Lake Trail project and authorize the City Manager to sign all documents pertaining to the agreement of behalf of the city.
4. Approve a budget transfer of \$550,000 from the General Fund to the Capital Improvement Fund for the proposed 2018-2019 Major and Local Street Projects and authorize the City Manager to sign all documents on behalf of the city.
5. Approve Change Order No. 1 in the amount of \$72,936 to Perceptive Controls, Incorporated to furnish and install electronic card readers with the necessary appurtenances, complete the necessary programming and authorize the City Manager to execute all documents related to the contract on behalf of the city.
6. Approve the purchase of property addressed as 9125 Portage Road in the amount not to exceed \$220,000 and authorize the City Manager to execute all documents on behalf of the city.
7. Approve Change Order No. 2 to Balkema Excavating, Incorporated, of Plainwell, Michigan, in the amount of \$41,484.49 and authorize the City Manager to execute all documents related to the contract on behalf of the city.
8. Approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total cost not to exceed \$509,112 for the period of March 1, 2018 to March 1, 2019 and authorize the City Manager to execute all documents related to this action on behalf of the City.
9. Approve the purchase of an ICON Shelter from Penchura, LLC, of Brighton, Michigan, to be constructed at the Celery Flats Historical Area at a cost of \$201,880 and authorize the City Manager to sign all documents related to this purchase on behalf of the city.
10. Approve the Uniform Video Services Local Franchise Agreement submitted by AT&T Michigan pursuant to the Public Act 480 of 2006 (MCLA 44.3301 et. seq.), the Uniform Video Services Local Franchising Act, adopt the Resolution Authorizing Franchise and authorize the City Manager to execute all documents related to this action on behalf of the city.
11. Establish April 17 and May 1, 2018, from 4:30 to 8:30 p.m. as the dates for review of the proposed Fiscal Year 2018-2019 Budget.
12. Minutes of Boards & Commissions:

- a. Portage Public Schools Board of Education of December 11, 2017 and January 8, 2018.
    - b. Historic District Commission of January 3, 2018.
    - c. Planning Commission of January 4 and 18, 2018.
    - d. Human Services Board of January 4 and 18, 2018.
  - 13. Materials Transmitted.
    - a. January 23, 2018.
  - B. Petitions and Statements of Citizens:
  - C. Communications:
    - 1. Calendar of Meetings.
    - 2. Presentation by the Youth Advisory Committee regarding the annual update - Information Only.
    - 3. Communication from the Mayor recommending that City Council receive the 2018 calendar year appointments to City Council Committees.
  - D. Public Hearings:
  - E. Regular Business Agenda:
  - F. Unfinished Business:
  - G. Council Committee Reports:
  - H. New Business:
    - 1. Public Media Network (PMN) Update - Information Only.
  - I. Statements of Citizens:
  - J. Statements of City Council and City Manager.
- Adjournment.

# RESOLUTION HONORING

## Helen L. Hoogenboom

- WHEREAS,** Helen Hoogenboom was born Helen L. Palmatier on February 16, 1918 in Monroe, Michigan; and
- WHEREAS,** Helen Hoogenboom married Gerrit Cornelius Hoogenboom in 1940, remaining in Monroe during World War II while Gerrit was stationed in New Guinea; and
- WHEREAS,** Helen Hoogenboom, along with her husband Gerrit, are the proud parents of adopted daughters Julie and Linda; and
- WHEREAS,** Helen Hoogenboom, in her many years, has enjoyed both dancing and travel with her husband, traveling around the country, as well as Europe.
- WHEREAS,** Helen Hoogenboom, an accomplished cook, is widely renowned for her Dutch desserts, jams, and appetizers.
- WHEREAS,** Helen Hoogenboom, known for her quick wit, bright smile, engaging mannerisms, and sunny disposition, remains blessed with a host of friends and family members.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Portage, Michigan, acknowledge the landmark 100 years of life Helen L. Hoogenboom has garnered and the wealth of knowledge and experience such a tremendous birthday brings.

Dated: February 13, 2018

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Mayor Patricia M. Randall

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Councilmember Claudette Reid

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Mayor Pro Tem Jim Pearson

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Councilmember Terry Urban

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Councilmember Chris Burns

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Councilmember Richard Ford

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Councilmember Lori Knapp





**CITY COUNCIL MEETING MINUTES FROM JANUARY 23, 2018**

The Regular Meeting was called to order by Mayor Randall at 7:00 p.m. At the request of Mayor Randall, Pastor Rachel Laughlin of Prince of Peace Lutheran Church gave the invocation and the audience then recited the Pledge of Allegiance. At the request of Mayor Randall, the City Clerk called the roll with the following members present: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid and Terry Urban and Mayor Patricia Randall. Mayor Pro Tem Jim Pearson was absent with excuse. Also in attendance were City Manager Larry Shaffer, City Attorney Randy Brown and City Clerk Adam Herringa.

**CONSENT AGENDA:** Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Councilmember Reid asked that Item A.4, Change Order with Kamminga & Roodvoets, Incorporated, be removed from the Consent Agenda. Councilmember Reid also asked that Item A.7, Small Cell Distributed Antenna System License Agreement, be removed from the Consent Agenda. All items removed from the Consent Agenda were moved to the Regular Business Agenda (Section E).

Motion by Reid, seconded by Burns, to approve the Consent Agenda items as presented. Upon a roll call vote, motion carried 6 to 0.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Burns, to approve the Special and Regular Meeting Minutes of January 9 and Pre-Council Meeting Notes of January 22, 2018. Upon a roll call vote, motion carried 6 to 0.

**APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JANUARY 23, 2018:** Motion by Reid, seconded by Burns, to approve the Accounts Payable Register of January 23, 2018. Upon a roll call vote, motion carried 6 to 0.

**STRYKER WAY/PORTAGE ROAD TRAFFIC SIGNAL AND INTERSECTION IMPROVEMENTS:** Motion by Reid, seconded by Burns, to award a construction contract to the low bidder, Severance Electric, Incorporated, of Kalamazoo, Michigan, in the amount of \$423,574.54 for the new Stryker Way/Portage Road Traffic Signal and Intersection Improvements and authorize the City Manager to sign all other documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**TWO-YEAR PRICING AGREEMENT WITH ADP, LLC:** Motion by Reid, seconded by Burns, to approve a two-year pricing agreement with ADP, LLC, for electronic payroll processing and time and attendance software and hosting at a first-year cost of \$56,500 and a second-year cost of \$57,600 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.

**KALAMAZOO COUNTY HOUSEHOLD HAZARDOUS WASTE COLLECTION SERVICES:** Motion by Reid, seconded by Burns, to approve a contract with Kalamazoo County to provide hazardous waste collection services at the Household Hazardous Waste Center for Portage residents for the 2018 calendar year in the amount of \$41,000 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.



**COMMITTEE OF THE WHOLE MEETINGS:** Motion by Reid, seconded by Burns, to approve Committee of the Whole meetings on February 13, February 27 and April 24, 2018 at 5:30 p.m. Upon a roll call vote, motion carried 6 to 0.

**DECEMBER 2017 ENVIRONMENTAL REPORT:** Motion by Reid, seconded by Burns, to receive the December 2017 Environmental Report as Information Only. Upon a roll call vote, motion carried 6 to 0.

**MINUTES OF BOARDS AND COMMISSIONS:** Motion by Reid, seconded by Burns, to receive minutes of the Youth Advisory Committee of December 4, Zoning Board of Appeals of December 11, Environmental Board of December 13 and Planning Commission of December 21, 2017. Upon a roll call vote, motion carried 6 to 0.

**MATERIALS TRANSMITTED:** Motion by Reid, seconded by Burns, to receive the Materials Transmitted of January 5, 2018 and Department Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

#### **COMMUNICATIONS:**

**CALENDAR OF MEETINGS:** Motion by Ford, seconded by Knapp, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 6 to 0.

#### **REGULAR BUSINESS AGENDA:**

**CHANGE ORDER #1 WITH KAMMINGA & ROODVOETS, INCORPORATED:** Mayor Randall invited Councilmember Reid to speak regarding this item and Councilmember Reid expressed concern with a change order that is approximately one-half of the original contract. She questioned why, given the size of the change order, the matter wasn't put out for bids. City Manager Shaffer stated that the change order is part of a larger project and cited aspects of the project that necessitated the change order. He continued by explaining why it made sense to issue the change order and allow the existing contractor to perform the work citing technical and engineering factors. Councilmember Reid reviewed components of the work that is to be performed under the change order and commented that the work does not seem to be part of the original concept of the project. She continued by stating that other vendors may have been able to perform the work for less if given the opportunity to bid.

Director of Transportation and Utilities Kendra Gwin reviewed the overall project and proposed work involved in the change order. She explained that performing the work involved in the change order will only add a minimal amount to the project timeline. Ms. Gwin also reviewed the cost of the project and how much will be required of the City of Portage, City of Kalamazoo and Texas Township. She next pointed out the contribution of the City of Portage is minimal. Councilmember Reid stated that, regardless of who is paying for it, the City of Portage has a responsibility to be good financial stewards. Councilmember Urban inquired how much of the change order is for materials and how much is for labor. Ms. Gwin reviewed some of the materials involved and indicated that materials compromise a majority of the cost. Mayor Randall stated that the project seems to be building for the future and inquired if Texas Township had expressed any concerns with the cost of the project as they are paying a vast majority of the cost. Director Gwin stated that Texas Township has shared some concerns about cost and the City of Portage has worked to get the price of the project down while getting the best value and cited design changes in the project as an example. Councilmember Burns inquired if the City had any rules or procedures regarding when a change order must go out to bid. City Manager Shaffer stated that the City did not have formal rules in place in this regard but reviewed

the purchasing rules and procedures. Mr. Shaffer concluded by stating that, when it comes to change orders, it is often the case that it is cheaper to go with the existing contractor as they are already mobilized, onsite and are familiar with the project. Inserting a new contractor, he stated, is often more costly and problematic. Motion by Ford, seconded by Burns, to approve Change Order #1 with Kamminga & Roodvoets, Incorporated, in the amount not to exceed \$236,286.96 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 5 to 1 with Councilmember Reid voting no.

**SMALL CELL DISTRIBUTED ANTENNA SYSTEM LICENSE AGREEMENT:** Mayor Randall invited Councilmember Reid to speak regarding this item and Councilmember Reid stated that the proposed agreement with Mobilitie would bring a new type of infrastructure into the community. She inquired as to the difference between antennas placed on private v. public land and how the placements are managed. City Manager Shaffer explained the aesthetics of the proposed antennas and why cell phone carriers are interested in “small cell distributed antenna systems.” Mr. Shaffer stated that the proposed Agreement is a comprehensive approach to regulate the antenna system and protect against proliferation. Director of Information and Technology Devin Mackinder explained that cell phone carriers are looking to antenna systems such as this to boost capacity and address service demand issues. He also shared that an attorney with expertise in developing agreements in this field was consulted to assist the City of Portage with this proposed Agreement. Director of Community Development Vicki Georgeau explained the differences between antennas involved in this system and the larger cell phone towers. She continued by explaining how these small antennas can and cannot be regulated when placed in the public right-of-way and that the Agreement and related permitting process provides the City with the tools it needs to regulate the system. Director Georgeau shared details of the Agreement as to where the antennas are encouraged to locate and the process involved in locating an antenna on private space or in a residential area. One of the goals, she stated, is for the antenna system to balance community impact with service demands.

Councilmember Knapp inquired if the antennas were non-exclusive. Director Georgeau confirmed and stated that Mobilitie can contract with multiple cell providers. Councilmember Ford inquired if the small antennas would impact the revenue the City receives for permitting the larger towers and Director Georgeau stated that the smaller antennas are best viewed as supplemental to the larger towers. Councilmember Burns confirmed with Director Georgeau that the proposed agreement is for small antenna systems and not extremely tall antennas. Mayor Randall inquired if, after several years the technology changes or something happens to the company there is a provision for the company to remove the towers. Mr. Mackinder confirmed there are mitigations incorporated within the Agreement. Councilmember Reid inquired how the company is incentivized to co-locate the antennas on existing structures and Ms. Georgeau shared that this was built into the Agreement. With regard to residential areas, and in response to a question from Councilmember Reid, Director Georgeau reviewed the process by which an antenna could be placed in a residential setting. Councilmember Reid inquired if there was a plan to notify nearby residents and businesses when a tower is being installed. Mr. Mackinder stated that notifications are required when, for example, traffic must be re-routed. Otherwise, he stated, notifications would occur on a case by case basis. Councilmember Reid stated there was some pushback when wi-fi was installed in city parks and questioned whether a review had been conducted as to the safety of the antenna system. Mr. Mackinder replied that the Federal Communications Commission has reviewed and cleared the antenna system. Should health issues be identified, Mr. Mackinder stated that there are provisions for removing the antennas. In response to a question from Councilmember Urban, Ms. Georgeau provided a picture of a sample antenna and again reviewed the steps involved in permitting the installation of an antenna.

Motion by Reid, seconded by Knapp, to approve the Small Cell Distributed Antenna System License Agreement between the City and Mobilitie, LLC, 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.

**FIRST READING OF MEDICAL MARIHUANA FACILITIES ORDINANCE:** At the request of Mayor Randall, Director of Community Development Vicki Georgeau reviewed the legal history of medical marihuana laws in Michigan and how communities can authorize medical marihuana facilities in their boundaries. Ms. Georgeau reviewed the proposed amendments to Chapter 14 of the Code of Ordinances and the Zoning Code. Finally, Ms. Georgeau reviewed the various steps taken by the City of Portage with regard to authorizing medical marihuana facilities in the community including a recent unanimous vote of the Planning Commission to accept the proposed changes to the Zoning Code.

City Manager Shaffer complimented Director Georgeau and other City staff for their efforts and stated that City Administration has tried to meet the demands of City Council and provide for, as this is new to the community, a conservative approach. Mr. Shaffer then highlighted recent additions and changes to the proposed ordinances. Mr. Shaffer explained he was confident that any applicant getting a license will be of high quality due to the rigors of the state and proposed local process.

Councilmember Reid stated that she was pleased with the 1,000 foot separation requirement in the latest version of the proposed ordinance and questioned why a lottery system was now being proposed instead of merit-based system. She expressed concern that a lottery system could result in high quality applicants being denied a license while granting a license to an applicant that meets the minimum standards. Assistant City Attorney Charlie Bear responded that the proposed requirements to obtain a permit from the City of Portage are detailed and comprehensive to help ensure that any applicant receiving a license is of high quality. The lottery, he stated, only comes into play if there are conflicts with distance requirements. A lottery, Attorney Bear continued, is a fair and equitable way to decide conflicts. A merit system like the one in use by the City of Lansing, is problematic from a legal perspective due to subjectivity. Mr. Bear expressed concern with potential litigation, people seeking damages, and a potential injunction against the permitting process. Litigation, Mr. Bear pointed out, could take years to be resolved and cited recent court cases involving the City and medical marihuana entities as an example. Mr. Bear continued by stating that the proposed process in the City of Portage is far more comprehensive than many other communities and this is to promote quality in the process. Director Georgeau stated that a merit-based permit process would be unusual for the City of Portage in that, when an applicant applies for any number of other permits, if the minimum is met, the permit is granted. She stated that the closer she looked at the merit-based approach the more concerned she was, especially with the subjectivity component. City Manager Shaffer stated that he understands the appeal of a merit-based system but questioned its practicality and stated that he found the merit-based system in place in Lansing to be weak and vulnerable. Mr. Shaffer expressed confidence that the proposed ordinance sets a high bar that only quality applicants can reach. City Attorney Brown stated that a merit-based system in the private sector and the public sector are very different given the constitutional demands and concerns involved in the public sector.

Mayor Randall asked if the lottery would only apply to provisioning centers, growers and processors. Mr. Shaffer responded in the affirmative and Mayor Randall inquired if two applicants were approved by the State, paid local fees and met local standards but lost the lottery, if they could simply try to move to another location or if they would have to start the process over. Director Georgeau stated that as part of the process an applicant must demonstrate they have an option on a location but, if not selected, the City would not hold up other applicants while another site is located. The applicant would likely have to reapply in the application window the following year.

Councilmember Urban expressed dissatisfaction with the Lansing application and stated that he understands the bar has been raised in the latest version of the ordinances and asked for clarification as to what has been altered. Assistant City Attorney Bear highlighted recent changes to



the proposed ordinances. In response to a question from Councilmember Burns, Ms. Georgeau reviewed the application window and projected timeline of accepting and reviewing applications, issuing licenses and when the lottery would occur. City Attorney Brown stated that while some deadlines are in the ordinance, the ordinance gives the City Manager authority to establish some dates and deadlines.

Councilmember Burns stated that he was in favor of a merit-based system but that discussion this evening is making him reconsider the value of a lottery. Councilmember Knapp concurred with Councilmember Burns and asked for an explanation of the proposed 250 foot border with other municipalities in which a medical marihuana facility would not be permitted. Assistant City Attorney Bear stated that Kalamazoo Township, Kalamazoo City and the City of Portage had discussed incorporating a 250 foot border between municipalities to avoid medical marihuana facilities from clustering around border areas. City Manager Shaffer stated the 250 foot boundary was something discussed but that a formal request had not occurred. He continued by stating that he would follow up with the City of Kalamazoo to get formal clarification. Mayor Randall inquired as to how many properties would be eliminated as potential sites for medical marihuana facilities should the boundary provision be implemented. Ms. Georgeau shared that the provision would reduce the number of available properties for medical marihuana use and reviewed the numbers both with and without the 1,000 foot distance requirements. Mayor Randall inquired if the City of Portage has boundary restrictions involving other businesses and Director Georgeau stated that the City did not. Councilmember Urban stated that he saw value in the 250 foot restriction but only if other units of government are reciprocative. Councilmember Urban inquired, as it related to the 1,000 foot separation requirements if this distance applied to schools, daycares and the like that are located outside the City of Portage. He cited Hackett Catholic Central and Milham Park as examples and wondered if medical marihuana facilities would have to be located a minimum of 1,000 feet from the school or park. Director Georgeau stated the 1,000 foot distance requirement, as it relates to schools, parks, daycares, etc. only applies to those located within the City of Portage. She continued by stating that, following a review, there are currently no viable parcels for medical marihuana within 1,000 feet of such facilities located outside the City of Portage. Regardless, Councilmember Urban stated he would like to see that provision incorporated in the proposed ordinance.

Councilmember Urban next inquired as to where co-location of medical marihuana facilities will be permitted in the City of Portage and Mr. Bear replied that co-location is not permitted but could be in the future. Mr. Urban next reviewed the "stacking" of grow licenses, if a grower would have to get separate licenses and if our ordinance, as written, would permit such a thing. With regard to stacking, Mr. Shaffer stated that it was permissible via state statute. Director Georgeau commented that she would review the concerns expressed by Councilmember Urban.

Councilmember Ford stated that in the past there was discussion of a six-month waiver to allow businesses to locate within 1,000 feet of each other and wondered how City Administration progressed from this to a lottery. Director Georgeau stated that the potential waiver was related to when the City was considering 12 licenses apiece for provisioning centers, processors and growers. Since then, the City has progressed to not formally limiting the number of licenses and recommending a lottery system. With a lottery, she stated, a waiver in the first year will not be necessary.

Attorney Brown stated that the proposed ordinances are up for First Reading and not a final vote. He continued by stating that a vote in favor of a first reading does not mean that a Councilmember supports the proposed ordinances. Rather, an affirmative vote on a first reading moves the process to the next step which is a public hearing. Mayor Randall then invited public comment.

Devin Loker, 1525 West Centre Avenue, questioned the 1,000 foot setback and wondered if the moment an application is submitted if it would automatically create an island of exclusion with a 1,000 foot radius. Mr. Loker commented that he has yet to see anyone from the public attend a City

Council Meeting and demand a 1,000 separation between facilities. Mr. Loker expressed opposition to the 250 foot border.

Ken Jonatzke, 8318 Portage Road, stated that he has been in business in Portage for over 47 years at the same location and asked for special consideration to transition from a medical marihuana caregiver to a licensed provider. He shared the circumstances of his property as it relates to the proposed ordinance.

Robert Hines, 1601 Applecroft, stated that growing and processing goes hand-in-hand and he would like to seeing growing and processing be co-located. He continued by stating that he looked at potential properties that could be used for a medical marihuana facility and found few available. He concluded by asking that City Council reconsider the distance requirements.

Jevin Weyenberg, 5817 Cheshire, commented that he believes the proposed ordinance will improve access but is still very restrictive. Mr. Weyenberg stated that he looked at potential properties and that many of these properties are already occupied by successful businesses. Conversely, he commented that he believed properties available for medical marihuana businesses are more widespread and affordable in Kalamazoo. He continued by expressing confusion as to what the plan is for the 250 foot border and whether it makes sense to have it apply to all zoning districts and not just residential and whether it makes sense to apply it to all medical marihuana facilities. Mr. Weyenberg supported the request made by Mr. Ken Jonatzke for special consideration.

Josh Cook, 7185 Michigan Street, Mattawan, stated that he, as owner of Green Door Distillery in Kalamazoo, is familiar with the Department of Licensing and Regulatory Affairs and stated his belief that any applicant making it through the State of Michigan's licensing process will be of high quality. Mr. Cook questioned the justification of the 1,000 foot separation between facilities and questioned whether medical marihuana facilities at an industrial park would need separate HVAC systems as utilities at industrial parks are designed to handle multiple tenants.

Kim Willmont, 10028 Harris Drive, commented that the City of Portage is very limited with available properties especially given the proposed 1,000 foot distance requirements. She stated that the proposed 250 foot boundary has a direct impact on a property she just purchased. Ms. Willmont asked City Council to reconsider the 250 foot boundary especially as it relates to the industrial park and grow operations and concluded by stating her support for allowing growing and processing operations to co-locate.

Ryan Dickerson, 633 Daniel, Kalamazoo, expressed concern with the distance requirements and the 250 foot boundary. Mr. Dickerson expressed support for allowing, for example, growing and processing located next to one another. He stated that he looked for properties in Portage but they are limited and unaffordable. He concluded by stating that he did not believe the number of applications for permits would be high due to the limited number of properties and restrictive nature of the proposed ordinances.

Mayor Randall thanked those who offered public comment. Councilmember Burns inquired if City Administration still wished to hear suggested changes to the proposed ordinance. City Manager Shaffer and City Attorney Brown concurred. Mayor Randall expressed overall concern with the 250 foot boundary. City Manager Shaffer proposed to have a conversation regarding this matter with the City of Kalamazoo and to see if they would be willing to send a formal request asking the City of Portage to adopt the 250 foot boundary. Mayor Randall reiterated her concern that this still does not address whether the 250 foot boundary is needed.

Motion by Knapp, seconded by Burns, to amend Ordinance Amendment 17/18-A Medical Marihuana Facilities by deleting the provision regarding the 250 foot municipal boundary rule so that the City Manager may review this matter in its entirety with adjoining jurisdictions and report back to Council for further consideration. Councilmember Urban commented that it appears that City Council is getting rid of the boundary and Councilmember Reid commented that we are proposing to get rid of the 250 foot boundary but may reinstate it depending on the dialogue between municipalities.

Councilmember Knapp confirmed. Councilmember Reid stated the concern seems to be with Provisioning Centers and not Grow or Processing operations as these are located in industrial areas. She stated there should not be a problem unless Grow and Processing centers abut residential areas outside of the City of Portage.

Councilmember Ford stated that he could see a buffer with those municipalities that have opted out of medical marihuana but not with those, such as Kalamazoo, that will be participating. He cited pharmacies, restaurants and other businesses that are on opposite street corners to support his position.

Councilmember Urban questioned the need for the motion and City Attorney Brown commented that getting motions such as this on the table provide direction for City Administration and will help move the process along. He also commented that City Council is not bound by any vote or position taken this evening when it comes to voting on the final version. Motion by Reid, seconded by Urban to amend the motion by removing the removal of Provisioning Centers from the 250 foot boundary. Councilmember Reid stated that she was making this motion because she believes there is less concern with grow and processing operations along a municipal boundary than with provisioning centers. She continued by stating that the motion allows the City Manager to have dialogue with the City of Kalamazoo if the Portage City Council has not totally eliminated the 250 boundary. Upon a roll call vote, motion to amend the motion carried 5 to 1 with Councilmember Ford voting no.

The City Clerk then called the roll on the original motion, as amended, with the motion now being: to amend Ordinance Amendment 17/18-A Medical Marihuana Facilities by deleting the provision regarding the 250 foot municipal boundary rule with the exception of Provisioning Centers so that the City Manager may review this matter in its entirety with adjoining jurisdictions and report back to Council for further consideration. Upon a roll call vote, motion carried 4 to 2 with Councilmembers Ford and Urban voting no.

Motion by Urban, seconded by Knapp, to amend the Ordinance Amendment 17/18-A Medical Marihuana Facilities to apply the 1000 foot separation requirement from the list of facilities including schools, child care, etc. to include those that are adjacent to the City of Portage boundaries. Attorney Brown clarified that Councilmember Urban's motion was intended to apply the 1,000 foot separation requirement to all of the uses and all the facilities that are currently included in the proposed ordinance and not just schools and day care centers. Councilmember Urban concurred. Councilmember Burns stated that it was hard to make a determination on the motion when he cannot see the impact. Councilmember Urban stated that, according to the Director of Community Development, there would be no impact. Regardless, Councilmember Burns stated that to the extent there is an impact, he would like to see a map. Upon a roll call vote, motion carried 6 to 0.

Councilmember Urban stated that on the recent Community Survey residents were asked whether they wanted medical marihuana dispensaries and other facilities. He continued by stating that the Survey inquired if residents wanted such facilities and, if so, if there should be enough facilities to service only Portage residents or residents along with the needs of other communities. Councilmember Urban stated that the results showed approximately 80% of residents wanted either no facilities or only enough to service Portage residents. Mr. Urban continued by stating that as an individual elected to represent the City of Portage and its residents, he would make the following motion: To amend the proposed amendment before us to limit the number of facilities of each facility to four. Councilmember Reid seconded the motion.

Councilmember Urban commented that for those who advocate for an unlimited number of facilities in the community, such an approach is problematic to a large segment of our community and problematic to professionals trying to address drug abuse and child welfare concerns. He continued by stating that while the State has enacted medical marihuana laws, marihuana remains illegal at the federal level. He questioned, given his oath of office to uphold the Constitution of the United States and duty to uphold the federal law along with State and local laws, whether his motion is appropriate.

Councilmember Urban continued by stating that his motion goes farther than the initial proposals of City Administration and he would like to see the limitation on the number of facilities specified in the Code of Ordinances. He concluded by stating that as a Councilmember he tends to defer to City Administration as he believes they are experts in their fields. The initial recommendation of City Administration before it was modified based on input from City Council, he stated, is reflective of his motion. Attorney Brown commented that any change to one part of the proposed ordinance has ramifications to other aspects of the ordinance and cited the cap on licenses, separation between facilities, lottery and general standards as four key areas which, if changed, would have a major ripple effect across the entire proposed ordinance. Councilmember Reid stated her belief that City Council should continue to look at issues such as having caps because, she continued, residents are not yet understanding or accepting of medical marihuana facilities in the community. Councilmember Reid stated that City Council should not push the issue too fast because, in light of the Community Survey, residents want to make sure people have access to medical marihuana to meet their healthcare needs but not so many centers that the demands of residents is exceeded. Councilmember Reid advocated that City Council work in a slow and thoughtful manner and offered support for the motion of Councilmember Urban as it reflected the initial proposals of City Administration. Upon a roll call vote motion failed with Councilmembers Burns, Ford, Knapp and Mayor Randall voting no.

Councilmember Ford asked that additional consideration be given by City Administration to either a “first-come first-served” or waiver period in lieu of a lottery for determining who gets a license.

Mayor Randall stated that, based on what she has heard, there are limited properties available for medical marihuana facilities in Portage and for those that are available, the property costs are increasing dramatically. She continued by stating that if we want local residents to be a part of the process there must be available and affordable property for them to purchase. She continued by stating that, in reference to the separation requirement, she has seen maps and details for 1,500 and 1,000 foot spacing requirements but not 750 or 500 feet and asked that such maps be made available. Mayor Randall then asked that City Administration drive around and see if there are viable properties for sale that could be used for a medical marihuana facility and to have an expert look at HVAC systems and if there really needs to be separate HVAC system in a location that has multiple tenants. Mayor Randall also stated that her recollection of the November 30<sup>th</sup> Committee of the Whole Meeting is that there was discussion about co-location. She stated that it might make sense for growers and processors to co-locate. In addition, she referenced a meeting between herself, Mr. Shaffer and a resident who was interested in having a small grow operation and a storefront located in the same facility. She stated that she would rather see smaller operations such as this as opposed to large commercial entities operating in the community. Mayor Randall concluded by stating that there is no timeline to push medical marihuana through but would like to methodically work through issues and concerns that have been raised.

Motion by Reid, seconded by Knapp, to accept for first reading the amendments to Chapter 14, Article 12, Businesses and Chapter 42, Article 4, Zoning, for Medical Marihuana Facilities and set a public hearing for February 27, 2018, as amended. Upon a roll call vote, motion carried 5 to 1 with Councilmember Urban voting no.

**STATEMENTS OF CITIZENS:** Ryan Dickerson, 633 Daniel, Kalamazoo, asked for additional information as to what are considered childcare and what are considered recreational facilities for purposes of the proposed ordinance. Director of Community Development Vicki Georgeau stated that recreational facilities are facilities like Kingdom Indoor Center and Airway Lanes and not a play area at McDonald’s. She continued by stating that a list of such facilities is included on maps developed by Community Development and that these maps are available online. She concluded by stating that, to clarify, Carraba’s restaurant is not an eligible site for a medical marihuana facility.

Jake Abraham, 1601 Applecroft, commended City Council for authorizing dispensaries and stated that he has operated a dispensary in Ypsilanti for almost five years. In this time, he stated, there have been no police incidents.

Robert Hines, 1601 Applecroft, asked that City Council revisit the stacking of licenses for grow operations.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Reid stated that the Portage Police Department is going through a reaccreditation process and invited the public to an information session that will be held in this regard. She encouraged the public to provide feedback.

Councilmember Knapp reflected on the variety of issues addressed by City Council at the meeting and complimented City Staff and volunteers on the Boards and Commissions for helping the City to be proactive and moving forward. Ms. Knapp also thanked those who participated in the medical marihuana discussion.

Councilmember Ford echoed the statements of Councilmember Knapp and mentioned that City Council approved a contract for the disposal of household hazardous waste. Mr. Ford encouraged residents to take advantage of this service.

Mayor Randall stated that we are in uncharted waters in areas such as medical marihuana and the Mobilitie contract but the City is still willing to push forward despite uncertainties. She thanked City Council and the City Manager for the work at the recent City Council retreat, expressed optimism in working together and thanked City Council for their time and honesty. Mayor Randall shared that the City recently hosted a group of middle school students from China and thanked Mr. Shaffer and staff for their efforts in welcoming the students. In conclusion, Mayor Randall thanked Wayne Stoffer, Planning Commission Chairperson, for his time and effort regarding medical marihuana.

**ADJOURNMENT:** Mayor Randall adjourned the meeting at 10:05 p.m.

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Adam Herringa, City Clerk



**MINUTES FROM THE SPECIAL PRE-MEETING  
OF THE PORTAGE CITY COUNCIL  
OF FEBRUARY 12, 2018**

Mayor Randall called the meeting to order at 8:00 a.m. Mayor Patricia Randall and Councilmember Richard Ford were present and Mayor Pro Tem Jim Pearson and Councilmembers Chris Burns, Lori Knapp and Claudette Reid joined via the conference phone line. Councilmember Terry Urban was absent with excuse. Also in attendance were City Manager Laurence Shaffer, Deputy City Manager Rob Boulis and City Clerk Adam Herringa.

Mayor Randall opened the meeting and inquired if there were any questions or concerns regarding items on the proposed agenda. Mayor Randall inquired if Ms. Hoogenboom was going to be present for the Proclamation. City Manager Shaffer stated she was not but City Council was invited to her birthday party on Saturday, February 17<sup>th</sup>.

Councilmember Burns inquired if "Ed and Ted's Excellent Adventures" listed on the Accounts Payable Register was used as a vendor for Senior Center excursions. City Manager Shaffer concurred.

With regard to Item A.3, Austin Lake Trail Project, Councilmember Reid referenced the legal cost of \$145,000 when the original estimate for the entire project was \$100,000. She inquired as to the estimate for the design work and acquisition. City Manager Shaffer stated the estimate for the design work is \$50,000 but he does not have an estimate for the acquisition. Mr. Shaffer stated the cost for the design work will likely come from an unappropriated fund balance after June 30, 2018. Councilmember Reid inquired as to the process for condemnation/eminent domain. City Manager Shaffer stated there is a full legal process which includes an appraisal, negotiations and a good faith offer. If this process is not successful then City Council would be asked to approve eminent domain. Councilmember Reid inquired if the cost of property acquisition could be estimated and provided. Mr. Shaffer stated that one particular piece of property has been appraised at approximately \$310,000 but the owner is asking for significantly more. Councilmember Knapp inquired if there is a single property owner that has accumulated much of the land identified for the trail. City Manager Shaffer stated, yes, one property owner has accumulated most of an old railway bed that is targeted for trail development. Mayor Pro Tem Pearson inquired as to the status of the property owned by Stryker, Pfizer and Peg Giem that is needed for trail development. Mr. Shaffer stated he was unsure as to the status of the Stryker property, the Pfizer property has been negotiated and will be deeded to City for the assessed value, and Peg Giem and Director of Parks and Recreation Kathleen Hoyle are in negotiations. Councilmember Knapp inquired if the land owners are aware of the trail plans. Mr. Shaffer replied in the affirmative. Mayor Pro Tem Pearson inquired if the trail would be set back from East Shore Drive and Mr. Shaffer replied that the trail would be on the railbed which is twenty to forty feet from the road. Mr. Shaffer stated the railbed is ideal for a bicycle trail.

With regard to Item A.4, Budget Transfer of \$550,000, Councilmember Reid inquired as to the reason for the budget transfer request and City Manager Shaffer stated the goal is to get design work completed early in the year so actual construction can be started earlier and, by so doing, hopefully at a more competitive price. Mr. Shaffer continued by sharing that earlier design work for road projects will be included in next year's budget.

With regard to Item A.5, Perceptive Controls Change Order, Councilmember Knapp inquired as to the availability of funding as project funds for this agenda item were included in the Fiscal Year 2015-2016 budget. City Manager Shaffer stated there are two types of funding: operational and capital improvement funds. While operational funds are good for the single fiscal year, capital funds are available for the duration of the project and remain until the appropriation is pulled.

With regard to Item A.6, Purchase of Property, Councilmember Reid inquired how much space the lift station will take and what the City planned to do with the building on the property that is proposed for purchase. City Manager Shaffer reviewed the location of the lift station and shared the lift station needs to be rebuilt on a larger footprint. Mr. Shaffer continued by stating that landscaping is planned to enhance aesthetics and consideration is being given to closing Emily Drive. Mr. Shaffer stated one potential use of the property is as a storage facility which would replace existing rental units. Mr. Shaffer stated that the property owner has had difficulty selling the building and the attractiveness of the building for a potential buyer would be impacted by the new lift station. Councilmember Ford inquired as to the redevelopment potential of the property especially if Emily Drive is closed and the lift station is strategically located to minimize impact. City Manager Shaffer expressed skepticism as to redevelopment potential. Mayor Randall inquired as to the initial sale price and Mr. Shaffer replied that the original list price was \$280,000 and City had received an appraisal of \$220,000.

Mayor Pro Tem Pearson stated that he views a potential lost opportunity for the property if it is used for a lift station and storage. He reviewed potential lost tax revenue and inquired if it was possible to relocate the lift station such that the City does not need to purchase the entire property. City Manager Shaffer stated the lift station needs to be farther away from the road and the ideal location would be near the middle of the parking lot currently located on the parcel. Mayor Pro Tem Pearson inquired as to whether the new lift station would be odorous because he has not detected any odor from the existing lift station. Mr. Shaffer replied the hope is the new lift station will be no more odorous than the current one. Mayor Pro Tem Pearson encouraged the City to explore options to allow for redevelopment of the parcel as he believes it is in a prime location. Councilmember Reid cautioned City Council to avoid discussion at the Pre-Council Meeting and to focus on questions and answers. Mayor Pro Tem Pearson stated the City has talked about closing Emily drive and asked the City Manager to provide a reason why the lift station could not be located such that the parcel could not be developed. Mr. Shaffer stated access to the building is via Emily Drive and closing Emily Drive would eliminate access to the building.

With regard to Item A.9 and the ICON Shelter, Councilmember Ford inquired as to the status of the ICON Shelter at Eliason Nature Preserve. City Manager Shaffer stated the foundation is in but the structure is not yet in place.

There being no other questions Mayor Randall summarized the questions raised at the meeting requiring follow up from City Administration.

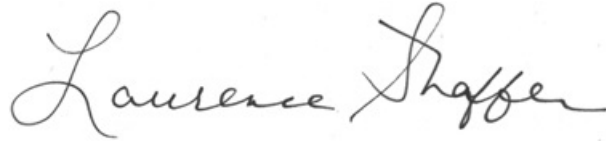
**ADJOURNMENT:** Mayor Randall adjourned the meeting at 8:27 a.m.

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Adam Herringa, City Clerk

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Accounts Payable Register

**SUPPORTING PERSONNEL:** William Furry, Director of Finance

**ACTION RECOMMENDED:** That City Council approve the Accounts Payable Register of February 13, 2018 as presented.

The City Council reviews and approves the bi-weekly Accounts Payable Register which includes automated clearing house payments, paper checks and auto-pay payments. The attached Accounts Payable Register covers the period January 21, 2018 through February 4, 2018 and notes \$379,547.98 in automated clearing house payments, \$322,937.11 in paper checks and \$7,627.06 in auto-pay payments for a grand total of \$710,112.15.

**FUNDING:** N/A

**Attachments:** 1. Accounts Payable of 2-13-2018

ACCOUNTS PAYABLE REGISTER  
Check Dates From: 1/21/2018 To: 2/4/2018

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Check Type: ACH Transaction

| Check Date | Check   | Vendor Name                         | Description                  | Amount     |
|------------|---------|-------------------------------------|------------------------------|------------|
| 01/26/2018 | 8134(A) | ABONMARCHE CONSULTANTS, INC         | ENGINEERING SERVICES         | 10,253.67  |
| 01/26/2018 | 8135(A) | ACCESS EMPLOYER STAFFING SERVICES   | TEMPORARY EMPLOYEES          | 5,405.89   |
| 01/26/2018 | 8136(A) | ADVANTAGE ROOFING, INC.             | CDBG PROJECT                 | 6,749.00   |
| 01/26/2018 | 8137(A) | AIRGAS GREAT LAKES                  | MAINTENANCE SUPPLIES         | 317.09     |
| 01/26/2018 | 8138(A) | ALRO STEEL CORPORATION              | MAINTENANCE SUPPLIES         | 2,128.67   |
| 01/26/2018 | 8139(A) | AMERICAN HYDROGEOLOGY CORP.         | PHASE I ENVIRONMENTAL        | 565.50     |
| 01/26/2018 | 8140(A) | AMERICAN SAFETY & FIRST AID         | FIRST AID SUPPLIES           | 179.74     |
| 01/26/2018 | 8141(A) | ANIMAL REMOVAL SERVICE, LLC         | ANIMAL REMOVAL SERVICE       | 2,640.00   |
| 01/26/2018 | 8142(A) | APPROVED PROTECTION SYSTEMS         | SEMI ANNUAL FIRE SUPPRESSION | 259.30     |
| 01/26/2018 | 8143(A) | ASSOCIATED GOVERNMENT SERVICES INC  | INSPECTION                   | 11,250.00  |
| 01/26/2018 | 8144(A) | B L HARROUN & SON INC.              | INSPECTION                   | 277.00     |
| 01/26/2018 | 8145(A) | BATTERIES PLUS                      | MISC BATTERIES               | 372.85     |
| 01/26/2018 | 8146(A) | BCHS-HELPNET                        | HELPNET EAP PROGRAM          | 1,635.66   |
| 01/26/2018 | 8147(A) | BLUE CARE NETWORK-GREAT LAKES       | FEB-JUNE 2018                | 124,401.20 |
| 01/26/2018 | 8148(A) | BLUESTONE PSYCH                     | EVALUATION                   | 465.00     |
| 01/26/2018 | 8149(A) | BROWNELL'S INCORPORATED             | GUN PARTS                    | 21.49      |
| 01/26/2018 | 8150(A) | BYHOLT INC.                         | SAND FOR DPS                 | 2,671.60   |
| 01/26/2018 | 8151(A) | C D W GOVERNMENT, INC.              | BLACK BOX 2 PORT             | 1,967.39   |
| 01/26/2018 | 8152(A) | C M P DISTRIBUTORS, INC.            | TRNG SUPPLIES                | 2,506.10   |
| 01/26/2018 | 8153(A) | CAPITAL ADVANTAGE LEASING           | PANASONIC TOUGHBOOKS         | 2,558.90   |
| 01/26/2018 | 8154(A) | CHARTER COMMUNICATIONS              | CABLE TV                     | 103.01     |
| 01/26/2018 | 8155(A) | CLEANIT CORP                        | CARWASHES                    | 24.00      |
| 01/26/2018 | 8156(A) | CONTINENTAL LINEN SERVICES          | MAT SERVICE                  | 92.08      |
| 01/26/2018 | 8157(A) | DELTA DENTAL PLAN OF MICHIGAN       | DENTAL INSURANCE             | 17,523.15  |
| 01/26/2018 | 8158(A) | EKLOV, ERICA                        | EMPLOYEE REIMBURSEMENT       | 20.00      |
| 01/26/2018 | 8159(A) | ENGINEERED PROTECTION SYSTEMS, INC. | FIRE FACILITY MAINT          | 603.00     |
| 01/26/2018 | 8160(A) | GLOBAL EQUIPMENT CO., INC.          | LADDER & CHAIRS              | 389.25     |
| 01/26/2018 | 8161(A) | GORDON WATER SYSTEMS                | BOTTLED WATER                | 346.25     |
| 01/26/2018 | 8162(A) | GREATER KALAMAZOO UNITED WAY        | UNITED WAY CONTRIBUTION      | 590.00     |
| 01/26/2018 | 8163(A) | GRIFFIN PEST SOLUTIONS, INC.        | FIRE FACILITY MAINT          | 301.00     |
| 01/26/2018 | 8164(A) | GRYPHON PLACE                       | CDBG 211 INFORMATION         | 1,350.00   |

ACCOUNTS PAYABLE REGISTER  
Check Dates From: 1/21/2018 To: 2/4/2018

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| Check Date | Check   | Vendor Name                        | Description            | Amount    |
|------------|---------|------------------------------------|------------------------|-----------|
| 01/26/2018 | 8165(A) | INDUSCO SUPPLY CO., INC.           | ICE MELT               | 321.72    |
| 01/26/2018 | 8166(A) | J-AD GRAPHICS, INC                 | NEWSLETTER FEB/MARCH   | 2,090.00  |
| 01/26/2018 | 8167(A) | JAROTH, INC                        | PAY PHONES             | 228.00    |
| 01/26/2018 | 8168(A) | KLOSTERMAN DISTRIBUTING            | MPIR CONCESSIONS       | 132.58    |
| 01/26/2018 | 8169(A) | LAWSON PRODUCTS, INC               | MAINTENANCE SUPPLIES   | 813.96    |
| 01/26/2018 | 8170(A) | LENDING HANDS OF MICHIGAN, INC.    | CDBG MEDICAL EQUIPMENT | 850.00    |
| 01/26/2018 | 8171(A) | MATERIALS RESOURCES                | GLOVES & MISC SUPPLIES | 260.38    |
| 01/26/2018 | 8172(A) | MAURER'S TEXTILE RENTAL SERVICES   | UNIFORM RENTAL         | 6.17      |
| 01/26/2018 | 8173(A) | MEEKHOF TIRE SALES & SERVICE INC.  | FIRE APPARATUS MAINT   | 8,714.86  |
| 01/26/2018 | 8174(A) | MEJEUR ELECTRIC LLC                | FIRE FACILITY MAINT    | 3,733.00  |
| 01/26/2018 | 8175(A) | MICHIGAN OFFICE ENVIRONMENTS       | OFFICE FURNITURE       | 1,943.00  |
| 01/26/2018 | 8176(A) | MICHIGAN PAVING & MATERIALS CO.    | RELEASE RETAINAGE      | 5,035.52  |
| 01/26/2018 | 8177(A) | NEW FRESH CLEANING SERVICE         | JANITORIAL SERVICES    | 516.50    |
| 01/26/2018 | 8178(A) | PAM DAZEY                          | PARK BOARD WEBSITE     | 68.80     |
| 01/26/2018 | 8179(A) | PCM SALES, INC.                    | OPERATING COSTS        | 40,960.00 |
| 01/26/2018 | 8180(A) | PEOPLEFACTS, LLC 740303            | BACKGROUND CHECKS      | 16.67     |
| 01/26/2018 | 8181(A) | PERCEPTIVE CONTROLS, INC.          | SCADA MAINTENANCE      | 2,179.08  |
| 01/26/2018 | 8182(A) | PORTAGE FIREFIGHTERS               | IAFF DUES FOR JAN 20   | 1,726.08  |
| 01/26/2018 | 8183(A) | PORTAGE ON-CALL FIREFIGHTERS       | ON CALL FF DUES FOR    | 80.00     |
| 01/26/2018 | 8184(A) | PORTAGE POLICE OFFICERS ASSOC      | PPOA DUES FOR JAN 20   | 693.00    |
| 01/26/2018 | 8185(A) | PREIN & NEWHOF                     | PROFESSIONAL SERVICE   | 3,364.25  |
| 01/26/2018 | 8186(A) | PREMIER SAFETY                     | FIRE SCBA MAINTENANCE  | 600.00    |
| 01/26/2018 | 8187(A) | QUADRANT II MARKETING, LLC         | NEWSLETTER PRODUCTION  | 2,083.40  |
| 01/26/2018 | 8188(A) | REPUBLIC SERVICES OF WEST MICHIGAN | WASTE SERVICES         | 688.13    |
| 01/26/2018 | 8189(A) | RIDDERMAN & SONS OIL CO. INC.      | DIESEL FUEL            | 26,171.85 |
| 01/26/2018 | 8190(A) | RIDGE AUTO NAPA                    | MAINTENANCE SUPPLIES   | 2,259.54  |
| 01/26/2018 | 8194(A) | ROAD EQUIPMENT PARTS CENTER        | MAINTENANCE SUPPLIES   | 390.21    |
| 01/26/2018 | 8195(A) | SEVERANCE ELECTRIC COMPANY, INC    | PEDESTRIAN SIGNALS     | 4,335.69  |
| 01/26/2018 | 8196(A) | SOS TECHNOLOGIES                   | FIRE EMS SUPPLIES      | 111.35    |
| 01/26/2018 | 8197(A) | STRAIN ELECTRIC CO.                | ELECTRICAL SERVICES    | 2,495.00  |
| 01/26/2018 | 8198(A) | SUEZ WATER ENVIRONMENTAL SERVICES  | WATER METERS           | 13,865.81 |
| 01/26/2018 | 8199(A) | TECHNOLOGY SOLUTIONS               | NEW SNOWPLOW TRACKING  | 9,995.00  |

## ACCOUNTS PAYABLE REGISTER

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Check Dates From: 1/21/2018 To: 2/4/2018

| Check Date | Check   | Vendor Name                         | Description                   | Amount            |
|------------|---------|-------------------------------------|-------------------------------|-------------------|
| 01/26/2018 | 8200(A) | TERMINAL SUPPLY CO.                 | ARROW BOARDS                  | 9,061.78          |
| 01/26/2018 | 8201(A) | TOO CLEAN JANITORIAL                | JANITORIAL SERVICES           | 1,090.00          |
| 01/26/2018 | 8202(A) | TRUCK & TRAILER SPECIALTIES         | WING PARTS                    | 1,599.70          |
| 01/26/2018 | 8203(A) | UNITED AUTO. IMPLEMENT WORKERS 2290 | UAW DUES FOR JAN 2018         | 477.33            |
| 01/26/2018 | 8204(A) | UNITED PETROLEUM                    | TANK MONITOR SUPPLIES         | 25.36             |
| 01/26/2018 | 8205(A) | VIRIDIS DESIGN GROUP                | OPEN SPACE PLAN               | 1,080.00          |
| 01/26/2018 | 8206(A) | W W GRAINGER INC                    | COMPOST WINDSOCK              | 129.00            |
| 01/26/2018 | 8207(A) | WOLVERINE LAWN SERVICE, INC.        | SNOW REMOVAL SERVICE          | 13,255.48         |
| 01/26/2018 | 8208(A) | WOLVERINE POWER SYSTEMS             | FIRE FACILITY MAINT           | 1,360.00          |
| 01/26/2018 | 8209(A) | WOOD PLUMBING LLC                   | PLUMBING REPAIRS              | 244.50            |
| 01/26/2018 | 8210(A) | XEROX CORPORATION                   | DECEMBER CHARGES              | 232.39            |
| 01/31/2018 | 8211(A) | STURGIS OVERHEAD DOOR & LADDER LLC  | DPS OVERHEAD DOORS            | 16,295.10         |
|            |         |                                     | <b>Total ACH Transaction:</b> | <b>379,547.98</b> |

## Check Type: Paper Check

|            |        |                                 |                       |           |
|------------|--------|---------------------------------|-----------------------|-----------|
| 01/26/2018 | 10151  | PETTY CASH-ALYSSA MILBECK       | REPLENISHMENT CHECK   | 612.41    |
| 01/26/2018 | 10152  | PETTY CASH-DEREK HENSON         | REPLENISHMENT CHECK   | 269.94    |
| 01/26/2018 | 10153  | PETTY CASH-HOLLY CERNY          | REPLENISHMENT CHECK   | 420.19    |
| 01/26/2018 | 10154  | PETTY CASH-KAITLIN BENN         | REPLENISHMENT CHECK   | 358.03    |
| 01/26/2018 | 304964 | 5TH DISTRICT COURT              | BOND RECEIPT          | 100.00    |
| 01/26/2018 | 304965 | 5TH DISTRICT COURT              | BOND RECEIPT          | 300.00    |
| 01/26/2018 | 304966 | A T & T                         | TELEPHONE SERVICES    | 4,863.23  |
| 01/26/2018 | 304967 | A T & T LONG DISTANCE           | LONG DISTANCE         | 33.89     |
| 01/26/2018 | 304968 | A-1 REFRIGERATION SALES & SERV  | RELEASE RETAINAGE     | 28,918.77 |
| 01/26/2018 | 304969 | ACTION PIANO SERVICE            | PIANO TUNING          | 165.00    |
| 01/26/2018 | 304970 | ADP, INC.                       | MONTHLY ETIME PROCESS | 3,314.49  |
| 01/26/2018 | 304971 | ALLEGRA PRINT & IMAGING         | PROGRAMS RECYCLED     | 179.90    |
| 01/26/2018 | 304972 | AMERICAN VILLAGE BUILDERS       | BOND REFUND           | 1,370.00  |
| 01/26/2018 | 304973 | APCO - MICHIGAN CHAPTER         | EMPLOYEE TRAINING     | 450.00    |
| 01/26/2018 | 304974 | AXON ENTERPRISES, INC.          | TASER CARTRIDGES      | 2,948.73  |
| 01/26/2018 | 304975 | B & H PHOTO & ELECTRONICS CORP. | PODCAST EQUIPMENT     | 429.95    |
| 01/26/2018 | 304976 | BAILEY EXCAVATING               | BOND REFUND           | 1,435.00  |



ACCOUNTS PAYABLE REGISTER  
Check Dates From: 1/21/2018 To: 2/4/2018

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| Check Date | Check  | Vendor Name                         | Description            | Amount    |
|------------|--------|-------------------------------------|------------------------|-----------|
| 01/26/2018 | 304977 | BAKER, STACEY                       | EMPLOYEE REIMBURSEMENT | 41.82     |
| 01/26/2018 | 304978 | BALKEMA EXCAVATING, INC.            | JUNK DIRT REMOVAL      | 1,512.00  |
| 01/26/2018 | 304979 | BBI HOLDINGS, LLC                   | BOND REFUND            | 1,990.00  |
| 01/26/2018 | 304980 | BECKER ARENA PRODUCTS, INC.         | MPIR RESURFACER TOWER  | 331.60    |
| 01/26/2018 | 304981 | BINDER PARK ZOOLOGICAL SOCIETY, INC | ZOOMOBILE EDUCATION    | 200.00    |
| 01/26/2018 | 304982 | BINGHAM, SHIRLEY                    | TRIP REFUND            | 50.00     |
| 01/26/2018 | 304983 | BLUE CROSS/BLUE SHIELD OF MICH      | FEB-JUNE 2018 BCBSM    | 69,608.19 |
| 01/26/2018 | 304984 | BORGESS CORPFIT                     | HMP 2ND QTR PLANNED    | 275.00    |
| 01/26/2018 | 304985 | BORGESS MEDICAL CENTER              | MEDICAL SERVICES       | 136.00    |
| 01/26/2018 | 304986 | BOUCK CORPORATION                   | EMPLOYEE TRAINING      | 699.00    |
| 01/26/2018 | 304987 | BOUCK CORPORATION                   | EMPLOYEE TRAINING      | 699.00    |
| 01/26/2018 | 304988 | BRETT STAPERT                       | EMPLOYEE TRAINING      | 438.00    |
| 01/26/2018 | 304989 | BUILDER'S LICENSE TRAINING          | MICHIGAN BUILDERS      | 828.00    |
| 01/26/2018 | 304990 | BUSINESS SPEAKERS BUREAU            | NEW ODYSSEY DEPOSIT    | 7,225.00  |
| 01/26/2018 | 304991 | CAMPBELL AUTO SUPPLY                | MISC AUTO SUPPLIES     | 25.20     |
| 01/26/2018 | 304992 | CAPITAL REAL ESTATE TAX SERVICES    | OVER PAYMENT WINTER    | 224.30    |
| 01/26/2018 | 304993 | CAPITAL REAL ESTATE TAX SERVICES    | OVER PAYMENT WINTER    | 206.02    |
| 01/26/2018 | 304994 | CARTRIDGE WORLD                     | PRINTER CARTRIDGE      | 720.97    |
| 01/26/2018 | 304995 | CARTWRIGHT, MOLLY                   | COOKING CLASS REFUND   | 40.00     |
| 01/26/2018 | 304996 | CATHOLIC FAMILY SERVICES            | CDBG SUPPORT           | 6,050.00  |
| 01/26/2018 | 304997 | CEDAM                               | CEDAM 2018 MEMBERSHIP  | 250.00    |
| 01/26/2018 | 304998 | CHANEY, CAROL                       | RENTAL DEPOSIT REFUNND | 100.00    |
| 01/26/2018 | 304999 | CHICAGO TITLE                       | OVER PAYMENT FINAL     | 87.82     |
| 01/26/2018 | 305000 | CHICAGO TITLE OF MICHIGAN, INC.     | CDBG TITLE SEARCH      | 150.00    |
| 01/26/2018 | 305001 | CINTAS CORP.                        | UNIFORM RENTAL SERVICE | 514.74    |
| 01/26/2018 | 305002 | CLEAR CHANNEL AIRPORTS              | ADVERTISING - AZO      | 888.00    |
| 01/26/2018 | 305003 | CRASH DATA GROUP, LLC               | SOFTWARE SUBSCRIPTION  | 1,050.00  |
| 01/26/2018 | 305004 | D L GALLIVAN INC.                   | PRINTER LEASE          | 206.09    |
| 01/26/2018 | 305005 | DIRKSEN ROOFING, INC.               | FIRE FACILITY MAINT    | 90.00     |
| 01/26/2018 | 305006 | DISASTER RESTORATION INC            | BOND REFUND            | 327.50    |
| 01/26/2018 | 305007 | DUTCH VALLEY FOOD DISTRIBUTORS, INC | MPIR CONCESSIONS       | 45.15     |
| 01/26/2018 | 305008 | DZIADOSZ, COURTNEY                  | INSTRUCTOR FEE         | 50.00     |

ACCOUNTS PAYABLE REGISTER  
Check Dates From: 1/21/2018 To: 2/4/2018

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| Check Date | Check  | Vendor Name                         | Description             | Amount    |
|------------|--------|-------------------------------------|-------------------------|-----------|
| 01/26/2018 | 305009 | ED & TED'S EXCELLENT ADVENTURES     | TRIP VENDOR PAYMENT     | 58,626.00 |
| 01/26/2018 | 305010 | EMERGENCY VEHICLE PRODUCTS          | POLICE VEHICLE MAINT    | 1,458.08  |
| 01/26/2018 | 305011 | ENDERICH, RYAN                      | TRAINING EXPENSES       | 2,397.35  |
| 01/26/2018 | 305012 | FIREWORKS LEASING, LLC              | BOND REFUND             | 100.00    |
| 01/26/2018 | 305013 | FREE PLAY PICTURES, LLC             | AGE OF LOVE PRESENTA    | 1,500.00  |
| 01/26/2018 | 305014 | GORDON FOOD SERVICE                 | MPIR CONCESSIONS        | 33.27     |
| 01/26/2018 | 305015 | GRAHAM'S TOWING & RECOVERY          | TOWING                  | 348.00    |
| 01/26/2018 | 305016 | GREATER KALAMAZOO FOP LODGE 98      | PPCOA DUES FOR JAN 2018 | 3,267.74  |
| 01/26/2018 | 305017 | HOEKSTRA ROOFING CO.                | DPS VENT INSTALL        | 574.80    |
| 01/26/2018 | 305018 | HOME DEPOT                          | MAINTENANCE SUPPLIES    | 2,683.32  |
| 01/26/2018 | 305021 | HYDRODYNAMICS, INC                  | EAST WOODHAMS LIFT      | 9,478.21  |
| 01/26/2018 | 305022 | IACP                                | MEMBERSHIP DUES         | 150.00    |
| 01/26/2018 | 305023 | IACP                                | MEMBERSHIP DUES         | 150.00    |
| 01/26/2018 | 305024 | INT'L ASSOC CHIEFS OF POLICE        | ANNUAL IACP SERVICE     | 1,225.00  |
| 01/26/2018 | 305025 | INT'L INSTITUTE MUNI. CLERKS        | ANNUAL MEMBERSHIP       | 200.00    |
| 01/26/2018 | 305026 | JAVORKA, SAMANTHA                   | DAMAGED MAILBOX REIM    | 44.00     |
| 01/26/2018 | 305027 | JO'S AMERICAN BISTRO                | TRIP VENDOR PAYMENT     | 250.00    |
| 01/26/2018 | 305028 | JOHNATHAN RYAN                      | COOKING CLASS SUPPLIES  | 524.15    |
| 01/26/2018 | 305029 | JOHNSON, HUGH                       | TRIP REFUND             | 2,639.00  |
| 01/26/2018 | 305030 | JOHNSON, SHERRY                     | TRIP REFUND             | 2,639.00  |
| 01/26/2018 | 305031 | KAL COUNTY FIRE CHIEFS ASSOC.       | FIRE MEMBERSHIPS        | 50.00     |
| 01/26/2018 | 305032 | KALAMAZOO COUNTY HEALTH & COMMUNITY | HAZ WASTE DISP          | 115.46    |
| 01/26/2018 | 305033 | KALAMAZOO COUNTY TREASURER          | OAKBROOK MOBILE HOME    | 800.00    |
| 01/26/2018 | 305034 | KALAMAZOO LITERACY COUNCIL          | CDBG - LITERACY SERV    | 500.00    |
| 01/26/2018 | 305035 | KENDZIOR, VIVIAN                    | TRIP REFUND             | 130.00    |
| 01/26/2018 | 305036 | KENT COUNTY DPW                     | RED MED/DRUG/WASTE      | 90.00     |
| 01/26/2018 | 305037 | KERR PUMP AND SUPPLY INC.           | SEWAGE PUMPS            | 7,260.00  |
| 01/26/2018 | 305038 | KITCH DRUTCHAS WAGNER VALITUTTI & S | DAS/CELL TOWER          | 1,230.00  |
| 01/26/2018 | 305039 | KNOLL, DENNIS L & DAWN A            | BOND REFUND             | 140.00    |
| 01/26/2018 | 305040 | KOSTIC, LEE                         | ICE SKATING LESSONS     | 24.00     |
| 01/26/2018 | 305041 | KRUSE, LYNNE                        | DAMAGED MAILBOX REIM    | 44.00     |
| 01/26/2018 | 305042 | KZOO TIRE COMPANY                   | TIRES                   | 428.50    |

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| Check Date | Check  | Vendor Name                         | Description             | Amount    |
|------------|--------|-------------------------------------|-------------------------|-----------|
| 01/26/2018 | 305043 | LEDDEEN, JAMES                      | DAMAGED MAILBOX REIM    | 44.00     |
| 01/26/2018 | 305044 | LERETA                              | OVER PAYMENT WINTER     | 4,739.51  |
| 01/26/2018 | 305045 | LIFE SCAN WELLNESS CENTERS          | FD ANNUAL PHYSICALS     | 16,160.00 |
| 01/26/2018 | 305046 | M M R M A                           | BUILDERS RISK PREMIUM   | 681.00    |
| 01/26/2018 | 305047 | MALL CITY MECHANICAL                | FIRE FACILITY MAINT     | 919.43    |
| 01/26/2018 | 305048 | MALZ, DONALD J JR & D               | BOND REFUND             | 120.00    |
| 01/26/2018 | 305049 | MARCH OF DIMES FOUNDATION           | PARK DEPOSIT REFUND     | 255.00    |
| 01/26/2018 | 305050 | MARTZ HOME BUILDERS, L.L.C.         | BOND REFUND             | 175.00    |
| 01/26/2018 | 305051 | MATTHEW ERVIN                       | DJ FOR VALENTINE'S DAY  | 350.00    |
| 01/26/2018 | 305052 | MAYHEW, BRYAN                       | DAMAGED MAILBOX REIM    | 44.00     |
| 01/26/2018 | 305053 | MCDONALD'S TOWING & RESCUE, INC.    | TOWING SERVICES         | 226.00    |
| 01/26/2018 | 305054 | MED EXPRESS URGENT CARE, PC MICH    | DOT PHYSICAL/BUS DRIVER | 95.00     |
| 01/26/2018 | 305055 | MICH MUNICIPAL POLICE & FIRE REPAIR | POLICE VEHICLE REPAIR   | 2,612.72  |
| 01/26/2018 | 305056 | MICHIGAN MUNICIPAL LEAGUE           | ON-LINE ADS             | 79.60     |
| 01/26/2018 | 305057 | MIDWEST ENERGY & COMMUNICATIONS     | STREETLIGHT ENERGY C    | 279.24    |
| 01/26/2018 | 305058 | MIGALA CARPET ONE, INC.             | CARPETING               | 3,640.31  |
| 01/26/2018 | 305059 | MILLS, DANIEL                       | MEMBERSHIP DUES         | 105.00    |
| 01/26/2018 | 305060 | MLIVE MEDIA GROUP                   | 2017 DBOR MLIVE LEGA    | 1,930.58  |
| 01/26/2018 | 305061 | MOORE MEDICAL, LLC                  | FIRE EMS SUPPLIES       | 814.81    |
| 01/26/2018 | 305062 | MORNINGSTAR DEVELOPMENT, INC        | BOND REFUND             | 770.00    |
| 01/26/2018 | 305063 | MORRIS PRESS COOKBOOKS              | COOK BOOKS FUNDRAISER   | 429.25    |
| 01/26/2018 | 305064 | MUSKEGON COUNTY EQUALIZATION        | M ROSE 2018             | 35.00     |
| 01/26/2018 | 305065 | NAKAYAMA, MARK & SOY MARI           | BOND REFUND             | 200.00    |
| 01/26/2018 | 305066 | NETWORKFLEET, INC.                  | GPS UNITS FOR EQUIPMENT | 224.46    |
| 01/26/2018 | 305067 | NYE UNIFORMS                        | MISC UNIFORMS           | 672.93    |
| 01/26/2018 | 305068 | O'REILLY AUTO PARTS                 | MISC AUTO SUPPLIES      | 164.52    |
| 01/26/2018 | 305069 | OFFICE DEPOT, INC.                  | FIRE OFFICE SUPPLIES    | 1,764.15  |
| 01/26/2018 | 305072 | PLAINWELL SENIOR EXPO               | TABLE FOR SENIOR EXP    | 91.00     |
| 01/26/2018 | 305073 | POLDERMAN'S FLOWER SHOP             | PEACE LILLY             | 45.00     |
| 01/26/2018 | 305074 | PRINTING SERVICES INC               | REPORT PRINTING         | 490.01    |
| 01/26/2018 | 305075 | R W LAPINE INC.                     | EMER SERVICE            | 895.02    |
| 01/26/2018 | 305076 | RATHCO SAFETY SUPPLY, INC.          | SIGNS AND SIGN MATER    | 450.00    |

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| Check Date | Check  | Vendor Name                        | Description              | Amount   |
|------------|--------|------------------------------------|--------------------------|----------|
| 01/26/2018 | 305077 | RENEWED EARTH, INC.                | LEAF AND BRUSH REMOV     | 9,083.33 |
| 01/26/2018 | 305078 | ROCKFORD ADVERTISING               | TRAIL MAGAZ ADVERTIS     | 2,459.31 |
| 01/26/2018 | 305079 | SANDERSON DEHAAN IRRIGATION        | IRRIGATION REPAIRS       | 1,379.88 |
| 01/26/2018 | 305080 | SCHULTZ, FRED & DOROTHY            | TRIP REFUND              | 200.00   |
| 01/26/2018 | 305081 | SHAFFER, LAURENCE                  | REFUND OF OVERPAYMENT    | 25.00    |
| 01/26/2018 | 305082 | SHERWIN WILLIAMS                   | PAINT AND PAINT SUPPLIES | 237.00   |
| 01/26/2018 | 305083 | STATE OF MICHIGAN                  | STATE OF MICHIGAN        | 180.00   |
| 01/26/2018 | 305084 | STATE SYSTEMS RADIO, INC           | TOWER RENTAL             | 1,973.98 |
| 01/26/2018 | 305085 | STEENSMA LAWN & POWER (ELECT)      | BOND REFUND              | 70.00    |
| 01/26/2018 | 305086 | STEENSMA LAWN & POWER EQUIPMENT    | FIRE REPAIR SUPPLIES     | 1,484.28 |
| 01/26/2018 | 305087 | STOUT, CALEB                       | BOND REFUND              | 250.00   |
| 01/26/2018 | 305088 | SUDS MOBILE CLEANING SYST          | DUPLICATE WINTER TAX     | 162.72   |
| 01/26/2018 | 305089 | SUZANNE GERNAAT                    | PROGRAM INSTRUCTOR       | 205.00   |
| 01/26/2018 | 305090 | TRACTOR SUPPLY CORP.               | CANINE SUPPLIES          | 324.36   |
| 01/26/2018 | 305091 | TWELVE BASKETS FOOD PANTRY         | FOOD PANTRY SERVICES     | 900.00   |
| 01/26/2018 | 305092 | ULINE, INC.                        | PROPERTY & EVIDENCE      | 428.77   |
| 01/26/2018 | 305093 | UNIFIRST CORPORATION               | RUG DELIVERY             | 143.40   |
| 01/26/2018 | 305094 | UNION STREET HYDRAULICS            | TINK CYLINDER REBUIL     | 2,551.18 |
| 01/26/2018 | 305095 | UNITED PARCEL SERVICE              | WEEKLY DELIVERY          | 21.66    |
| 01/26/2018 | 305096 | UNITED PARTY & EVENT SERVICES      | LINEN RENTAL             | 355.20   |
| 01/26/2018 | 305097 | VERIZON WIRELESS SERVICES, LLC     | WIRELESS SERVICE         | 1,802.92 |
| 01/26/2018 | 305098 | VERTIV SERVICES, INC.              | UPS (LOCATED AT CITY)    | 2,569.99 |
| 01/26/2018 | 305099 | WAKEFIELD, SAMANTHA                | INSTRUCTOR FEE           | 50.00    |
| 01/26/2018 | 305100 | WEST MICHIGAN OFFICE INTERIORS     | OFFICE FURNITURE         | 3,986.84 |
| 01/26/2018 | 305101 | WEST MICHIGAN REALTORS TITLE CO    | OVER PAYMENT FINAL       | 48.31    |
| 01/26/2018 | 305102 | WESTERN MICHIGAN UNIVERSITY        | CITY COUNCIL RETREAT     | 485.70   |
| 01/26/2018 | 305103 | WESTERN MICHIGAN UNIVERSITY        | CITY COUNCIL RETREAT     | 500.00   |
| 01/26/2018 | 305104 | WESTERN MICHIGAN UNIVERSITY        | EXHIBIT TABLE            | 50.00    |
| 01/26/2018 | 305105 | WICKLANDER-ZULAWSKI & ASSOCIATES   | EMPLOYEE TRAINING        | 770.00   |
| 01/26/2018 | 305106 | WICKLANDER-ZULAWSKI & ASSOCIATES   | EMPLOYEE TRAINING        | 770.00   |
| 01/26/2018 | 305107 | WMU HOMER STRYKER MD SCHOOL OF MED | FIRE BLS CARDS           | 175.00   |
| 01/26/2018 | 305108 | WRAPS N SIGNS                      | VEHICLE STRIPES          | 1,408.00 |

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| Check Date                    | Check  | Vendor Name      | Description                     | Amount            |
|-------------------------------|--------|------------------|---------------------------------|-------------------|
| 01/26/2018                    | 305109 | Y W C A, INC     | CDBG EMERGENCY SUPP             | 6,014.50          |
| 01/26/2018                    | 305110 | YEO & YEO        | 2016/2017 AUDIT                 | 3,700.00          |
|                               |        |                  | <b>Total Paper Check:</b>       | <b>322,937.11</b> |
| Check Type: Auto-Pay Payments |        |                  |                                 |                   |
| 1/22/2018                     | 6032   | CONSUMERS ENERGY | GAS-ELECTRIC                    | 500.26            |
| 1/23/2018                     | 6038   | CONSUMERS ENERGY | GAS-ELECTRIC                    | 4,176.16          |
| 1/24/2018                     | 6042   | CONSUMERS ENERGY | GAS-ELECTRIC                    | 2,950.64          |
|                               |        |                  | <b>Total Auto-Pay Payments:</b> | <b>7,627.06</b>   |
|                               |        |                  | <b>Grand Total:</b>             | <b>710,112.15</b> |

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Legal Services Agreement for the Austin Lake Trail Project

**SUPPORTING PERSONNEL:** Kathleen Hoyle, Director of Parks, Recreation & Senior Citizen Services

**ACTION RECOMMENDED:** Approve a Legal Services agreement with Miller Canfield in the amount of \$145,700 to represent and advise the City of Portage in obtaining real estate interest in property for development of the Austin Lake Trail project and authorize the City Manager to sign all documents pertaining to the agreement of behalf of the city.

The Fiscal Year 2017-2018 Capital Improvement Program (CIP) budget includes funding for the development of the Austin Lake Trail. The project involves the construction of a three-mile, 12-foot-wide paved trail to connect with the Village of Vicksburg through Schoolcraft Township. The trail will generally follow the original Grand Rapids and Indiana railroad right-of-way along the east side of Austin Lake from Zylman Avenue south to the city limits.

The project will require the development of engineering drawings and legal descriptions of property interests, obtaining title opinions and other activities toward obtaining real estate interest in property. The City of Portage has an established relationship with Mr. Stan Stek of Miller Canfield for specialized legal services since 1994, with specific expertise in right-of-way acquisition and purchase agreements which will be imperative for this project. A quote was requested from Miller Canfield for these project services, which totaled \$145,700.

The FY 2017-2018 CIP budget includes \$100,000 for preliminary design, right-of-way services and right-of-way acquisition to fund this effort. An additional \$45,700 was transferred to the Austin Lake Trail Project CIP account, using re-programmed appropriations (funds left over or not used as originally intended). Construction of the trail is planned for FY 2019-2020 following property acquisition, and is programmed in the FY 2019-2020 of the CIP.

A Letter of Engagement and the Standard Terms of Engagement with Miller Canfield, which have been reviewed and approved by the City Attorney, are attached. Also attached is an estimate of expenses for Miller Canfield legal services and a preliminary drawing of the planned Austin Lake Trail to the Village of Vicksburg.

It is recommended that City Council approve a Legal Services agreement with Miller Canfield in the amount of \$145,700 to represent and advise the City of Portage in obtaining real estate interest in property for development of the Austin Lake Trail project and authorize the City Manager to sign all

documents pertaining to the agreement of behalf of the city.

**FUNDING:** Funds are available in the FY 2017-2018 CIP budget.

**Attachments:**

1. Attorney Fee Estimate
2. Austin Lake Trail Map
3. Legal Services Contract for Austin Lake Trail

**PRELIMINARY BUDGET**  
**Case Name: City of Portage - East Portage Trail Project**  
**UPDATED: 11/30/2017**

| General Activity                                      | Specific Actions                                                                                                                                                                                             | Estimate of Attorney Hours | Estimate of Costs |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------|
| <b>Engineering Drawings</b>                           | Working with City Staff and consultants in focusing project scope                                                                                                                                            | 3                          |                   |
| <b>Strategy meetings with city staff</b>              | Follow up to discuss project progress                                                                                                                                                                        | 10                         |                   |
| <b>Legal Descriptions</b>                             | Review and refine legal descriptions and issues                                                                                                                                                              | 3                          |                   |
| <b>Title Opinions</b>                                 | Work with title company and review opinions (10 hours plus est. title company costs of \$3,000)                                                                                                              | 10                         | \$3,000           |
| <b>Appraisals/Opinion of Minimal Impact</b>           | Work with Appraisers and review Reports (estimated 10 reports x 4 hours each = 40 hours plus est. \$2000 per Report x 12= \$20,000)(note that preliminary study approach may be available at much less cost) | 40                         | \$20,000          |
|                                                       | Review Appraiser (5 hours plus est. appraiser costs of \$5,000)                                                                                                                                              | 5                          | \$5,000           |
| <b>Environmental and Weland Issues</b>                | Work with environmental consultants on compliance and mitigation issues (10 hours plus est. consultant costs at \$5,000)                                                                                     | 10                         | \$5,000           |
| <b>Resolution of Necessity</b>                        | Preparation of Resolution and submission to City Council                                                                                                                                                     | 5                          |                   |
| <b>Unified Good Faith Written Offers</b>              | Preparation of Offers (3 hours per parcel x 10 parcels=30 hours)                                                                                                                                             | 30                         |                   |
|                                                       | Negotiating with owners following service of GFO                                                                                                                                                             | 10                         |                   |
|                                                       | Reporting back to the City on negotiations of GFOs within time set forth under federal regulations                                                                                                           | 5                          |                   |
|                                                       | Amendments to the GFOs (3 hours x 10 = 30 hours)                                                                                                                                                             | 30                         |                   |
| <b>Closing agreed to Offers</b>                       | Estimated resolutions on half of the offers to then close                                                                                                                                                    | 10                         |                   |
| <b>Notice of Rights</b>                               | Preparation of Notices                                                                                                                                                                                       | 3                          |                   |
|                                                       | <b>Estimated Total Number of Hours:</b>                                                                                                                                                                      | <b>174</b>                 |                   |
| <b>Pre-Filing Estimated Fees and Costs:</b>           |                                                                                                                                                                                                              | <b>\$52,200</b>            | <b>\$33,000</b>   |
| <b>Total Estimated Pre-filing Fees and</b>            |                                                                                                                                                                                                              | <b>\$85,200</b>            |                   |
| <b>Notice of Taking/Complaint for Condemnation</b>    | Estimating that 3 cases go to Complaint with 5 hours per Complaint=15 hours)                                                                                                                                 | 15                         |                   |
|                                                       | Attend hearings and preparing orders on the Complaints                                                                                                                                                       | 20                         |                   |
| <b>Necessity Challenges</b>                           | No amount anticipated for necessity challenges                                                                                                                                                               | 0                          |                   |
| <b>Discovery</b>                                      | Depositions, Interrogatories, Requests to Produce                                                                                                                                                            | 30                         |                   |
| <b>Trial</b>                                          | Estimate 2 cases settle after discover and 1 tries constituting a total of 120 hours                                                                                                                         | 120                        | \$5,000           |
| <b>Appeal</b>                                         | No appeal is projected                                                                                                                                                                                       | 0                          |                   |
|                                                       | <b>Estimated Total Number of Hours:</b>                                                                                                                                                                      | <b>185</b>                 | <b>\$0</b>        |
| <b>Post-Filing Estimated Fees and Costs:</b>          |                                                                                                                                                                                                              | <b>\$55,500</b>            | <b>\$0</b>        |
| <b>Total Estimated Post-filing Fees and</b>           |                                                                                                                                                                                                              | <b>\$55,500</b>            |                   |
| <b>Total Estimated Fees and Costs:</b>                |                                                                                                                                                                                                              | <b>\$107,700</b>           | <b>\$38,000</b>   |
| <b>Total Estimated Budget as of October 18, 2017:</b> |                                                                                                                                                                                                              | <b>\$145,700</b>           |                   |





Vicinity Map  
Proposed Multi-Use Trail  
Ramona Park to Vicksburg Trail



Founded in 1852  
by Sidney Davy Miller

# MILLER CANFIELD

STANLEY J. STEK  
TEL (616) 776-6324  
FAX (616) 776-6322  
E-MAIL [stek@millercanfield.com](mailto:stek@millercanfield.com)

Miller, Canfield, Paddock and Stone, P.L.C.  
99 Monroe Avenue NW, Suite 1200  
Grand Rapids, Michigan 49503  
TEL (616) 454-8656  
FAX (616) 776-6322  
[www.millercanfield.com](http://www.millercanfield.com)

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FLORIDA: Tampa  
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NEW YORK: New York  
OHIO: Cincinnati  
CANADA: Windsor  
CHINA: Shanghai  
MEXICO: Monterrey  
POLAND: Gdynia  
Warsaw • Wrocław

October 5, 2017

Lawrence Shaffer, City Manager  
City of Portage  
7719 S. Westnedge Avenue  
Portage, MI 49002

Re: Engagement as Counsel/East Portage Trail Project

Dear Mr. Shaffer:

It was a pleasure speaking with you and your staff regarding this matter. This letter of engagement is submitted to confirm the Firm's retention by the City of Portage. Please review this letter and the enclosed **Standard Terms of Engagement** and return a signed copy of this letter to us confirming our retention.

**Client.** Our client in this matter will be the City of Portage (the "Client"). This engagement does not give rise to a lawyer-client relationship between the firm and any affiliate of the Client or other person or entity.

**Scope of Engagement.** We have been engaged to represent and advise the Client in connection with the East Portage Trail Project. Said Project shall include working with City staff in developing the scope of this project including engineering drawings and legal descriptions of property interests needed, obtaining title opinions, appraisal reports or opinions of minimal impact, environmental and wetland issues, preparation of resolutions of necessity, unified good faith written offers to acquire needed property interests, notices of rights, amendments to the good faith offers, preparing notices of taking, complaints for condemnation if necessary, responding to necessity challenges, negotiating resolutions of the offers, and the potential trial and potential appeal of acquisition of real estate interests needed for the Project. Because we are not the Client's general counsel, our acceptance of this engagement is not an undertaking to represent the Client or their interests in any other matter. Because we are not your securities lawyers, we will not, unless you specifically ask us and we agree in writing to do so, be advising you about any disclosure obligations you may have under federal, state or other securities laws with respect to any of the matters on which you have engaged us.

October 5, 2017

**Staffing.** I will be principally responsible for managing this engagement. The staffing on this matter is subject to change, based on cost considerations, the workloads of our professional staff members, and the specific tasks to be performed. The firm periodically adjusts the rates of its professional personnel as described in the attached **Standard Terms of Engagement**.

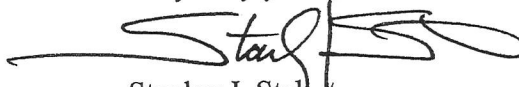
**Billing and Payment.** We customarily send invoices for fees and expenses each month. Payment is requested within 30 days of invoicing. Please contact me if these payment arrangements are not acceptable to you. Our rates for this Project will be \$345/hour for principal attorneys, \$265/hour for associates/non-principal attorneys and \$100/hour for paralegal time. We previously provided a working budget of services and costs. This is presented solely for planning purposes and may be modified as the understanding of the Project develops. This is a projection based on current understanding of the Project and will likely change over time as additional information is obtained and the Project is undertaken.

**Completion of Engagement.** This engagement will terminate when we perform our last services for you in this matter, whether or not the charges for those services have been invoiced or paid.

**Standard Terms of Engagement.** Attached to this letter is a copy of a document that contains the **Standard Terms of Engagement** that apply to all engagements undertaken by the firm. We encourage you to read this document carefully. By accepting our services, you agree that the terms of this letter and the enclosed Standard Term of Engagement will apply to our engagement unless we agree in writing to a modification.

If you have any questions about this engagement or any aspect of our work or charges, I encourage you to contact me promptly.

Very truly yours,

  
Stanley J. Stek

AGREED AND ACCEPTED:

BY: \_\_\_\_\_

City of Portage

SJS/kjb  
Enclosure

APPROVED AS TO FORM  
DATE 10/13/17  
  
CITY ATTORNEY

STANDARD TERMS OF ENGAGEMENT

-----  
*Includes information provided in accordance with the Michigan Rules of Professional Conduct*  
-----

This statement sets forth certain standard terms of our engagement as your lawyers in this matter. It supplements our engagement letter with you and is an integral part of our agreement. Therefore, you should review this statement carefully and contact us promptly if you have any questions. Unless modified in writing by mutual agreement, these terms and those in the engagement letter will control our relationship. We suggest that you retain this statement and our engagement letter in your file. Our engagement is also subject to and governed by the applicable rules of professional conduct.

**How We Approach Our Work for You**

We will perform our legal services for you in accordance with our professional judgment. Any expressions by us concerning the outcome of your legal matters are expressions of that judgment but are not guarantees. Such opinions are necessarily limited by the facts that you and others disclose to us and the state of the law at the time our opinions are expressed.

The person or entity we represent is the person or entity identified in our engagement letter, and the word "you" in this statement means that person or entity only. Unless we agree with you in writing, our engagement does not include representation of any affiliates of such person or entity. For example, if you are a corporation, a partnership, or a limited liability company, our representation of you does not include representation of any parents, subsidiaries, employees, officers, directors, shareholders, members or partners. If you are a trade association or other voluntary organization, our engagement does not include representing any of your members. If you are an individual, our representation does not include your spouse or other family members. If you believe this engagement includes additional entities or persons as our clients, you should inform us immediately and ask us to include those persons in our engagement letter.

**Who Will Provide the Legal Services**

Customarily, each client of the firm is served by a principal attorney contact. The principal attorney should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal attorney at any time. Subject to the supervisory role of the principal attorney, your work or parts of it may be performed by other lawyers and legal assistants in the firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis.

**How Our Fees Will Be Set**

Generally, our fees are based on the time spent by the lawyers and paralegal personnel who work on your matter. We will charge for all time spent performing professional services for you including, by way of illustration, telephone and office conferences with you, your representatives, consultants, opposing counsel, and others; conferences among our legal and paralegal personnel; factual investigation; legal research; drafting letters, agreements, pleadings, briefs, and other documents; responding to requests by your auditors; and travel. We will keep accurate records of the time we devote to your work. If you have insurance relating to the matter on which you have engaged us, and your insurance carrier pays less than the rates on which we have agreed or declines to pay for any matter on which you have engaged us, you agree to pay the difference.

The hourly rates of our lawyers and legal assistants are reviewed and adjusted periodically on a firm-wide basis to reflect current levels of legal experience, changes in overhead costs, and other factors. Because these changes are made on a firm-wide basis, we customarily do not inform each client of the specific changes in the hourly rates of the personnel working on their matters. However, the rates charged by our personnel will be reflected on the invoices we send you, and we encourage you to raise promptly any questions you may have regarding our rates and any changes to them.

From time to time you may request and we may furnish estimates of legal fees and other charges that we anticipate will be incurred in representing you. Due to a wide range of variables, many of which are unforeseeable, these estimates are by their nature inexact and cannot be considered as limitations on the fees we will charge. The actual fees and charges ultimately billed may vary from such estimates.

With your advance written agreement, the fees ultimately charged may be based upon a number of factors, including: the time and effort required, the novelty and complexity of the issues presented, the value of the services to you, the amount of money or value of property involved, the results obtained, and the time constraints imposed by you and other circumstances, such as an emergency closing or the need for injunctive relief from a court.

For certain well-defined services and special circumstances, we will, if requested, quote a flat fee. In all such situations, both the amount of the fee and the scope of the services to be provided must be expressed in the engagement letter. In appropriate circumstances, we may agree to provide legal services on a contingent fee basis. The terms of any contingent fee representation must be set forth in the engagement letter.

#### **Additional Charges**

In addition to our fees, our invoices will include charges for expenses incurred in the performance of our legal services. Generally, charges which reflect the use of resources provided by outside vendors (courier services, court reporters, etc.) are charged at the vendor's charge to us without markup. Certain other charges reflect the utilization of firm resources or involve an integral combination of firm's resources and outside vendors (photocopying, computer research, etc.). These services are charged at standard rates which encompass both the direct vendor charge and an amount equal to the firm's estimate of an appropriate charge for the firm resources allocated to the service. While these charges may not match the firm's exact cost of providing these services in each instance, we believe that these charges are fair and generally comparable to the charges made by other firms for similar services. The current basis for these charges is set forth below. The firm will review this schedule of charges on an annual basis and adjust them to take into account changes in the firm's costs and other factors.

**Photocopying:** The firm charges \$.10 per page.

**Computer Research:** The firm uses computer assisted research services such as Westlaw. We charge for computer research at 80% of the retail rates published by the computer assisted research services. We believe that this charge compensates the firm for providing support and ancillary services, yet provides these services to our clients at a discount from retail prices.

**Mail:** Clients are charged the actual cost of postage for the U.S. Postal Service and foreign postal carriers, as well as the actual cost of air express couriers.

**Overtime:** Staff overtime is charged only when required by the time constraints of the specific project.

**Facsimile:** The firm reserves the right to charge up to \$1.00 per page for outgoing faxes, which includes all telephone costs. There is no charge for incoming faxes.

**Telephone Calls:** The firm does not charge for local or long-distance calls made or received at our office locations via land line. In cases in which a substantial number of cellular telephone calls are required in an engagement, the firm may pass on the cost of such calls charged to the subscriber.

**Travel-Related Expenses:** Airfare, meals, and related travel expenses are charged to you at the firm's actual, out-of-pocket cost. Automobile mileage is charged at the IRS approved rate. Credits earned under the Frequent Flyer Programs accrue to the individual traveler and not to the firm or you.

**Firm Messengers:** Walking messenger trips are charged at a flat rate per delivery. Driving messenger trips are charged at the firm's standard automobile mileage charge plus parking and toll charges if imposed.

**Other Costs:** The firm charges actual disbursements for third-party services like court reporters, expert witnesses, database services, and the like.

Unless special arrangements are otherwise made, payment of the fees and expenses charged by others (such as experts, investigators, consultants and court reporters) will be your responsibility and billed directly to you. All invoices in excess of \$1000 will be forwarded to you for direct payment unless other payment arrangements are made with us in advance.

October 5, 2017

#### Payment

Our billing rates are based on the assumption of prompt payment. Consequently, unless other arrangements are made, fees for services and other charges will be billed monthly and are payable within thirty days of receipt. We reserve the right to charge interest at the maximum legally permissible rate up to 1% per month or 12% per annum on amounts past due.

#### Representation in Other Matters

~~We are a relatively large law firm and we represent many other companies and individuals. It is possible that, during the time that we are representing you or afterward, the interests of another client of the firm may require the assertion in litigation, business transactions, or other legal matters of positions which conflict with yours. Additionally, subject to the requirements of the rules of professional conduct which govern us, you agree that our representation of you in this matter will not disqualify the firm from opposing you in other matters, including litigation or other dispute resolution proceedings, that are unrelated to the subject matter of this representation. You waive any conflict of interest with respect to the assertion of positions and the undertaking of unrelated, but adverse, representations described in the previous sentences. You also agree that we may disclose to prospective clients the general nature of this engagement with you and the fact that you have acknowledged our ability to undertake engagements of the type described above. We will not, of course, use to your disadvantage any proprietary or confidential information we acquire from you as a result of our representation of you in this or other matters.~~



#### Attorney-Client Privilege

Sometimes in the course of our representation of clients, we confront ethical or other legal issues that require that we seek the advice of an attorney, either one of our own attorneys or an attorney from another firm. As part of our agreement regarding your representation by the firm, you agree that such discussions, whether they occur during or after our engagement, are protected by the attorney-client privilege.

#### Termination of Engagement

Our engagement as your attorneys terminates upon our completion of the services you have retained us to perform, whether or not our final invoice has been rendered or paid. If you later retain us to perform further or additional services, our attorney-client relationship will begin again with the signing of a new engagement letter.

You may terminate our engagement with or without cause at any time on by notifying us of your decision to do so. Termination of our services will not affect your responsibility to pay for services rendered and expenses and other charges incurred up to the date when we receive notice of termination, and for any further work required of us in order to facilitate an orderly turnover of matters in process at the time of termination.

We may terminate our engagement for any of the reasons permitted under the rules of professional conduct which govern us, including: your failure to pay our invoices promptly, misrepresentation of (or failure to disclose) any material facts, action taken contrary to our advice, or any other conduct or situation that in our judgment impairs an effective attorney-client relationship between us or presents conflicts with our professional responsibilities. ~~Subject to the rules of professional conduct which govern us, we may also terminate our engagement by reason of your failure to abide by your consent to our representation of a client in accordance with the terms of the section entitled "Representation in Other Matters" above.~~ If required, we will request a stipulation executed by you allowing us to withdraw as attorney of record in any judicial, arbitration, or similar proceedings. We may also apply for a court order approving our withdrawal from representing you, and you agree in advance to our withdrawal.

#### Subsequent Engagements

If, during this engagement or thereafter, you retain us for an additional engagement, it will be presumed, absent a written agreement between us to the contrary, that the terms and conditions contained in this document will apply to such subsequent engagements.

**Alternative Dispute Resolution: Mandatory Arbitration**

Should any dispute arise concerning the services provided to you by us or the charges we make for those services and related expenses, you and we shall first try in good faith to settle the dispute directly. If the dispute is not resolved, it shall be submitted to third party neutral facilitation in accordance with the mediation rules of the American Arbitration Association. If the dispute is not resolved through mediation, the dispute shall be settled by binding arbitration in accordance with the laws of the State of Michigan. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association except as modified here. Judgment upon the award rendered by the arbitrators may be entered in any court of record having jurisdiction thereof. The mediation and arbitration proceedings, including any hearings, shall be held in ~~the Detroit metropolitan area~~. Both you and we agree that neither of us is entitled to or shall request or claim punitive or exemplary damages and that the arbitrators shall not have the authority to award punitive or exemplary damages or any other damages in excess of actual pecuniary damages.

Kalamazoo  
County.

**Client Documents**

We will maintain any documents you furnish to us in our client file (or files) for this matter. At the conclusion of the matter (or earlier, if appropriate), it is your obligation to advise us as to which, if any, of the documents in our files you wish us to turn over to you. These documents will be delivered to you within a reasonable time after receipt of payment for outstanding fees and costs. We will retain any remaining documents in our files for a certain period of time and ultimately destroy them in accordance with our record retention program schedule then in effect.

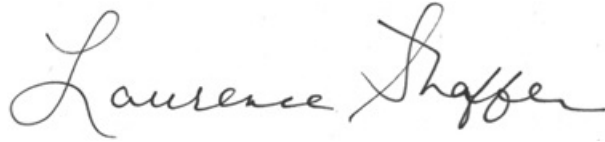
We are not advising you with respect to this statement of the terms of our engagement. If you wish advice, you should consult independent counsel of your choice.

29289393.1\071476-00092



**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** 2018-2019 Proposed Major and Local Street Projects - Design Engineering

**SUPPORTING PERSONNEL:** Kendra Gwin, Director of Transportation & Utilities

**ACTION RECOMMENDED:** Approve a budget transfer of \$550,000 from the General Fund to the Capital Improvement Fund for the proposed 2018-2019 Major and Local Street Projects and authorize the City Manager to sign all documents on behalf of the city.

City Council has an adopted fiscal year 2017-2018 goal to "continue to plan and implement improvements to move people and commerce safely and effectively through the community." An objective of this goal is to "seek alternate approaches and promote alternative modes of transportation." In alignment with this goal and objective, the City Administration is preparing a request for proposals for engineering design and construction services for the following proposed 2018-2019 Major and Local Street Projects.

- West Milham Avenue - Oakland Drive to South Westnedge Avenue, which includes the addition of ADA compliant ramps, a deceleration lane to Portage Northern's driveway, and traffic signal improvements at Oakland Drive and Constitution Boulevard.
- Romence Road - Oakland Drive to Constitution Boulevard, which includes replacement of water main and addition of ADA compliant ramps at the intersections.
- Lovers Lane - Ramona Avenue to East Milham Avenue, which includes re-alignment of the existing roadway from Ramona Avenue to East Milham Avenue and relocation of storm sewer and existing bike trail.
- Local Streets - various locations.

Major Street Reconstruction Projects are selected based on pavement condition, average daily traffic, federal aid eligibility and location of potential development. The City Administration has been successful in obtaining federal funds through the Kalamazoo Area Transportation Study (KATS) Metropolitan Planning Organization Policy Committee for West Milham Avenue from Oakland Drive to South Westnedge Avenue and Romence Road from Oakland Drive to Constitution Boulevard. When federal funds are allocated to a project, the project bid is processed by the Michigan Department of Transportation (MDOT). Currently, final project plans are rerequired to be submitted to MDOT at least three months prior to the bid letting date.

MDOT is in the process of changing its Local Agency Program requirements relative to the National Environmental Policy Act (NEPA). MDOT will be required to review NEPA required environmental impact assessments, rather than simply concurring with the local agency. This will require even earlier plan submittals. In addition, local agencies must certify local control of all rights-of-way necessary to



construct the project and that the project is in conformance with the American's With Disabilities Act (ADA). The short time frame between when funds become available at the beginning of the fiscal year to award the engineering design and submittal of the final plans does not leave adequate time to acquire necessary right-of-way to conform with the ADA requirements and filling in of sidewalk gaps to meet City Council's '*A Natural Place to Move*' initiative.

To enable an earlier start on engineering design of the proposed fiscal year 2018-2019 Major and Local Street Reconstruction Projects, the City Administration recommends a budget transfer of \$550,000 from the General Fund surplus (see attached chart) to the Capital Improvement Fund to fund engineering design of time critical projects. To address this issue going forward, a project has been added to the proposed 2018-2028 Capital Improvement Program for engineering design of upcoming Major and Local Street Projects.

It is recommended that City Council approve a budget transfer from the General Fund surplus to the Capital Improvement Program Fund in the amount of \$550,000 and authorize the City Manager to sign all documents on behalf of the city.

**FUNDING:** From the estimated \$1.9 million General Fund surplus, \$550,000 would be transferred to the Capital Improvement Fund.

**Attachments:** 1. GF excesses 2017-2018

# City of Portage

## Additional funds available for FY 17/18

as of 02/07/18

### SOURCES:

|                                    |                   |                                |
|------------------------------------|-------------------|--------------------------------|
| Beginning Fund Balance, FY 16/17   | 6,201,439         |                                |
| Net Change, FY 16/17               | 1,993,003         |                                |
| Ending Fund Balance                |                   | 8,194,442                      |
| Adopted budget, FY 17/18           |                   |                                |
| Expenditures                       | 24,188,388        |                                |
| Transfers Out                      | 913,000           |                                |
| Total expenditures & transfers out | <u>25,101,388</u> |                                |
| Fund balance policy minimum        | 24%               |                                |
| Target Fund Balance                |                   | <u>6,024,333</u>               |
| <b>Excess General Fund balance</b> |                   | <b><u><u>2,170,109</u></u></b> |

### USED TO DATE:

#### Approved and transferred:

|                                                  |                |                                |
|--------------------------------------------------|----------------|--------------------------------|
| Sign Replacement Project, transferred 11/07/17   | 75,000         |                                |
| Lobby skylight replacement, transferred 01/24/18 | <u>120,000</u> |                                |
| <b>Available excess General Fund balance</b>     |                | <b><u><u>1,975,109</u></u></b> |

### OTHER USES FY 17/18

|                                         |           |                                |
|-----------------------------------------|-----------|--------------------------------|
| Early debt retirement - CIP General     | 1,324,357 |                                |
| Streets design engineering              | 550,000   |                                |
| CIP funding for debt avoidance          | 100,752   |                                |
| <b>Total Uses, General Fund surplus</b> |           | <b><u><u>1,975,109</u></u></b> |

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Supervisory Control and Data Acquisition (SCADA) System Upgrade - Change Order No. 1

**SUPPORTING PERSONNEL:** Kendra Gwin, Director of Transportation & Utilities

**ACTION RECOMMENDED:** Approve Change Order No. 1 in the amount of \$72,936 to Perceptive Controls, Incorporated to furnish and install electronic card readers with the necessary appurtenances, complete the necessary programming and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The fiscal year 2015 – 2016 Capital Improvement Program budget provides funding to upgrade the Sanitary Sewer Supervisory Control and Data Acquisition (SCADA) system. The SCADA system is a control interface between well fields, sanitary sewer lift stations and the utility operation located in the Department of Public Services (DPS) building. The SCADA system controls and monitors operation and performance at 56 sanitary sewer lift stations, 2 water towers, the Garden Lane Water Treatment Facility and 20 water production wells in the city. The system provides a warning notification when a malfunction occurs at a sanitary sewer lift station, water tower, treatment facility or water production well house. On December 5, 2017, City Council awarded a contract to Perceptive Controls, Incorporated - the sole bidder - to design, furnish, program and install new program logic controllers and radios for the sanitary sewer SCADA system.

In January 2017, a contract was awarded to Engineered Protection Services, Incorporated (EPS) to furnish and install electronic access points (card readers) at all main entrance doors and certain secondary interior doors on all city buildings. Work to install the new card reader system in ongoing and went live at the Public Services Building on December 18, 2017, with identification badges issued to all city and Suez personal with building access capabilities.

The Garden Lane Water Treatment Facility was equipped with an electronic access point system by Perceptive Controls in 2014 for remote monitoring and automatic alerting and recording of personnel entry. Perceptive Controls was able to program the existing access point system to accept the new EPS / city issued identification badges. To further improve the security of the city water system, the City Administration requested a quote from Perceptive Controls to install electronic badge readers at all utility sites (56 lift stations, 14 well fields, 2 water towers) to coincide with the SCADA upgrade at the 56 lift stations. The current entry alarm system at these sites remotely monitors and automatically alerts if an entry alarm is not disabled; however, it does not record who entered the facility. Perceptive Controls provided a quote of \$72,936 to install card readers at the 72 sites. City staff has reviewed the proposal and found it to be appropriate for the work involved. Perceptive Controls was the only bidder

on the SCADA upgrade project and it is unlikely any other vendor would submit a bid for the additional security work, due to additional programming, mobilization and debugging costs.

Nevertheless, staff compared the quote provided by Perceptive Controls with the cost of comparable work currently being provided by EPS and found the cost to be comparable as well.

Therefore, it is recommended that City Council approve Change Order No. 1 in the amount of \$72,936 to Perceptive Controls, Incorporated to furnish and install electronic card readers, appurtenances and complete the necessary programming.

**FUNDING:** Funds are included in the fiscal year 2015-2016 Capital Improvement Program budget for these utility improvements.

**Attachments:** 1. Perceptive Controls Quote



January 31th,  
2018

Kendra Gwin, P.E.  
Director

City of Portage  
Transportation & Utilities Department  
7719 South Westnedge Avenue  
Portage, MI 49002

Bus: (269) 329-4442  
Fax: (269) 324-9240

Subject: Perceptive Controls, Inc. Quote Q01312018RDK RFID Reader

Dear Ms. Gwin;

We are pleased to provide a proposal for integrating RFID readers to the RTU cabinets.

**Add RFID reader to RTU PLC using existing panel.**

Supply and install a new OPTO 22 Wiegand communication module and RFID reader. This will allow for the use of existing access cards to disable the intrusion alarm.

**PLC Hardware and Programming**

- Opto Wiegand Serial Communications Card
- HID ProxPoint Plus 125 kHz Reader
- PLC Program, Design, Install and Startup
- SCADA Program, Design and Startup
- PLC Program, Design and Startup

**Time and expense for 56 Lift Stations, 14 Pump Station and 2 Water Towers: \$72,936**

**Note 1:** Quoted for integration into OPTO PLC RTU's

**Terms:** 50% upon order, %50 upon completion, Net 30 Days.

**Delivery:** 6-10 weeks after receiving P.O.

**Acceptance:** This proposal remains valid for 90 days.

Rory Kaufman  
Engineering Manager, Perceptive Controls  
Cell: 269.569.5356 | Email: [rkaufman@perceptivecontrols.com](mailto:rkaufman@perceptivecontrols.com)

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Property Acquisition - 9125 Portage Road

**SUPPORTING PERSONNEL:** Kendra Gwin, Director of Transportation & Utilities

**ACTION RECOMMENDED:** Approve the purchase of property addressed as 9125 Portage Road in the amount not to exceed \$220,000 and authorize the City Manager to execute all documents on behalf of the city.

The Fiscal Year 2017-2018 Capital Improvement Program budget includes funds for the replacement of the Emily Drive Lift Station located at the corner of Emily Drive and Portage Road, adjacent to 9125 Portage Road. The “can” style lift station was built in the mid 1970s and has reached the end of its useful life. Due to the width of the roadway on Portage Road, the limited right-of-way on Emily Drive and the building located at 9113 Portage Road (H&B Market) being nonconforming to current ordinances for building set back, reconstruction of the Emily Street Lift Station in an alternate location is required.

Recently, the property addressed as 9125 Portage Road, adjacent to the lift station, became available for sale and has been appraised at \$222,000. The owner has offered to sell the property to the city for \$220,000. Purchase of the property would allow the city to design and construct a lift station that better serves the public in an optimal location. In addition, with the city ownership of 9125 Portage Road, improvements can be made to Emily Drive.

The Sewer Fund has sufficient resources to cover the purchase of the property, and the expenditure will not impact operations in any way. Prior to final purchase of the property, the city would proceed with due diligence activities (e.g. completion of a survey Phase 1 environmental assessment, title insurance, etc.).

It is recommended that City Council approve the purchase of property addressed as 9125 Portage Road in the amount not to exceed \$220,000 and authorize the City Manager to execute all documents on behalf of the city.

**FUNDING:** The Sewer Fund has an unrestricted balance of \$12 million.

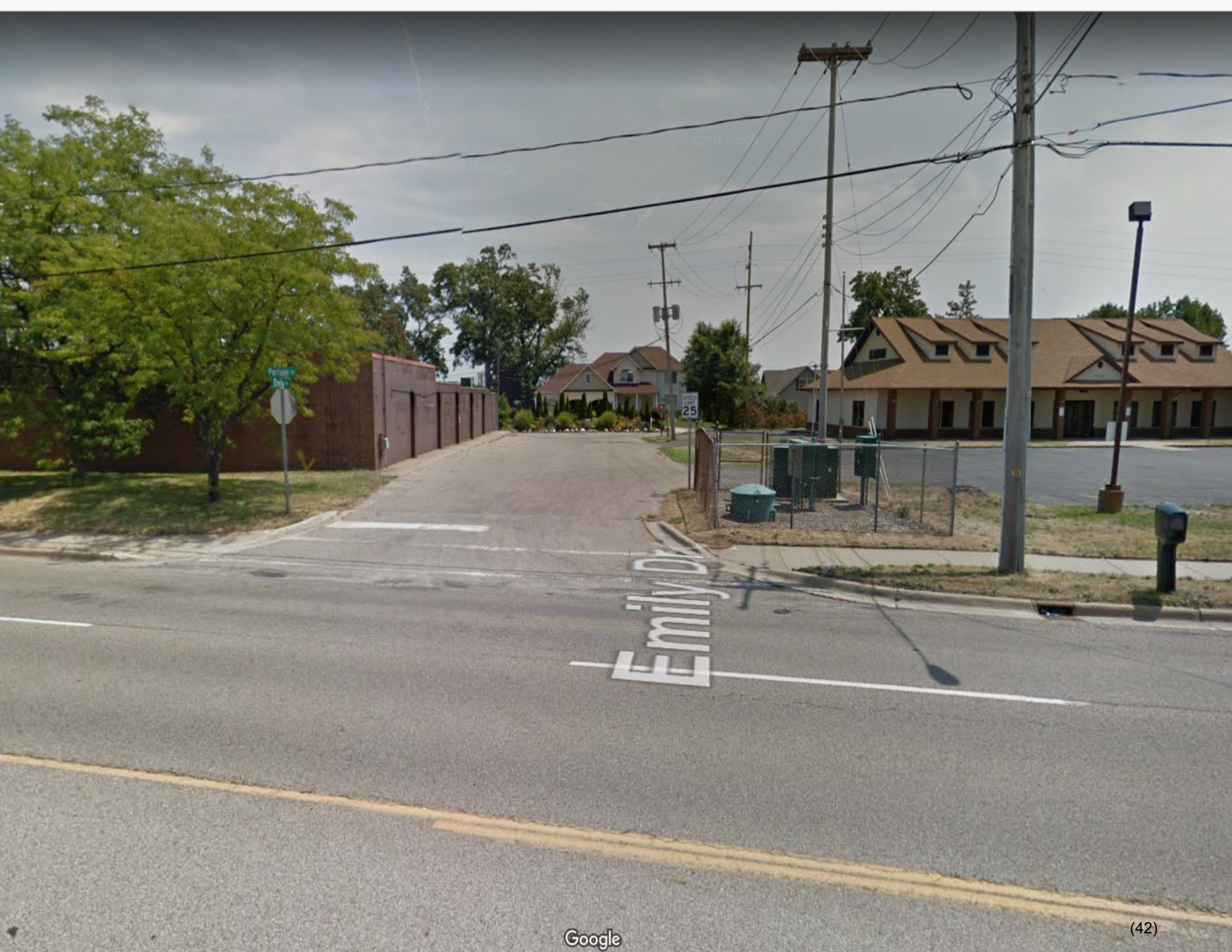
**Attachments:**

1. Map - 9125 Portage Road
2. Emily Drive Image



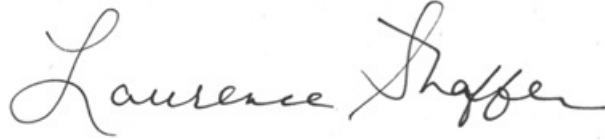






**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Chopin Avenue and Mozart Street Water Main Project - Change Order No. 2

**SUPPORTING PERSONNEL:** Kendra Gwin, Director of Transportation & Utilities

**ACTION RECOMMENDED:** Approve Change Order No. 2 to Balkema Excavating, Incorporated, of Plainwell, Michigan, in the amount of \$41,484.49 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The fiscal year 2016 – 2017 Capital Improvement Program budget provides funding for the Chopin Avenue and Mozart Street Water Main Project. On May 23, 2017, City Council awarded a construction contract with Balkema Excavating, Incorporated, for the subject project. During the water main construction, it was determined that additional concrete curb and pavement was needed to address potential storm drainage concerns that would have been problematic to the residents. Concrete curb and gutter radii were added at the corner of Chopin and Mozart to define the street and be consistent with improvements now being made on all local street projects.

On September 12, 2017, City Council approved Change Order No. 1 to this construction contract with Balkema Excavating, Incorporated, to replace existing water services on East Milham Avenue east of Sprinkle Road to allow for the abandonment of deteriorated water main with a history of multiple annual breaks. During the water service installations, four additional water services were added and additional pavement replacement was required, which was not anticipated.

It is recommended that City Council approve Change Order No. 2 to the construction contract with Balkema Excavating, Incorporated in the amount of \$41,484.49 for additional scope and services completed on the Chopin Avenue and Mozart Street Water Main Project and East Milham Water Service Project and authorize the City Manager to execute all documents related to the contract on behalf of the city.

**FUNDING:** Funds are included in the Fiscal Year 2016-2017 Capital Improvement Program budget for these utility improvements.

**Attachments:** 1. Change Order No. 2



**CITY OF PORTAGE**  
**PROJECT: Chopin Avenue/Mozart Street Water**  
**Main Project**  
**CONTRACT CHANGE ORDER NO. 2**

Contractor: Balkema Excavating, Inc.  
1500 River Street  
Kalamazoo, MI 49048

**Subject:**

1. Addition to contract: Additional pavement and concrete were placed on Chopin and Mozart to address drainage concerns.
2. Addition to contract: Four additional water services added to East Milham Avenue and necessary additional pavement replacement, primarily due to inaccurate as-built drawings.
3. Subtraction to contract: Balancing of Final Quantities for Chopin and Mozart
4. Subtraction to contract: Balancing of Final Quantities for East Milham Avenue

| ITEM | DESCRIPTION                                      | QUANTITY | UNIT PRICE   | TOTAL PRICE |
|------|--------------------------------------------------|----------|--------------|-------------|
| 1    | Mozart/Chopin Extra Pavement and Concrete        | 1        | \$14,120.40  | \$14,120.40 |
| 2    | East Milham Additional Water Services & Pavement | 1        | \$38,944.68  | \$38,944.68 |
| 3    | Balancing of Chopin/Mozart                       | 1        | -\$8,710.59  | -\$8,710.59 |
| 4    | Balancing of East Milham                         | 1        | -\$2,870.00  | -\$2,870.00 |
|      |                                                  |          |              |             |
|      |                                                  |          | TOTAL CHANGE | \$41,484.49 |

|                             |                     |
|-----------------------------|---------------------|
| Original Contract Amount    | \$220,644.00        |
| Contract Amendment #1 (ADD) | \$ 84,390.00        |
| Contract Amendment #2 (ADD) | <u>\$ 41,484.49</u> |
| Revised Contract Amount     | \$346,518.49        |

**PREPARED BY:**

Kendra Gwin  
Kendra Gwin, P.E.  
Director of Transportation & Utilities

Date 2-2-18

**ACCEPTED BY (CONTRACTOR)**

Timothy J. Balkema  
Timothy J. Balkema, Balkema Excavating, Inc.

Date 2-2-18

**APPROVED BY:**

\_\_\_\_\_  
Laurence Shaffer, City Manager

Date \_\_\_\_\_

Distribution of Executed Change Order: Originals – City Clerk & Contractor, Copies – Purchasing & Originating Department



**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Comprehensive Liability, Property and Auto Fleet Insurance

**SUPPORTING PERSONNEL:** Rob Boulis, Deputy City Manager

**ACTION RECOMMENDED:** Approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total cost not to exceed \$509,112 for the period of March 1, 2018 to March 1, 2019 and authorize the City Manager to execute all documents related to this action on behalf of the city.

The City of Portage has been insured by the Michigan Municipal Risk Management Authority (MMRMA) for comprehensive liability, property and auto fleet insurance since 1984. The MMRMA has quoted a one-year renewal rate for the period of March 1, 2018 to March 1, 2019 in the amount of \$509,112, which includes \$15 million of liability coverage and \$75,000 of self-insurance retention coverage (the dollar amount that must be paid by the city before the insurance policy will respond to a liability loss). The renewal rate represents an increase of 2.8 percent over the premium cost paid for the period of March 1, 2017 to March 1, 2018 of \$495,476. MMRMA reports that the premium increase is not due to the experience of the city, but is a result of a national trend of increased police liability.

A distribution of assets is expected from MMRMA in the next four to five months, which will be based on favorable claims experience by the city and investment income earned by MMRMA on its assets. The exact amount is not yet known; however, the distribution received over the past seven years averaged nearly \$363,000 per year. A summary of MMRMA insurance premiums and distribution of assets for the past seven years is shown below.

| Year | Premium   | Distribution of Assets | Total Premium After Distribution |
|------|-----------|------------------------|----------------------------------|
| 2011 | \$481,577 | \$225,000              | \$256,577                        |
| 2012 | \$433,977 | \$505,863              | (\$71,886)                       |
| 2013 | \$403,253 | \$269,378              | \$133,875                        |
| 2014 | \$410,668 | \$360,727              | \$49,941                         |
| 2015 | \$466,134 | \$502,123              | (\$55,989)                       |
| 2016 | \$484,971 | \$363,159              | \$121,812                        |
| 2017 | \$495,476 | \$283,096              | \$212,380                        |

Therefore, it is recommended that City Council approve a one-year agreement for comprehensive

liability, property and auto fleet insurance through the MMRMA at a total cost not to exceed \$509,112 for the period of March 1, 2018 to March 1, 2019 and authorize the City Manager to execute all documents related to this action on behalf of the city.

**FUNDING:** Funds have been programmed for insurance costs in the Fiscal Year 2017-2018 budget, with the balance to be included in the Fiscal Year 2018-2019 budget.

**Attachments:** 1. MMRMA Coverage Proposal

# **MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY COVERAGE PROPOSAL**

|                                     |                                         |                                    |
|-------------------------------------|-----------------------------------------|------------------------------------|
| <b>Member:</b>                      | <b>City of Portage</b>                  | <b>Proposal No: Q000011431</b>     |
| <b>Date of Original Membership:</b> | <b>March 10, 1986</b>                   |                                    |
| <b>Proposal Effective Dates:</b>    | <b>March 01, 2018 To March 01, 2019</b> |                                    |
| <b>Member Representative:</b>       | <b>Rob Boulis</b>                       | <b>Telephone #: (269) 329-4402</b> |
| <b>Regional Risk Manager:</b>       | <b>Ibex Insurance Agency</b>            | <b>Telephone #: (248) 538-0470</b> |

## **A. Introduction**

The Michigan Municipal Risk Management Authority (hereinafter "MMRMA") is created by authority granted by the laws of the State of Michigan to provide risk financing and risk management services to eligible Michigan local governments. MMRMA is a separate legal and administrative entity as permitted by Michigan laws. **City of Portage** (hereinafter "Member") is eligible to be a Member of MMRMA. **City of Portage** agrees to be a Member of MMRMA and to avail itself of the benefits of membership.

**City of Portage** is aware of and agrees that it will be bound by all of the provisions of the Joint Powers Agreement, Coverage Documents, MMRMA rules, regulations, and administrative procedures.

This Coverage Proposal summarizes certain obligations of MMRMA and the Member. Except for specific coverage limits, attached addenda, and the Member's Self Insured Retention (SIR) and deductibles contained in this Coverage Proposal, the provisions of the Joint Powers Agreement, Coverage Documents, reinsurance agreements, MMRMA rules, regulations, and administrative procedures shall prevail in any dispute. The Member agrees that any dispute between the Member and MMRMA will be resolved in the manner stated in the Joint Powers Agreement and MMRMA rules.

## **B. Member Obligation - Deductibles and Self Insured Retentions**

**City of Portage** is responsible to pay all costs, including damages, indemnification, and allocated loss adjustment expenses for each occurrence that is within the Member's Self Insured Retention (hereinafter the "SIR"). **City of Portage's** SIR and deductibles are as follows:



**Table I**  
**Member Deductibles and Self Insured Retentions**

| COVERAGE                  | DEDUCTIBLE             | SELF INSURED RETENTION                          |
|---------------------------|------------------------|-------------------------------------------------|
| Liability                 | N/A                    | \$75,000 Per Occurrence                         |
| Vehicle Physical Damage   | \$1,000 Per Vehicle    | \$15,000 Per Vehicle<br>\$30,000 Per Occurrence |
| Fire/EMS Replacement Cost | \$1,000 Per Occurrence | N/A                                             |
| Property and Crime        | \$1,000 Per Occurrence | N/A                                             |
| Sewage System Overflow    | N/A                    | \$75,000 Per Occurrence                         |

The member must satisfy all deductibles before any payments are made from the Member's SIR or by MMRMA.

Member's Motor Vehicle Physical Damage deductible applies, unless the amount of the loss exceeds the deductible. If the amount of loss exceeds the deductible, the loss including deductible amount, will be paid by MMRMA, subject to the Member's SIR.

The City of Portage is afforded all coverages provided by MMRMA, except as listed below:

1. Specialized Emergency Response Expense Recovery Coverage
- 2.
- 3.
- 4.

All costs including damages and allocated loss adjustment expenses are on an occurrence basis and must be paid first from the Member's SIR. The Member's SIR and deductibles must be satisfied fully before MMRMA will be responsible for any payments. The most MMRMA will pay is the difference between the Member's SIR and the Limits of Coverage stated in the Coverage Overview.

City of Portage agrees to maintain the Required Minimum Balance as defined in the Member Financial Responsibilities section of the MMRMA Governance Manual. The Member agrees to abide by all MMRMA rules, regulations, and administrative procedures pertaining to the Member's SIR.

### **C. MMRMA Obligations - Payments and Limits of Coverage**

After the Member's SIR and deductibles have been satisfied, MMRMA will be responsible for paying all remaining costs, including damages, indemnification, and allocated loss adjustment expenses to the Limits of Coverage stated in Table II. The Limits of Coverage include the Member's SIR payments.

The most MMRMA will pay, under any circumstances, which includes payments from the Member's SIR, per occurrence, is shown in the Limits of Coverage column in Table II. The Limits of Coverage includes allocated loss adjustment expenses.

**Table II**  
**Limits of Coverage**

| Liability and Motor Vehicle Physical Damage |                                                           | Limits of Coverage Per Occurrence |             | Annual Aggregate |             |
|---------------------------------------------|-----------------------------------------------------------|-----------------------------------|-------------|------------------|-------------|
|                                             |                                                           | Member                            | All Members | Member           | All Members |
| 1                                           | Liability                                                 | 15,000,000                        | N/A         | N/A              | N/A         |
| 2                                           | Judicial Tenure                                           | N/A                               | N/A         | N/A              | N/A         |
| 3                                           | Sewage System Overflows                                   | 500,000                           | N/A         | 500,000          | N/A         |
| 4                                           | Volunteer Medical Payments                                | 25,000                            | N/A         | N/A              | N/A         |
| 5                                           | First Aid                                                 | 2,000                             | N/A         | N/A              | N/A         |
| 6                                           | Vehicle Physical Damage                                   | 1,500,000                         | N/A         | N/A              | N/A         |
| 7                                           | Uninsured/Underinsured Motorist Coverage (per person)     | 100,000                           | N/A         | N/A              | N/A         |
|                                             | Uninsured/Underinsured Motorist Coverage (per occurrence) | 250,000                           | N/A         | N/A              | N/A         |
| 8                                           | Michigan No-Fault                                         | Per Statute                       | N/A         | N/A              | N/A         |
| 9                                           | Terrorism                                                 | 5,000,000                         | N/A         | N/A              | 5,000,000   |

| Property and Crime |                                                                               | Limits of Coverage Per Occurrence |             | Annual Aggregate |             |
|--------------------|-------------------------------------------------------------------------------|-----------------------------------|-------------|------------------|-------------|
|                    |                                                                               | Member                            | All Members | Member           | All Members |
| 1                  | Buildings and Personal Property                                               | 46,096,884                        | 350,000,000 | N/A              | N/A         |
| 2                  | Personal Property in Transit                                                  | 2,000,000                         | N/A         | N/A              | N/A         |
| 3                  | Unreported Property                                                           | 5,000,000                         | N/A         | N/A              | N/A         |
| 4                  | Member's Newly Acquired or Constructed Property                               | 5,000,000                         | N/A         | N/A              | N/A         |
| 5                  | Fine Arts                                                                     | 2,000,000                         | N/A         | N/A              | N/A         |
| 6                  | Debris Removal (25% of Insured direct loss plus)                              | 25,000                            | N/A         | N/A              | N/A         |
| 7                  | Money and Securities                                                          | 1,000,000                         | N/A         | N/A              | N/A         |
| 8                  | Accounts Receivable                                                           | 2,000,000                         | N/A         | N/A              | N/A         |
| 9                  | Fire Protection Vehicles, Emergency Vehicles, and Mobile Equipment (Per Unit) | 2,000,000                         | 10,000,000  | N/A              | N/A         |
| 10                 | Fire and Emergency Vehicle Rental (12 week limit)                             | 1,000 per week                    | N/A         | N/A              | N/A         |
| 11                 | Structures Other Than a Building                                              | 18,000,000                        | N/A         | N/A              | N/A         |
| 12                 | Storm or Sanitary Sewer Back-Up                                               | 1,000,000                         | N/A         | N/A              | N/A         |
| 13                 | Marine Property                                                               | 1,000,000                         | N/A         | N/A              | N/A         |
| 14                 | Other Covered Property                                                        | 10,000                            | N/A         | N/A              | N/A         |
| 15                 | Income and Extra Expense                                                      | 5,000,000                         | N/A         | N/A              | N/A         |
| 16                 | Blanket Employee Fidelity                                                     | 1,000,000                         | N/A         | N/A              | N/A         |
| 17                 | Faithful Performance                                                          | Per Statute                       | N/A         | N/A              | N/A         |
| 18                 | Earthquake                                                                    | 5,000,000                         | N/A         | 5,000,000        | 100,000,000 |
| 19                 | Flood                                                                         | 5,000,000                         | N/A         | 5,000,000        | 100,000,000 |
| 20                 | Terrorism                                                                     | 50,000,000                        | 50,000,000  | N/A              | N/A         |

**TABLE III****Data Breach and Privacy Liability, Data Breach Loss to Member, Electronic Media Liability, and Breach Mitigation Expense Coverage****Limits of Coverage****Retroactive Dates:****For Coverage A – Data Breach and Privacy Liability Coverage: 7/1/2013****For Coverage C -- Electronic Media Liability Coverage: 7/1/2013**

| <b>Data Breach and Privacy Liability, Data Breach Loss to Member, Electronic Media Liability, and Breach Mitigation Expense</b> | <b>Limits of Coverage Per Occurrence/Claim</b> | <b>Annual Aggregate</b> |                    |
|---------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-------------------------|--------------------|
|                                                                                                                                 | <b>Member</b>                                  | <b>Member</b>           | <b>All Members</b> |
| Coverage A – Data Breach and Privacy Liability Coverage:<br>Each Claim:                                                         | \$5,000,000<br>Included in the limit above     | \$5,000,000             | \$25,000,000       |
| Coverage B – Data Breach Loss to Member Coverage:<br>Each Unauthorized Access:                                                  | Included in the limit above                    |                         |                    |
| Coverage C – Electronic Media Liability Coverage:<br>Each Claim:                                                                | Included in the limit above                    |                         |                    |
| Coverage D – Breach Mitigation Expense Coverage:<br>Each Unintentional Data Compromise:                                         | Included in the limit above                    |                         |                    |

The total liability of MMRMA shall not exceed \$5,000,000 per Member aggregate Limit of Liability for coverages A, B, C, and D, in any coverage period.

The total liability of MMRMA shall not exceed \$25,000,000 for All Members aggregate Limit of Liability for coverages A, B, C, and D, from July 1, 2017, to June 30, 2018.

**TABLE IV****Data Breach and Privacy Liability, Data Breach Loss to Member, Electronic Media Liability, and Breach Mitigation Expense Coverage****Deductibles**

| <b>Data Breach and Privacy Liability, Data Breach Loss to Member, Electronic Media Liability, and Breach Mitigation Expense</b> | <b>Deductible Per Occurrence/Claim</b> |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
|                                                                                                                                 | <b>Member</b>                          |
| Coverage A – Data Breach and Privacy Liability Coverage:<br>Each Claim:                                                         | \$25,000                               |
| Coverage B – Data Breach Loss to Member Coverage:<br>Each Unauthorized Access:                                                  | \$25,000                               |
| Coverage C – Electronic Media Liability Coverage:<br>Each Claim:                                                                | \$25,000                               |
| Coverage D – Breach Mitigation Expense Coverage:<br>Each Unintentional Data Compromise:                                         | \$25,000                               |

**Table V**

**Specialized Emergency Response Expense Recovery Coverage**

**Limits of Coverage**

| Specialized Emergency Response Expense Recovery | Limits of Coverage per Occurrence |             | Annual Aggregate |             |
|-------------------------------------------------|-----------------------------------|-------------|------------------|-------------|
|                                                 | Member                            | All Members | Member           | All Members |
|                                                 | N/A                               | N/A         | N/A              | N/A         |

**Table VI**

**Specialized Emergency Response Expense Recovery Coverage**

**Deductibles**

| Specialized Emergency Response Expense Recovery | Deductible per Occurrence |  |
|-------------------------------------------------|---------------------------|--|
|                                                 | Member                    |  |
|                                                 | N/A                       |  |

#### D. Contribution for MMRMA Participation

City of Portage

Period: March 01, 2018

To March 01, 2019

Coverages per Member Coverage Overview: \$509,112

Stop Loss Coverage: \$0

Member Loss Fund Deposit: \$0

TOTAL ANNUAL CONTRIBUTIONS: \$509,112

#### E. List of Addenda

1. Limited Liability Coverage For Use or Operations of Unmanned Aircraft

This document is for the purpose of quotation only and does not bind coverage in the Michigan Municipal Risk Management Authority, unless accepted and signed by both the authorized Member Representative and MMRMA Representative below.

Accepted By:

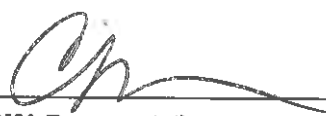
City of Portage

Proposal No:

Q000011431

MMRMA

\_\_\_\_\_  
Member Representative

  
\_\_\_\_\_  
MMRMA Representative

\_\_\_\_\_  
Date

1-29-18  
\_\_\_\_\_  
Date

## **ADDENDUM**

### **LIMITED LIABILITY COVERAGE FOR USE OR OPERATIONS OF UNMANNED AIRCRAFT (Optional)**

This addendum modifies the Liability and Motor Vehicle Physical Damage Coverage Document

#### **A. LIMITATIONS OF COVERAGE, PROCEDURES, EXCLUSIONS, DEFINITIONS.**

1. MMRMA will pay for any loss as defined in Sections 1 and 2 of the Liability and Motor Vehicle Physical Damage Coverage Document, caused by the use or operation of an Unmanned Aircraft, the actual loss up to a \$1,000,000 limit per occurrence and subject to a \$2,000,000 annual member aggregate.
2. The Member Duties, Responsibilities, Other Conditions stated in Section 7 of the Liability and Motor Vehicle Physical Damage Coverage Document shall apply to Limited Liability Coverage for use or operations of Unmanned Aircraft.
3. As respects this Limited Liability Coverage for Use or Operations of Unmanned Aircraft Addendum, Section 7; Member Duties, Responsibilities, Other Conditions, of the Liability and Motor Vehicle Physical Damage Coverage Document is amended to include the following:
  - O. **FAA COMPLIANCE**  
The terms of this Addendum apply only if the Member is in compliance with all FAA rules and regulations governing the use or operation of an unmanned aircraft, at time of occurrence.
4. The Liability and Motor Vehicle Physical Damage Coverage Document Section 4, Definitions, shall apply to this Limited Liability Coverage For Use Or Operation Of An Unmanned Aircraft Addendum.
5. As respects this Limited Liability Coverage For Use Or Operations Of Unmanned Aircraft Addendum, Section 2; Exclusion C, of the Liability and Motor Vehicle Physical Damage Coverage Document is deleted in its entirety and replaced by the following:

#### **EXCLUSIONS**

- C. Ownership, maintenance, loading or unloading, use or operation of any aircraft (other than unmanned aircraft), airfields, or runways; watercraft over 75 feet in length;



Period: 03/01/2018 to 03/01/2019

LIMITED LIABILITY COVERAGE FOR USE OR OPERATIONS OF UNMANNED  
AIRCRAFT (Optional)

Accepted By:  
City of Portage

Member ID:  
1049

MMRMA

\_\_\_\_\_  
Member Representative

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
MMRMA Representative

1-29-18  
\_\_\_\_\_  
Date

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Celery Flats Trailhead Park Shelter

**SUPPORTING PERSONNEL:** Rod Russell, Director of Public Services  
Kathleen Hoyle, Director of Parks, Recreation & Senior Citizen Services

**ACTION RECOMMENDED:** Approve the purchase of an ICON Shelter from Penchura, LLC, of Brighton, Michigan, to be constructed at the Celery Flats Historical Area at a cost of \$201,880 and authorize the City Manager to sign all documents related to this purchase on behalf of the city.

The 2017-2018 Capital Improvement Program budget includes funding for the purchase and construction of an ICON shelter at the Celery Flats Historical Area. The new 2,300 square-foot covered pavilion will replace the current structure and feature two restrooms, private patio area, deck overlooking the pond, a pedestrian plaza with food court, mobile concession hook-ups and dual water fountains/bottle fillers. Additionally, the project will include improvements to the Garden Lane pedestrian crossing, parking lot re-design (adding 40 parking spaces) and a forest walk connection to Portage Creek Bicentennial Trail.

Penchura, LLC is the designated sales representative for ICON Shelter Systems in Michigan and provides a unique and appealing shelter design that is fabricated in Holland, Michigan. Pre-engineered shelter materials would be provided directly to the city and city personnel would perform the construction assembly, providing a substantial savings over public bidding of the construction work.

City Council continues to maintain a coordinated and innovative approach toward development of park land and provision of recreational opportunities. The Celery Flats Historical Area is a highly-visible park locale. The replacement of the former Celery Flats Interpretive Center with a modern, accessible park shelter would serve as a central hub of the Celery Flats Historical Area and the Portage Creek Bicentennial Park trail system.

It is recommended that City Council approve the purchase of an ICON brand pre-engineered park shelter from Penchura, LLC located in Brighton, Michigan for the Celery Flats Visitors Center at a cost not to exceed \$201,880 and authorize the City Manager to sign all documents related to this purchase on behalf of the city.

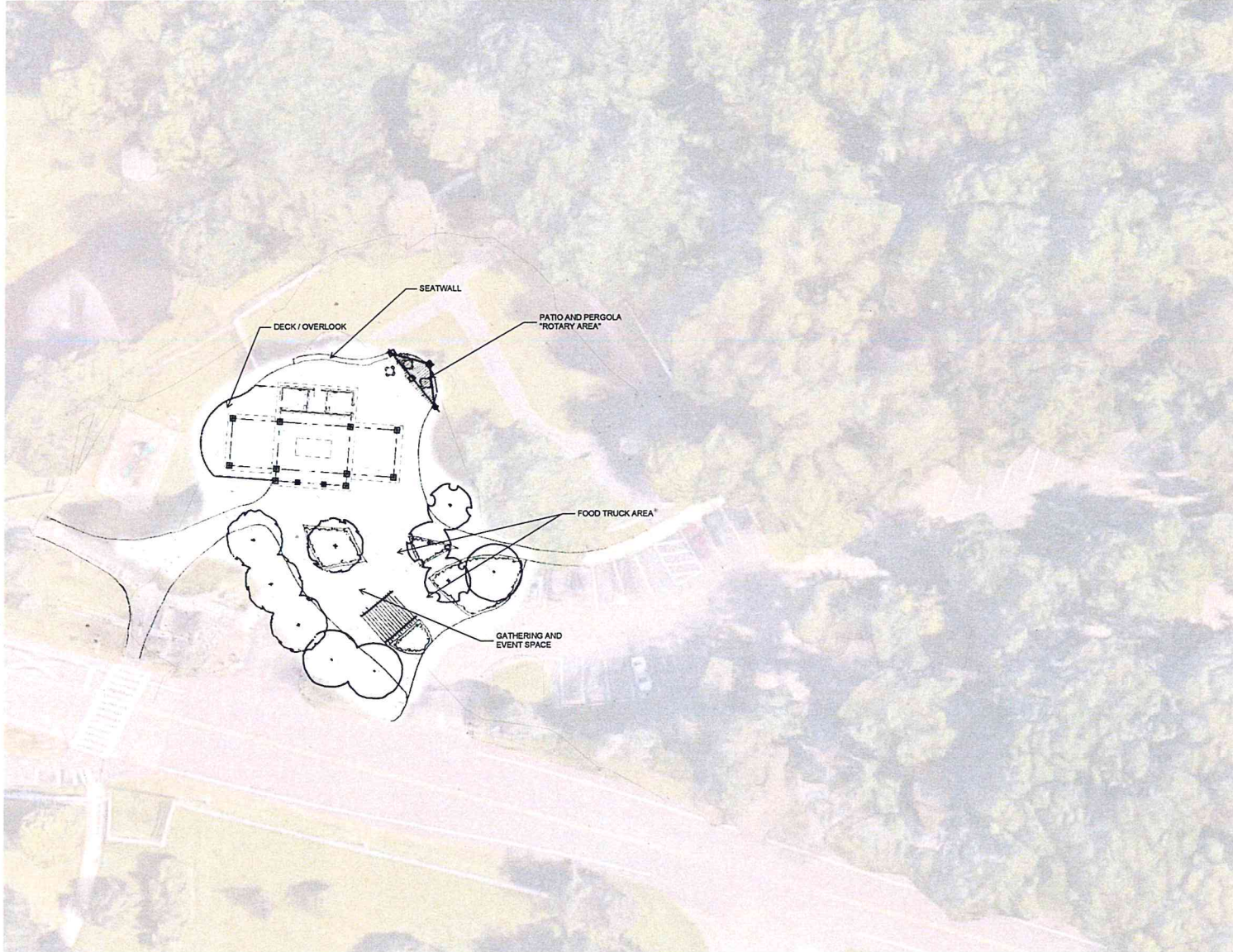
**FUNDING:** Funds are available in the Fiscal Year 2017-2018 CIP funds.

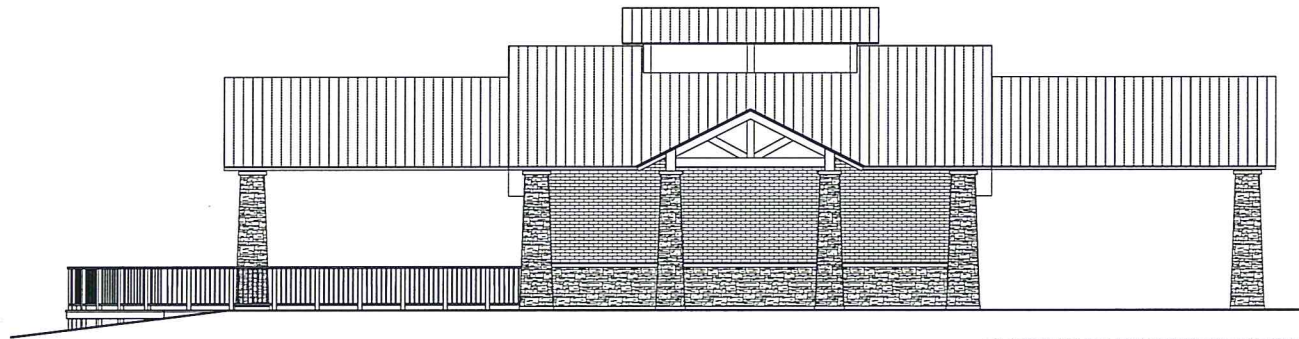
- Attachments:**
1. Structure Rendering
  2. Structure Estimate
  3. CFHA Storyboard



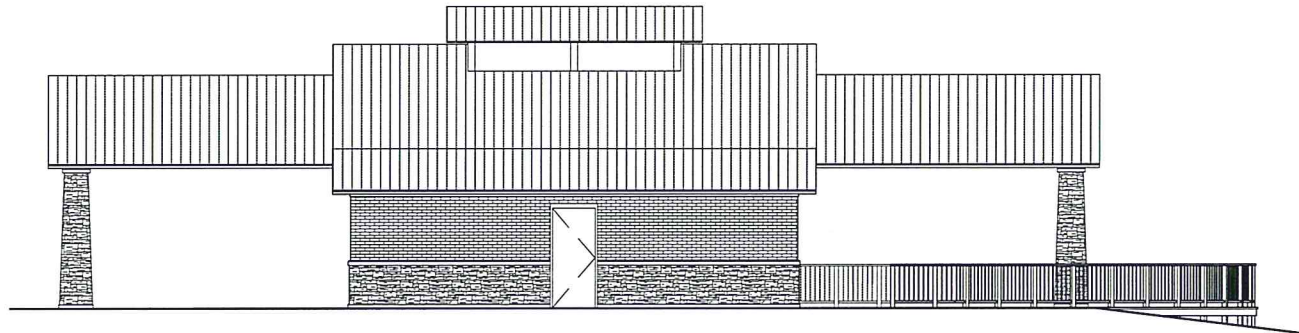




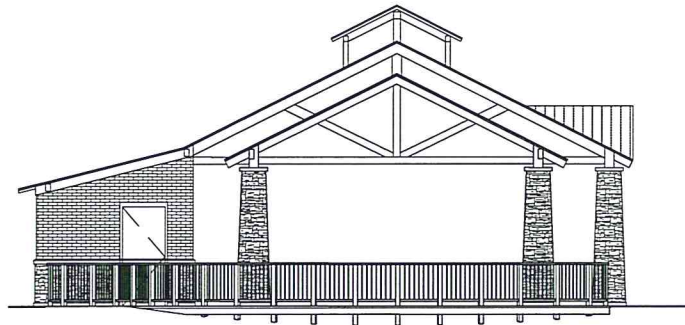




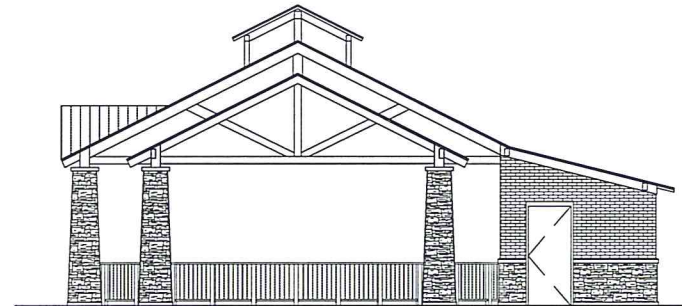
1 CELERY FLATS PAVILION FRONT ELEVATION  
A2.0 SCALE: 1/8"=1'-0"



2 CELERY FLATS PAVILION BACK ELEVATION  
A2.0 SCALE: 1/8"=1'-0"



4 CELERY FLATS PAVILION SIDE ELEVATION  
A2.0 SCALE: 1/8"=1'-0"



3 CELERY FLATS PAVILION SIDE ELEVATION  
A2.0 SCALE: 1/8"=1'-0"



WRIGHTMAN &  
ASSOCIATES, INC.  
NEW HAVEN, CT 06511-1100  
★ FIRM OF THE YEAR ★  
2333 Poplar Road  
Benton Harbor, MI 49022  
Phone: (269) 827-0100  
8835 Portage Road  
Portage, MI 49022  
Phone: (269) 327-0033  
254 Western Avenue  
Aberdeen, MI 49010  
Phone: (269) 873-4465  
www.wrightman-assoc.com

PROJECT NAME:  
ELIJAHSON RESERVE  
& CELERY FLATS  
DEVELOPMENT  
1614 W. OSTERHOUT AVENUE  
PORTAGE, MI 49024  
7335 GARDEN LANE  
PORTAGE, MI 49024

CITY OF PORTAGE  
7900 S. WESTNEDGE AVE.  
PORTAGE, MI 49024

00 PRELIMINARY - NOT FOR  
CONSTRUCTION

REVISIONS  
THE INFORMATION CONTAINED HEREIN IS THE PROPERTY OF WRIGHTMAN & ASSOCIATES, INC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN.  
DATE: SEPTEMBER, 2017  
SCALE:

ELEVATIONS

JOB NO. 170164  
A2.0





Make all P.O.s, Contracts, and Checks to:  
**Penchura, L.L.C.**  
**889 S. Old US 23**  
**Brighton, MI 48114**

# Proposal

| Date       | Project # |
|------------|-----------|
| 12/12/2017 | 18-022    |

|                                                                               |
|-------------------------------------------------------------------------------|
| <b>Bill To</b>                                                                |
| City of Portage<br>7719 S Westnedge Ave<br>Portage, MI 49002<br>United States |

|                |
|----------------|
| <b>Ship To</b> |
| TBD            |

| Customer Contact | Customer Phone | Customer Fax | Terms  | P.O. No. | Rep |
|------------------|----------------|--------------|--------|----------|-----|
| Tricia Kaela     | (269) 329-4446 |              | Net 30 |          | JRS |

| Item       | Description                                                                                                                                                                                                                                                                                                                                                                                                        | Qty | Weight | Price      | Total       |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------|------------|-------------|
| Custom     | Celery Flats Pavilion<br>CUSRECT32X54TS-P6<br>2x6 Tongue and Groove Roof Deck<br>Stain T&G (1) Side<br>24 ga Standing Seam Metal Roof over T&G<br>Installer to Field Cut All Roof Angles<br>6:12 Roof Slope<br>10' Eave Height<br>(8) Electrical Cutouts<br>Gable End Ornamentation<br>Popped Up Gable Section in Center of Main Structure<br>Anchor Bolts & Templates Included<br>Column Base Covers Not Included | 1   |        | 133,095.00 | 133,095.00T |
| Additional | Restroom Roofing<br>Roofing Materials for 24X21 Restroom at 6:12 Roof Slope<br>2x6 Tongue and Groove Roof Deck<br>24 ga Standing Seam Metal Roof over T&G<br>Installer to Field Cut All Roof Angles                                                                                                                                                                                                                | 1   |        | 8,125.00   | 8,125.00T   |

Proposal good for 30 days.  
 Ship Via: common carrier  
 Delivery contact name and number: \_\_\_\_\_

**Subtotal**

**Sales Tax (0.0%)**

**Total**

Customer signature below constitutes a purchase order.

889 S. Old US 23, Brighton, MI 48114  
 Office: (810) 229-6245 Fax: (810) 229-6256 Toll Free: (888) 778-7529



Make all P.O.s, Contracts, and Checks to:  
**Penchura, L.L.C.**  
**889 S. Old US 23**  
**Brighton, MI 48114**

# Proposal

| Date       | Project # |
|------------|-----------|
| 12/12/2017 | 18-022    |

|                                                                               |
|-------------------------------------------------------------------------------|
| <b>Bill To</b>                                                                |
| City of Portage<br>7719 S Westnedge Ave<br>Portage, MI 49002<br>United States |

|                |
|----------------|
| <b>Ship To</b> |
| TBD            |

| Customer Contact | Customer Phone | Customer Fax | Terms  | P.O. No. | Rep |
|------------------|----------------|--------------|--------|----------|-----|
| Tricia Kaela     | (269) 329-4446 |              | Net 30 |          | JRS |

| Item       | Description                                                                                                                                                                                                                                                                                                                                                                                                 | Qty | Weight | Price     | Total      |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------|-----------|------------|
| Additional | Restroom Building<br>WRG24X21TS-P6 Restroom/Storage Area<br>(2) Restrooms (1) Storage Area<br>Exterior Cedar Timber Walls<br>SYP Roof Framing<br>FRP Interior Walls & Steel Doors<br>2x6 Tongue and Groove Roof Deck<br>24 ga Standing Seam Metal Roof over T&G<br>Installer to Field Cut All Roof Angles<br>6:12 Roof Slope<br>Excludes: Plumbing, Plumbing Fixtures, Electrical, HVAC,<br>Restroom Stalls | 1   |        | 60,660.00 | 60,660.00T |

Proposal good for 30 days.

Ship Via: common carrier

Delivery contact name and number: \_\_\_\_\_

Customer signature below constitutes a purchase order.

\_\_\_\_\_

|                         |              |
|-------------------------|--------------|
| <b>Subtotal</b>         | \$201,880.00 |
| <b>Sales Tax (0.0%)</b> | \$0.00       |
| <b>Total</b>            | \$201,880.00 |

889 S. Old US 23, Brighton, MI 48114  
Office: (810) 229-6245 Fax: (810) 229-6256 Toll Free: (888) 778-7529



# Celery Flats Pavilion & Expanded Parking



A new 2,300-square-foot covered pavilion will replace the current structure and feature:

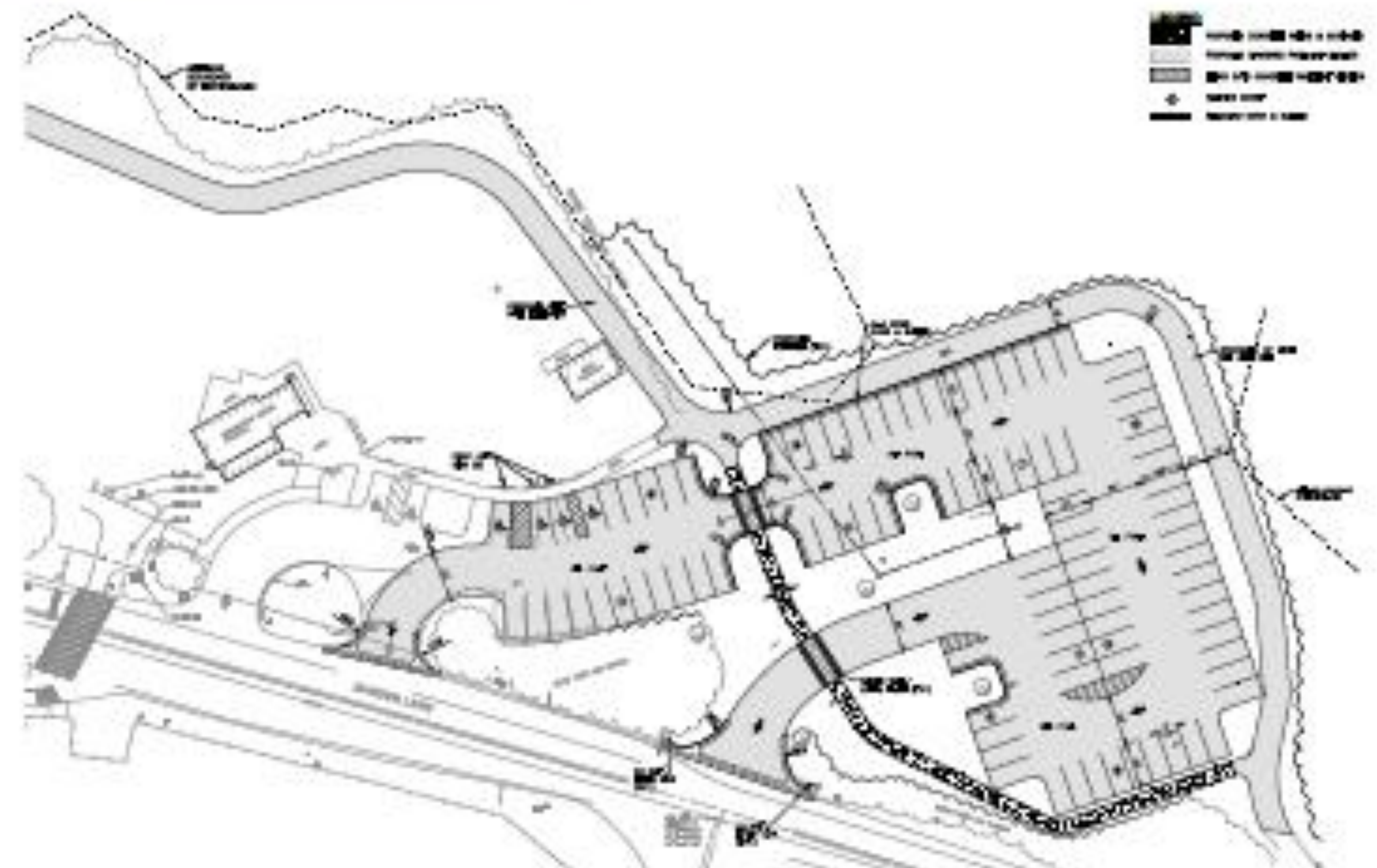
- Two Restrooms
- Private Patio Area
- Deck Overlooking the Pond
- Pedestrian Plaza with Food Court
- Mobile Concession Hook-ups
- Dual Water Fountains / Bottle Fillers

Garden Lane Pedestrian Crossing Improvements

Parking Lot Redesign (Increase of 40 parking spaces)

Forest Walk Connection to Portage Creek Bicentennial Trail

Projected Completion: August 2018





**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** AT&T Michigan Video Franchise Agreement Renewal

**SUPPORTING PERSONNEL:** Devin Mackinder, Director of Technology Services

**ACTION RECOMMENDED:** Approve the Uniform Video Services Local Franchise Agreement submitted by AT&T Michigan pursuant to the Public Act 480 of 2006 (MCLA 44.3301 et. seq.), the Uniform Video Services Local Franchising Act, adopt the Resolution Authorizing Franchise and authorize the City Manager to execute all documents related to this action on behalf of the city.

On January 1, 2007, Public Act 480 of 2007 (MCLA 44.3301 et. seq.), the Uniform Video Services Local Franchise Act, was established by the State Legislature to provide for uniformity in video franchise service agreements throughout the state. According to the Act, any video services provider seeking to provide video service in a municipality must file a Uniform Video Services Local Franchise Agreement with the said municipality. On January 16, 2018, the City of Portage received a Uniform Franchise Agreement renewal from AT&T Michigan. The last agreement with AT&T Michigan was approved by City Council in February 2008 and expires on March 5, 2018

The renewal agreement and associated Authorizing Franchise Resolution memorialize the following:

1. There are five (5) public educational and governmental (PEG) access channels in actual use;
2. AT&T Michigan will provide the same annual percentages for franchise fees of five (5) percent of gross revenues and PEG support fees of \$0.40 cents per month for each subscriber;
3. The new agreement does not waive the city police powers or its right to challenge or modify a Uniform Franchise if the Act in whole or in part is amended by the legislature or overturned by the courts;
4. The term of the agreement is for ten (10) years.

Therefore, it is recommended that City Council approve the Uniform Video Services Local Franchise Agreement submitted by AT&T Michigan, adopt the Resolution Authorizing Franchise and authorize the City Manager to execute all documents related to this action.

**FUNDING:** N/A

**Attachments:**

1. ATT Michigan Video Franchise Agreement
2. Resolution



## UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT

THIS UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT ("Agreement") is made, pursuant to 2006 PA 480, MCL 484.3301 *et seq.* (the "Act") by and between the City of Portage, a Michigan municipal corporation (the "Franchising Entity"), and Michigan Bell Telephone Company, a Michigan corporation doing business as AT&T Michigan.

### I. Definitions

For purposes of this Agreement, the following terms shall have the following meanings as defined in the Act:

- A. "Cable Operator" means that term as defined in 47 USC 522(5).
- B. "Cable Service" means that term as defined in 47 USC 522(6).
- C. "Cable System" means that term as defined in 47 USC 522(7).
- D. "Commission" means the Michigan Public Service Commission.
- E. "Franchising Entity" means the local unit of government in which a provider offers video services through a franchise.
- F. "FCC" means the Federal Communications Commission.
- G. "Gross Revenue" means that term as described in Section 6(4) of the Act and in Section VI(D) of the Agreement.
- H. "Household" means a house, an apartment, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters.
- I. "Incumbent video provider" means a cable operator serving cable subscribers or a telecommunication provider providing video services through the provider's existing telephone exchange boundaries in a particular franchise area within a local unit of government on the effective date of this act.
- J. "IPTV" means internet protocol television.
- K. "Local unit of government" means a city, village, or township.
- L. "Low-income household" means a household with an average annual household income of less than \$35,000.00 as determined by the most recent decennial census.
- M. "METRO Act" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3101 *et seq.*
- N. "Open video system" or "OVS" means that term as defined in 47 USC 573.
- O. "Person" means an individual, corporation, association, partnership, governmental entity, or any other legal entity.
- P. "Public rights-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easements dedicated for compatible uses.
- Q. "Term" means the period of time provided for in Section V of this Agreement.
- R. "Uniform video service local franchise agreement" or "franchise agreement" means the franchise agreement required under the Act to be the operating agreement between each franchising entity and video provider in this state.
- S. "Video programming" means that term as defined in 47 USC 522(20).
- T. "Video service" means video programming, cable services, IPTV, or OVS provided through facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 USC 332(d) or provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.
- U. "Video service provider" or "Provider" means a person authorized under the Act to provide video service.
- V. "Video service provider fee" means the amount paid by a video service provider or incumbent video provider under Section 6 of the Act and Section VI of this Agreement.



## II. Requirements of the Provider

- A. An unfranchised Provider will not provide video services in any local unit of government without first obtaining a uniform video service local franchise agreement as provided under **Section 3 of the Act** (except as otherwise provided by the Act).
- B. The Provider shall file in a timely manner with the Federal Communications Commission all forms required by that agency in advance of offering video service in Michigan.
- C. The Provider agrees to comply with all valid and enforceable federal and state statutes and regulations.
- D. The Provider agrees to comply with all valid and enforceable local regulations regarding the use and occupation of public rights-of-way in the delivery of the video service, including the police powers of the Franchising Entity.
- E. The Provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of federal, state, and local emergency messages over the emergency alert system applicable to cable operators.
- F. The Provider shall comply with the public, education, and government programming requirements of Section 4 of the Act.
- G. The Provider shall comply with all customer service rules of the Federal Communications Commission under 47 CFR 76.309 (c) applicable to cable operators and applicable provisions of the Michigan Consumer Protection Act, 1976 PA 331, MCL 445.901 to 445.922.
  - i. Including but not limited to: MCL 445.902; MCL 445.903 (1)(a) through 445.903(1)(cc); MCL 445.903(1)(ff) through (jj); MCL 445.903(2); MCL 445.905; MCL 445.906; MCL 445.907; MCL 445.908; MCL 445.910; MCL 445.911; MCL 445.914; MCL 445.915; MCL 445.916; MCL 445.918.
- H. The Provider agrees to comply with in-home wiring and consumer premises wiring rules of the Federal Communications Commission applicable to cable operators.
- I. The Provider shall comply with the Consumer Privacy Requirements of 47 USC 551 applicable to cable operators.
- J. If the Provider is an incumbent video provider, it shall comply with the terms which provide insurance for right-of-way related activities that are contained in its last cable franchise or consent agreement from the Franchising Entity entered before the effective date of the Act.
- K. The Provider agrees that before offering video services within the boundaries of a local unit of government, the video Provider shall enter into a Franchise Agreement with the local unit of government as required by the Act.
- L. The Provider understands that as the effective date of the Act, no existing Franchise Agreement with a Franchising Entity shall be renewed or extended upon the expiration date of the Agreement.
- M. The Provider provides an exact description of the video service area footprint to be served, pursuant to **Section 2(3)(e) of the Act**. If the Provider is not an incumbent video Provider, the date on which the Provider expects to provide video services in the area identified under **Section 2(3)(e) of the Act** must be noted. The Provider will provide this information in Attachment 1 - Uniform Video Service Local Franchise Agreement.
- N. The Provider is required to pay the Provider fees pursuant to **Section 6 of the Act**.

## III. Provider Providing Access

- A. The Provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the local area in which the group resides.
- B. It is a defense to an alleged violation of Paragraph A if the Provider has met either of the following conditions:
  - i. Within 3 years of the date it began providing video service under the Act and the Agreement; at least 25% of households with access to the Provider's video service are low-income households.
  - ii. Within 5 years of the date it began providing video service under the Act and Agreement and from that point forward, at least 30% of the households with access to the Provider's video service are low-income households.
- C. **[If the Provider is using telecommunication facilities]** to provide video services and has more than 1,000,000 telecommunication access lines in Michigan, the Provider shall provide access to its video service to a number of households equal to at least 25% of the households in the provider's telecommunication



service area in Michigan within 3 years of the date it began providing video service under the Act and Agreement and to a number not less than 50% of these households within 6 years. **The video service Provider is not required to meet the 50% requirement in this paragraph until 2 years after at least 30% of the households with access to the Provider's video service subscribe to the service for 6 consecutive months.**

- D. The Provider may apply to the Franchising Entity, and in the case of paragraph C, the Commission, for a waiver of or for an extension of time to meet the requirements of this section if 1 or more of the following apply:
- i. The inability to obtain access to public and private rights-of-way under reasonable terms and conditions.
  - ii. Developments or buildings not being subject to competition because of existing exclusive service arrangements.
  - iii. Developments or buildings being inaccessible using reasonable technical solutions under commercial reasonable terms and conditions.
  - iv. Natural disasters
  - v. Factors beyond the control of the Provider
- E. The Franchising Entity or Commission may grant the waiver or extension only if the Provider has made substantial and continuous effort to meet the requirements of this section. If an extension is granted, the Franchising Entity or Commission shall establish a new compliance deadline. If a waiver is granted, the Franchising Entity or Commission shall specify the requirement or requirements waived.
- F. The Provider shall file an annual report with the Franchising Entity and the Commission regarding the progress that has been made toward compliance with paragraphs B and C.
- G. Except for satellite service, the provider may satisfy the requirements of this paragraph and Section 9 of the Act through the use of alternative technology that offers service, functionality, and content, which is demonstrably similar to that provided through the provider's video service system and may include a technology that does not require the use of any public right-of-way. The technology utilized to comply with the requirements of this section shall include local public, education, and government channels and messages over the emergency alert system as required under Paragraph II(E) of this Agreement.

#### **IV. Responsibility of the Franchising Entity**

- A. The Franchising Entity hereby grants authority to the Provider to provide Video Service in the Video Service area footprint, as described in this Agreement and Attachments, as well as the Act.
- B. The Franchising Entity hereby grants authority to the Provider to use and occupy the Public Rights-of-way in the delivery of Video Service, subject to the laws of the state of Michigan and the police powers of the Franchising Entity.
- C. The Franchising Entity shall notify the Provider as to whether the submitted Franchise Agreement is complete as required by the Act within 15 business days after the date that the Franchise Agreement is filed. If the Franchise Agreement is not complete, the Franchising Entity shall state in its notice the reasons the Franchise Agreement is incomplete. The Franchising Entity cannot declare an application to be incomplete because it may dispute whether or not the applicant has properly classified certain material as "confidential."
- D. The Franchising Entity shall have 30 days after the submission date of a complete Franchise Agreement to approve the agreement. If the Franchising Entity does not notify the Provider regarding the completeness of the Franchise Agreement or approve the Franchise Agreement within the time periods required under **Section 3(3) of the Act**, the Franchise Agreement shall be considered complete and the Franchise Agreement approved.
- i. If time has expired for the Franchising Entity to notify the Provider, The Provider shall send (via mail: certified or registered, or by fax) notice to the Franchising Entity and the Commission, using Attachment 3 of this Agreement.
- E. The Franchising Entity shall allow a Provider to install, construct, and maintain a video service or communications network within a public right-of-way and shall provide the provider with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way.
- F. The Franchising Entity may not discriminate against a video service provider to provide video service for any of the following:
- i. The authorization or placement of a video service or communications network in public right-of-way.
  - ii. Access to a building owned by a governmental entity.
  - iii. A municipal utility pole attachment.
- G. The Franchising Entity may impose on a Provider a permit fee only to the extent it imposes such a fee on incumbent video providers, and any fee shall not exceed the actual, direct costs incurred by the Franchising Entity for issuing the relevant permit. A fee under this section shall not be levied if the Provider already has



paid a permit fee of any kind in connection with the same activity that would otherwise be covered by the permit fee under this section or is otherwise authorized by law or contract to place the facilities used by the Provider in the public right-of-way or for general revenue purposes.

- H. The Franchising Entity shall not require the provider to obtain any other franchise, assess any other fee or charge, or impose any other franchise requirement than is allowed under the Act and this Agreement. For purposes of this Agreement, a franchise requirement includes but is not limited to, a provision regulating rates charged by video service providers, requiring the video service providers to satisfy any build-out requirements, or a requirement for the deployment of any facilities or equipment.
- I. Notwithstanding any other provision of the Act, the Provider shall not be required to comply with, and the Franchising Entity may not impose or enforce, any mandatory build-out or deployment provisions, schedules, or requirements except as required by **Section 9 of the Act**.
- J. The Franchising Entity is subject to the penalties provided for under Section 14 of the Act.

## V. Term

- A. This Franchise Agreement shall be for a period of 10 years from the date it is issued. The date it is issued shall be calculated either by (a) the date the Franchising Entity approved the Agreement, provided it did so within 30 days after the submission of a complete franchise agreement, or (b) the date the Agreement is deemed approved pursuant to **Section 3(3) of the Act**, if the Franchising Entity either fails to notify the Provider regarding the completeness of the Agreement or approve the Agreement within the time periods required under that subsection.
- B. Before the expiration of the initial Franchise Agreement or any subsequent renewals, the Provider may apply for an additional 10-year renewal under **Section 3(7) of the Act**.

## VI. Fees

- A. A video service Provider shall calculate and pay an annual video service provider fee to the Franchising Entity. The fee shall be 1 of the following:
  - i. If there is an existing Franchise Agreement, an amount equal to the percentage of gross revenue paid to the Franchising Entity by the incumbent video Provider with the largest number of subscribers in the Franchising Entity.
  - ii. At the expiration of an existing Franchise Agreement or if there is no existing Franchise Agreement, an amount equal to the percentage of gross revenue as established by the Franchising Entity of 5 % (percentage amount to be inserted by Franchising Entity which shall not exceed 5%) and shall be applicable to all providers
- B. The fee shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.
- C. The Franchising Entity shall not demand any additional fees or charges from a provider and shall not demand the use of any other calculation method other than allowed under the Act.
- D. For purposes of this Section, "gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the provider from subscribers for the provision of video service by the video service provider within the jurisdiction of the franchising entity.
  - 1. **Gross revenues shall include all of the following:**
    - i. All charges and fees paid by subscribers for the provision of video service, including equipment rental, late fees, insufficient funds fees, fees attributable to video service when sold individually or as part of a package or bundle, or functionally integrated, with services other than video service.
    - ii. Any franchise fee imposed on the Provider that is passed on to subscribers.
    - iii. Compensation received by the Provider for promotion or exhibition of any products or services over the video service.
    - iv. Revenue received by the Provider as compensation for carriage of video programming on that Provider's video service.
    - v. All revenue derived from compensation arrangements for advertising to the local franchise area.
    - vi. Any advertising commissions paid to an affiliated third party for video service advertising.
  - 2. **Gross revenues do not include any of the following:**
    - i. Any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt.
    - ii. Refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subdivision (D)(i) and to the extent the refund, rebate, credit, or discount is attributable to the video service.



- iii. Any revenues received by the Provider or its affiliates from the provision of services or capabilities other than video service, including telecommunications services, information services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionality integrated, with video service.
  - iv. Any revenues received by the Provider or its affiliates for the provision of directory or internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing.
  - v. Any amounts attributable to the provision of video service to customers at no charge, including the provision of such service to public institutions without charge.
  - vi. Any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a federal, state, or local government or any other governmental entity, collected by the Provider, and required to be remitted to the taxing entity, including sales and use taxes.
  - vii. Any forgone revenue from the provision of video service at no charge to any person, except that any forgone revenue exchanged for trades, barter, services, or other items of value shall be included in gross revenue.
  - viii. Sales of capital assets or surplus equipment.
  - ix. Reimbursement by programmers of marketing costs actually incurred by the Provider for the introduction of new programming.
  - x. The sale of video service for resale to the extent the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect to the service.
- E. In the case of a video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the video Provider's revenue attributable to the other services, capabilities, or applications shall be included in gross revenue unless the Provider can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
- F. Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate has the effect of evading the payment of franchise fees which would otherwise be paid for video service.
- G. The Provider is entitled to a credit applied toward the fees due under **Section 6(1) of the Act** for all funds allocated to the Franchising Entity from annual maintenance fees paid by the provider for use of public rights-of-way, minus any property tax credit allowed under **Section 8 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (METRO Act)**, 2002 PA 48, MCL 484.3108. The credits shall be applied on a monthly pro rata basis beginning in the first month of each calendar year in which the Franchising Entity receives its allocation of funds. The credit allowed under this subsection shall be calculated by multiplying the number of linear feet occupied by the Provider in the public rights-of-way of the Franchising Entity by the lesser of 5 cents or the amount assessed under the **METRO Act**. The Provider is not eligible for a credit under this section unless the provider has taken all property tax credits allowed under the **METRO Act**.
- H. All determinations and computations made under this section shall be pursuant to generally accepted accounting principles.
- I. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the Provider shall be made within 3 years from the date the compensation is remitted.
- J. The Provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under **Section 6(1) of the Act**, applied against the amount of the subscriber's monthly bill.
- K. The Franchising Entity shall not demand any additional fees or charges from a Provider and shall not demand the use of any other calculation method other than allowed under the Act.

## **VII. Public, Education, and Government (PEG) Channels**

- A. The video service Provider shall designate a sufficient amount of capacity on its network to provide for the same number of public, education, and government access channels that are in actual use on the incumbent video provider system on the **effective date of the Act** or as provided under **Section 4(14) of the Act**.
- B. Any public, education, or government channel provided under this section that is not utilized by the Franchising Entity for at least 8 hours per day for 3 consecutive months may no longer be made available to the Franchising Entity and may be programmed at the Provider's discretion. At such a time as the Franchising Entity can certify a schedule for at least 8 hours of daily programming for a period of 3 consecutive months, the Provider shall restore the previously reallocated channel.
- C. The Franchising Entity shall ensure that all transmissions, content, or programming to be retransmitted by a video service Provider is provided in a manner or form that is capable of being accepted and retransmitted by a Provider, without requirement for additional alteration or change in the content by the Provider, over the



particular network of the Provider, which is compatible with the technology or protocol utilized by the Provider to deliver services.

- D. The person producing the broadcast is solely responsible for all content provided over designated public, education, or government channels. The video service Provider shall not exercise any editorial control over any programming on any channel designed for public, education, or government use.
- E. The video service Provider is not subject to any civil or criminal liability for any program carried on any channel designated for public, education, or government use.
- F. If a Franchising Entity seeks to utilize capacity pursuant to **Section 4(1) of the Act** or an agreement under **Section 13 of the Act** to provide access to video programming over one or more PEG channels, the Franchising Entity shall give the Provider a written request specifying the number of channels in actual use on the incumbent video provider's system or specified in the agreement entered into under **Section 13 of the Act**. The video service Provider shall have 90 days to begin providing access as requested by the Franchising Entity. The number and designation of PEG access channels shall be set forth in an addendum to this agreement effective 90 days after the request is submitted by the Franchising Entity.
- G. A PEG channel shall only be used for noncommercial purposes.

#### VIII. PEG Fees

- A. The video service Provider shall also pay to the Franchising Entity as support for the cost of PEG access facilities and services an annual fee equal to one of the following options:
  - 1. If there is an existing Franchise on the effective date of the Act, the fee (enter the fee amount \_\_\_\_\_) paid to the Franchising Entity by the incumbent video Provider with the largest number of cable service subscribers in the Franchising Entity as determined by the existing Franchise Agreement;
  - 2. At the expiration of the existing Franchise Agreement, the amount required under (1) above, which is \$0.40 per subscriber per month. (The amount under (1) above is not to exceed 2% of gross revenues);
  - 3. If there is no existing Franchise Agreement, a percentage of gross revenues as established by the Franchising Entity and to be determined by a community need assessment, is \_\_\_\_\_% of gross revenues. (The percentage that is established by the Franchising Entity is not to exceed 2% of gross revenues.); and
  - 4. An amount agreed to by the Franchising Entity and the video service Provider.
- B. The fee required by this section shall be applicable to all providers, pursuant to Section 6(9) of the Act.
- C. The fee shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.
- D. All determinations and computations made under this section shall be pursuant to generally accepted accounting principles.
- E. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the Provider shall be made within 3 years from the date the compensation is remitted.
- F. The Provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under **Section 6(8) of the Act**, applied against the amount of the subscriber's monthly bill.
- G. The Franchising Entity shall not demand any additional fees or charges from a Provider and shall not demand the use of any other calculation method other than allowed under the Act.

#### IX. Audits

- A. No more than every 24 months, a Franchising Entity may perform reasonable audits of the video service Provider's calculation of the fees paid under **Section 6 of the Act** to the Franchising Entity during the preceding 24-month period only. All records reasonably necessary for the audits shall be made available by the Provider at the location where the records are kept in the ordinary course of business. The Franchising Entity and the video service Provider shall each be responsible for their respective costs of the audit. Any additional amount due verified by the Franchising Entity shall be paid by the Provider within 30 days of the Franchising Entity's submission of invoice for the sum. If the sum exceeds 5% of the total fees which the audit determines should have been paid for the 24-month period, the Provider shall pay the Franchising Entity's reasonable costs of the audit.
- B. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the provider shall be made within 3 years from the date the compensation is remitted.

## **X. Termination and Modification**

This Franchise Agreement issued by a Franchising Entity may be terminated or the video service area footprint may be modified, except as provided under **Section 9 of the Act**, by the Provider by submitting notice to the Franchising Entity. The Provider will use Attachment 2, when notifying the Franchising Entity.

## **XI. Transferability**

This Franchise Agreement issued by a Franchising Entity or an existing franchise of an incumbent video service Provider is fully transferable to any successor in interest to the Provider to which it is initially granted. A notice of transfer shall be filed with the Franchising Entity within 15 days of the completion of the transfer. The Provider will use Attachment 2, when notifying the Franchising Entity. The successor in interest will assume the rights and responsibilities of the original provider and will also be required to complete their portion of the Transfer Agreement located within Attachment 2.

## **XII. Change of Information**

If any of the information contained in the Franchise Agreement changes, the Provider shall timely notify the Franchising Entity. The Provider will use Attachment 2, when notifying the Franchising Entity.

## **XIII. Confidentiality**

Pursuant to Section 11 of the Act: Except under the terms of a mandatory protective order, trade secrets and commercial or financial information designated as such and submitted under the Act to the Franchising Entity or Commission are exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246 and **MUST BE KEPT CONFIDENTIAL**.

- A. The Provider may specify which items of information should be deemed "confidential." It is the responsibility of the provider to clearly identify and segregate any confidential information submitted to the franchising entity with the following information:  
    "[insert PROVIDER'S NAME]  
    [CONFIDENTIAL INFORMATION]"
- B. The Franchising Entity receiving the information so designated as confidential is required (a) to protect such information from public disclosure, (b) exempt such information from any response to a FOIA request, and (c) make the information available only to and for use only by such local officials as are necessary to approve the franchise agreement or perform any other task for which the information is submitted.
- C. Any Franchising Entity which disputes whether certain information submitted to it by a provider is entitled to confidential treatment under the Act may apply to the Commission for resolution of such a dispute. Unless and until the Commission determines that part or all of the information is not entitled to confidential treatment under the Act, the Franchising Entity shall keep the information confidential.

## **XIV. Complaints/Customer Service**

- A. The Provider shall establish a dispute resolution process for its customers. Provider shall maintain a local or toll-free telephone number for customer service contact.
- B. The Provider shall be subjected to the penalties, as described under **Section 14 of the Act**, and the Franchising Entity and Provider may be subjected to the dispute process as described in **Section 10 of the Act**.
- C. Each Provider shall annually notify its customers of the dispute resolution process required under **Section 10 of the Act**. Each Provider shall include the dispute resolution process on its website.
- D. Before a customer may file a complaint with the Commission under **Section 10(5) of the Act**, the customer shall first attempt to resolve the dispute through the dispute resolution process established by the Provider in **Section 10(2) of the Act**.
- E. A complaint between a customer and a Provider shall be handled by the Commission pursuant to the process as described in **Section 10(5) of the Act**.
- F. A complaint between a Provider and a franchising entity or between two or more Providers shall be handled by the Commission pursuant to the process described in **Section 10(6) of the Act**.
- G. In connection with providing video services to the subscribers, a provider shall not do any act prohibited by Section 10(1)(a-f) of the Act. The Commission may enforce compliance to the extent that the activities are not covered by **Section 2(3)(l) in the Act**.



## **XV. Notices**

Any notices to be given under this Franchise Agreement shall be in writing and delivered to a Party personally, by facsimile or by certified, registered, or first-class mail, with postage prepaid and return receipt requested, or by a nationally recognized overnight delivery service, addressed as follows:

*If to the Franchising Entity:*  
(must provide street address)

*If to the Provider:*  
(must provide street address)

### **City of Portage:**

7900 South Westnedge Avenue

Portage, Michigan 49002

Attn: City Clerk

Fax No.: 269.324.8070

444 Michigan Avenue

Room 1670

Detroit, Michigan 48226

Attn: Yvette Collins, Director - External Affairs

Fax No.: 313.496.9332

Or such other addresses or facsimile numbers as the Parties may designate by written notice from time to time.

## **XVI. Miscellaneous**

- A. Governing Law. This Franchise Agreement shall be governed by, and construed in accordance with, applicable Federal laws and laws of the State of Michigan.
- B. The parties to this Franchise Agreement are subject to all valid and enforceable provisions of the Act.
- C. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute on and the same agreement.
- D. Power to Enter. Each Party hereby warrants to the other Party that it has the requisite power and authority to enter into this Franchise Agreement and to perform according to the terms hereof.
- E. The Provider and Franchising Entity are subject to the provisions of 2006 Public Act 480.



## **ATTACHMENT 1**

### **UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT (Pursuant To 2006 Public Act 480)**

(Form must be typed)

|                                                                       |                 |                     |
|-----------------------------------------------------------------------|-----------------|---------------------|
| Date: January 16, 2018                                                |                 |                     |
| Applicant's Name: Michigan Bell Telephone Company d/b/a AT&T Michigan |                 |                     |
| Address 1: 444 Michigan Avenue                                        |                 |                     |
| Address 2: Room 1670                                                  |                 | Phone: 313.496.8162 |
| City: Detroit                                                         | State: Michigan | Zip: 48226          |
| Federal I.D. No. (FEIN): 38-0823930                                   |                 |                     |

#### **Company executive officers:**

|                                    |
|------------------------------------|
| Name(s): Gregory L. Clark          |
| Title(s): Assistant Vice President |

#### **Person(s) authorized to represent the company before the Franchising Entity and the Commission:**

|                                                                  |                   |                       |
|------------------------------------------------------------------|-------------------|-----------------------|
| Name: Yvette Collins or her designee(s)                          |                   |                       |
| Title: Director - External Affairs                               |                   |                       |
| Address: 444 Michigan Avenue, Room 1670, Detroit, Michigan 48226 |                   |                       |
| Phone: 313.496.8162                                              | Fax: 313.496.9332 | Email: m42325@att.com |

**Describe the video service area footprint as set forth in Section 2(3e) of the Act. (An exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards.)**

Michigan Bell Telephone Company d/b/a AT&T Michigan  
CONFIDENTIAL INFORMATION

SEE ATTACHED CONFIDENTIAL MAP LABELED AS ATTACHMENT A

The Video Service Area Footprint is set forth in a map, attached as Confidential Attachment A, which is created using Expanded Geographic Information System (EGIS) software and thus, meets the requirements of Section 2(3)(e) of Act 480. The map identifies the Video Service Area Footprint in terms of AT&T wire centers or exchanges serving the City of Portage, and such boundaries are overlaid onto a map with the municipal boundaries of the City of Portage.



[**Option A:** for Providers that Options B and C are not applicable, a description based on a geographic information system digital boundary meeting or exceeding national map accuracy standards]

[**Option B:** for Providers with 1,000,000 or more access lines in Michigan using telecommunication facilities to provide Video Service, a description based on entire wire centers or exchanges located in the Franchising Entity]

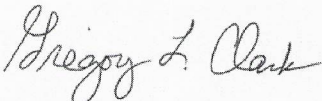
[**Option C:** for an Incumbent Video Service Provider, it satisfies this requirement by allowing the Franchising Entity to seek right-of-way information comparable to that required by a permit under the METRO Act as set forth in its last cable franchise or consent agreement from the Franchising Entity entered into before the effective date of the Act]

**Pursuant to Section 2(3)(d) of the Act, if the Provider is not an incumbent video Provider, provide the date on which the Provider expects to provide video services in the area identified under Section 2(3)(e) (the Video Service Area Footprint).**

**For All Applications:**

**Verification  
(Provider)**

I, Gregory L. Clark, of lawful age, and being first duly sworn, now states: As an officer of the Provider, I am authorized to do and hereby make the above commitments. I further affirm that all statements made above are true and correct to the best of my knowledge and belief.

|                                                                                                   |                        |
|---------------------------------------------------------------------------------------------------|------------------------|
| Name and Title (printed): Gregory L. Clark, Assistant Vice President                              |                        |
| Signature:<br> | Date: January 16, 2018 |

**(Franchising Entity)**

**City of Portage, a Michigan municipal corporation**

By

|                  |       |
|------------------|-------|
| Print Name       | _____ |
| Title            | _____ |
| Address          | _____ |
| City, State, Zip | _____ |
| Phone            | _____ |
| Fax              | _____ |
| Email            | _____ |
| Date             | _____ |

APPROVED AS TO FORM  
DATE 2/2/2018  
  
CITY ATTORNEY

**RESOLUTION  
CITY OF PORTAGE, MICHIGAN  
RESOLUTION AUTHORIZING LOCAL FRANCHISE  
AT&T**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, on \_\_\_\_\_, 2018 at 7:00 p.m. local time at City Hall in the City of Portage, Kalamazoo County, Michigan.

PRESENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

The following resolution was offered by:

COUNCILMEMBER: \_\_\_\_\_ and supported by

COUNCILMEMBER: \_\_\_\_\_.

**WHEREAS**, Public Act 480 of 2006 (The Uniform Video Services Local Franchise Act, hereafter the "Act") requires video service providers to obtain a franchise from a local unit of government by means of a Uniform Video Service Local Franchise Agreement ("Uniform Franchise"); and

**WHEREAS**, the Michigan Public Service Commission ("MPSC") on January 30, 2007 issued an order ("Order") that provided a Uniform Franchise form; and

**WHEREAS**, the City of Portage ("City") wishes to authorize the approval of a video service franchise with Michigan Bell Telephone Company, a Michigan Corporation, D/B/A AT&T Michigan ("AT&T"), with certain fees pursuant to the Act; and

**WHEREAS**, AT&T has an existing Uniform Franchise with City dated March 5, 2008 for ten years; and

**WHEREAS**, City wishes to memorialize the franchise fees and fees as support for PEG channels being paid by AT&T under the Uniform Franchise; and

**WHEREAS**, City does not intend that by approving a Uniform Franchise that it shall be waiving rights, nor does it understand that the Act or the MPSC Order so requires.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that City authorizes the approval of a video service franchise with AT&T (a video service provider) and establishes video service provider fees as set forth below and pursuant to the process established by the Act, which allows video service providers to obtain a franchise from City by means of a Uniform Franchise; and

**BE IT FURTHER RESOLVED** that pursuant to its authority under the Act, City hereby authorizes the approval of the Uniform Video Service Local Franchise Agreement submitted to the City by AT&T on or about January 16, 2018 with an annual video service provider fee, sometimes called a franchise fee, of five (5%) percent of gross revenues in Section VI(A)(ii) of the Uniform Franchise, which fee is hereby established in accordance with the Act for video service providers; and

**BE IT FURTHER RESOLVED** that pursuant to its authority under the Act, the Franchise Agreement also establishes a fee of \$.40 per subscriber per month as support for the cost of PEG access facilities and services, and such amount shall be entered into Section VIII(A)(2) of the Uniform Franchise; and

**BE IT FURTHER RESOLVED** that the City approval of AT&T's Uniform Franchise shall not be construed or understood to be a waiver by City of its police powers; rights it may possess under, or authority it may possess under, the Act, Michigan law, the Michigan constitution, or federal law; or its right to challenge or modify a Uniform Franchise if the Act in whole or in part is amended by the legislature or overturned by the courts; and

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized and directed in accordance with this Resolution to sign four copies of the AT&T Uniform Local Franchise



Agreement on page 9 and on page 2 of Attachment 1 thereof, and the City Clerk is authorized and directed to retain one copy and to send fully signed copies to the following:

Gregory L. Clark  
Assistant Vice President  
444 Michigan Ave., Room 1700  
Detroit, MI 48226

**BE IT FINALLY RESOLVED** that the City administration is hereby authorized and directed to take all actions necessary to place the AT&T Uniform Local Franchise Agreement into effect in accordance with this resolution.

ADOPTED: \_\_\_\_\_

AYES: Councilmember \_\_\_\_\_

NAYS: Councilmember \_\_\_\_\_

ABSENT: Councilmember \_\_\_\_\_

\_\_\_\_\_  
Adam Herringa, City Clerk

#### CERTIFICATION

I, Adam Herringa, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage, Michigan, and that the foregoing resolution was adopted by the City of Portage on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Adam Herringa, City Clerk

Approved as to form:

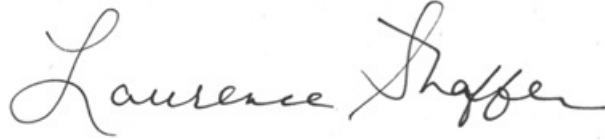
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City Attorney

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**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Fiscal Year 2018-2019 Proposed Budget Review Schedule

**SUPPORTING PERSONNEL:** William Furry, Director of Finance

**ACTION RECOMMENDED:** Establish April 17 and May 1, 2018 from 4:30 to 8:30 p.m. as the dates for review of the proposed Fiscal Year 2018-2019 Budget.

City Council will receive the proposed Fiscal Year 2018-2019 budget on April 10, 2018. The budget review schedule has been developed to permit review of all budget aspects. Budget review sessions are proposed for Tuesday, April 17 and Tuesday, May 1 at 4:30 p.m. on each of the proposed dates in Conference Room #1 of Portage City Hall.

Further, a public hearing on the proposed budget will be held during the May 8, 2018 regular meeting of City Council, with formal adoption scheduled for May 22, 2018. The review sessions, public hearing and other Council meetings will provide ample opportunity for City Council analysis and public comment.

**FUNDING:** N/A

**Attachments:** 1. Budget Review Schedule

## **TENTATIVE FISCAL YEAR 2018-2019 BUDGET REVIEW ACTIVITY SCHEDULE**

### **Review Session #1**

**Tuesday, April 17**

|                                             |                   |
|---------------------------------------------|-------------------|
| Budget Overview                             | 4:30 - 4:40 p.m.  |
| Purchasing                                  | 4:40 - 5:00       |
| Human Resources                             | 5:00 - 5:20       |
| City Assessor                               | 5:20 - 5:40       |
|                                             | BREAK 5:40 - 6:10 |
| Transportation & Utilities                  | 6:10 - 6:30       |
| Public Services                             | 6:30 - 7:00       |
| Parks, Recreation & Senior Citizen Services | 7:00 - 7:30       |
| Public Safety                               | 7:30 - 8:30       |

### **Review Session #2**

**Tuesday, May 1**

|                                 |                   |
|---------------------------------|-------------------|
| Legislative / Human Services    | 4:30 - 5:00 p.m.  |
| Community Development           | 5:00 - 5:20       |
| City Clerk                      | 5:20 - 5:40       |
| Technology Services             | 5:40 - 6:00       |
|                                 | BREAK 6:00 - 6:30 |
| City Manager                    | 6:30 - 6:50       |
| Finance & Other Fund Activities | 6:50 - 7:15       |
| Capital Improvement Program     | 7:15 - 8:30       |



**PORTAGE PUBLIC SCHOOLS  
BOARD OF EDUCATION  
REGULAR BUSINESS MEETING**

**December 11, 2017**

The regular meeting of the Board of Education of the Portage Public Schools held on Monday, December 11, 2017, was called to order at 6:31 p.m. by President Van Antwerp in Conference Room 1 at the Administration Building, 8107 Mustang Drive. He welcomed an audience of 25 people and all in attendance recited the Pledge of Allegiance led by the Comet Choir from Central Elementary. The Choir performed two songs for the audience.

Board Trustees Present: Kurt Droppers, Terri Novaria, Rusty Rathburn, Bo Snyder, Randy Van Antwerp and Joanne Willson

Board Trustees Absent: Celeste Shelton-Harris

**REVISIONS/APPROVAL OF AGENDA**

**Motion offered by Mrs. Novaria, seconded by Mrs. Willson, that the Board of Education approve the agenda as revised, adding a Special Action Item prior to adjournment to recognize the retirement of Board Recording Secretary, Edna Kent.**

**Motion carried unanimously.**

**REPORTS**

**Monitoring Report 1.1, Global Ends (Local).** Superintendent Bielang welcomed Mr. Michael Huber, Director of Curriculum, to present the Local Measures. Mr. Huber provided a breakdown of the student growth percentiles for student groups and sub-groups, and responded to Trustee questions.

**Change Order Summary.** Mr. Ron Herron, Assistant Superintendent of Operations, discussed Change Order #4 assisted by Mr. Dan Rathburn, Project Manager from OAK. They responded to numerous Trustee questions.

**Bond Project Update.** Mr. Herron shared an update on the construction progress at the Central High School Natatorium, North Middle School, and the Northern Athletic Event Facility.

**COMMENTS OR COMMUNICATIONS**

President Van Antwerp opened the comments and communications portion of the meeting and asked if there were any citizens who would like to speak to the Board.

Mrs. Sarah Baker, 5769 Stoney Brook, a parent, thanked the Board for passing the Resolution against the concealed carry gun Bills. Mrs. Baker recognized and thanked Mrs. Edna Kent, Board Recording Secretary, for her service to the District.

President Van Antwerp thanked Mrs. Baker for her comments and noted the Board would reserve comments until the final Agenda item.

## **CONSENT AGENDA**

**President Van Antwerp presented the following Consent Agenda items for approval by the Board of Education: Minutes of the November 27, 2017, Regular Business Meeting.**

**There being no objections to items, motion carried unanimously.**

## **ACTION ITEMS**

**Motion offered by Mrs. Willson, seconded by Mr. Snyder, that the Board of Education approve the purchase of Steelcase pilot furniture from local distributor, Custer of Kalamazoo, Michigan. A total purchase cost of \$70,594.66 will come from the 2016 Bond Fund #1, Furniture, Fixtures and Equipment budget, as presented.**

Mr. Herron shared details about the pilot furniture purchase and responded to Trustee questions.

**Motion carried unanimously.**

**Motion offered by Mr. Rathburn, seconded by Mrs. Novaria, that the Board of Education modify the current Contract of Employment to extend the contract for an additional year and to modify benefits, as presented.**

President Van Antwerp presented the recommendation.

**Motion carried unanimously.**

## **DISCUSSION ITEM**

**Governance Policy 4.2, Accountability of the Superintendent, and 4.3, Delegation to the Superintendent.** President Van Antwerp led the review of Governance Policies 4.2 and 4.3 and requested Trustees contact him regarding revisions or concerns.

## **SPECIAL ACTION ITEM**

**Motion offered by Mr. Snyder, seconded by Mrs. Novaria, that the Board of Education adopt the Proclamation recognizing the retirement of Edna Kent, Board Recording Secretary, and honoring her for 18.5 years of outstanding service to the Portage Public Schools, as presented.**

Speakers that recognized Mrs. Kent included two previous Superintendents: Mr. James Ridders and Dr. Pete McFarlane; Board Trustees; Superintendent Bielang; and Superintendent Bielang read statements on behalf of two additional previous Superintendents: Mrs. Marsha Wells and Mr. Rob Olsen.

**Upon a Roll Call Vote, all Trustees voted in favor of the motion.**

There being no further business to come before the Board, the meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Edna Kent  
Recording Secretary

PROCLAMATION  
RECOGNIZING THE RETIREMENT OF  
EDNA KENT, BOARD RECORDING SECRETARY,  
AND HONORING HER FOR 18 ½ YEARS OF OUTSTANDING SERVICE  
TO PORTAGE PUBLIC SCHOOLS

**Whereas**, Edna Kent began her career with Portage Public Schools on July 26, 1999 and will retire on December 31, 2017; and

**Whereas**, Edna earned the respect of everyone who worked with her because of her dedication, knowledge, conscientiousness, willingness to help, positive energy, and attention to detail; and

**Whereas**, Edna served and provided support and guidance to 25 different board members and 6 superintendents during her tenure; and

**Whereas**, Edna recorded the proceedings, with fidelity, of approximately 400 Regular Board Meetings, Committee of the Whole Work Sessions, Special Meetings, and Board Retreats; and

**Whereas**, Edna enhanced the reputation of the District with professionalism that maintained positive relationships with students, parents, staff, community members, local and state educational organizations, local governments, and service providers.

**NOW, THEREFORE**, the Board of Education of Portage Public Schools does hereby express its sincere appreciation and gratitude to Edna Kent for 18 ½ years of dedicated service to the District. We wish Edna and her family the very best in retirement.

Dated: December 11, 2017

Members of the 2017/2018 Board of Education

Kurt Droppers  
Dr. Celeste Shelton-Harris  
Terri Novaria  
Rusty Rathburn  
Bo Snyder  
Randy Van Antwerp  
Joanne Willson

Superintendent Mark Bielang



**PORTAGE PUBLIC SCHOOLS  
BOARD OF EDUCATION  
ORGANIZATIONAL MEETING MINUTES**

**January 8, 2018**

The organizational meeting of the Board of Education of Portage Public Schools held on Monday, January 8, 2018, was called to order at 6:30 p.m. by Past President Van Antwerp in the Conference Room 1 at the Administration Building, 8107 Mustang Drive. He welcomed the audience and all in attendance recited the Pledge of Allegiance.

Board Trustees Present: Kurt Droppers, Terri Novaria, Celeste Shelton-Harris, Bo Snyder, Randy Van Antwerp and Joanne Willson

Board Members Absent: Rusty Rathburn

**REVISIONS/APPROVAL OF AGENDA**

**Motion offered by Mrs. Willson, seconded by Mr. Snyder, that the Board of Education approve the agenda as printed.**

**Motion carried unanimously.**

**ORGANIZATIONAL ITEMS**

**Election of Officers.** Mr. Van Antwerp opened the floor to nominations for the office of Board President. Nominations were then offered for the office of Board Vice President and then for Board Secretary.

**Mrs. Novaria nominated Mr. Van Antwerp for the position of Board President. There being no further nominations from the floor, Mr. Van Antwerp declared himself elected to the office of President by acclamation.**

**Mr. Snyder nominated Mrs. Novaria for the position of Board Vice President. There being no further nominations from the floor, President Van Antwerp declared Mrs. Novaria elected to the office of Vice President by acclamation.**

**Mrs. Willson nominated Dr. Shelton-Harris for the position of Board Secretary. There being no further nominations from the floor, President Van Antwerp declared Dr. Shelton-Harris elected to the office of Secretary by acclamation.**

## **CONSENT AGENDA**

**President Van Antwerp presented the following Consent Agenda items for approval by the Board of Education: appointment of Board Recording Secretary (Barb Atkinson, Administrative Assistant to the Superintendent), designate depositories for school funds as presented, approve the Board of Education meeting schedule for 2018-19 as presented, designate persons authorized to use the safety deposit box (Mark Bielang, Ron Herron, Karla Colestock, Celeste Shelton-Harris) designate Electronic Transfer Officer (Karla Colestock, Director of Finance), and designate the Copyright Compliance Officer (Michelle Karpinski, Manager of Communications).**

**There being no objection to the items, the motion carried unanimously.**

## **REPORTS**

### **Superintendent's Report – Bond Budget Update.**

Mr. Ron Herron, Assistant Superintendent of Operations, narrated drone footage of building progress at the Central High School Natatorium, at North Middle School and at the Northern Athletic Event Facility.

Mr. Dan Vomastek, Director of Information Systems & Assessment, informed Trustees that Middle School Media Specialist positions will be restored beginning with the start of the second semester. The positions had been cut last June resulting in two Middle School Media Specialists being transferred to the elementary schools. They will be transferred back as Middle School Media Specialists and the elementary positions will be posted.

Superintendent Bielang shared that MI School Data will be up and running tomorrow and added the site contains a tremendous amount of information.

## **COMMENTS OR COMMUNICATIONS**

President Van Antwerp opened the comments and communications portion of the meeting and asked if there were any citizens who would like to speak to the Board. There were no citizen comments.

President Van Antwerp opened the floor for Board comments.

Mrs. Willson thanked the maintenance/custodial staff for keeping up with winter weather conditions.

Mr. Van Antwerp reminded Trustees of the January 10<sup>th</sup> KCSOA dinner as well as the June 21-23 IPGA Conference in Georgia. Trustees wishing to attend the conference were asked to contact him.

Mr. Van Antwerp noted there are no Board Committee reports this evening.

## **ACTION ITEMS**

### **Acceptance of Monitoring Report 1.1**

**Motion offered by Mrs. Novaria, seconded by Mr. Snyder, that the Board of Education accept the Monitoring Report on Ends Policy 1.1, as a reasonable interpretation and evidence of compliance with policy, as presented.**

**Motion carried unanimously.**

## **Acceptance of Monitoring Report 1.5**

**Motion offered by Mrs. Willson, seconded by Mrs. Novaria, that the Board of Education accept the Monitoring Report on Ends Policy 1.5, as a reasonable interpretation and evidence of compliance with policy, as presented.**

Superintendent Bielang commented the report is a narrative of our “linking” with the community and responded to questions. Mr. Bielang commented Girls on the Run is expected to return this year.

Dr. Shelton-Harris expressed appreciation for being provided with November-December event information and requested such information continue to be shared.

**Motion carried unanimously.**

## **DISCUSSION ITEMS**

### **Bond Bid Package #3 - Central Middle School / Central High School Athletic Event Facility**

Mr. Ron Herron reviewed the bid process for Bid Package #3 for Central Middle School and Central High School Athletic Event Facility. Since bids were accepted on December 14, 2017 the bids have been thoroughly reviewed with post-bid interviews conducted for all of the bid categories for the projects in order to recommend contract award to the lowest qualified responsible bidders. Mr. Herron addressed questions from Trustees.

Mr. Dan Rathburn, Project Manager from OAK, reviewed the Bid Summary Sheets and the bids for each bid category for Central Middle School and the Central High School Athletic Event Facility. Mr. Rathburn addressed questions from Trustees.

Mr. Van Antwerp thanked Mr. Herron and Mr. Rathburn for their reports.

### **Changes to Human Growth and Development Curriculum Materials**

Michael Huber, Director of Curriculum, shared an update on the Middle School 8<sup>th</sup> grade Drive curriculum and the process for reviewing/updating the curriculum. The District Human Growth and Development Advisory Committee reviewed curriculum proposals and offered feedback to the publisher to improve the curriculum. The curriculum was updated to create more middle school awareness of sexual transmitted diseases, social media, sex trafficking, sexting and sexual predators. Mr. Huber added two public hearings are set for January 11 and 18, 2018 in the Administration Building. The curriculum is available in each Middle School for review, and parents in the district will be notified of the opportunity to review and offer comments to the curriculum. The timeline is to have the curriculum approved and ready for a February 20, 2018 rollout. Parents will continue to receive prior knowledge of when these lessons will be taught and will be able to opt-out their students. Mr. Huber responded to Trustee questions and indicated he is available to parents/community to answer questions.

Mr. Novaria stated she is pleased we're on top of the curriculum and addressing updates in a timely matter.

Dr. Shelton-Harris commented past public hearings on the matter were not well attended. Mr. Huber indicated he is available to answer questions for anyone who cannot attend the hearings.



Mrs. Willson inquired if a survey is still conducted and if so at what grade level. Mr. Huber responded the survey is still provided for seventh, ninth and eleventh graders.

#### **Review of Governance Policy 4.4 and 4.5**

President Van Antwerp requested Trustees share comments or notify him of any concerns regarding either policy.

#### **Recommended Bus Purchases**

Mr. Herron shared background information and the recommendation to purchase five 77-passenger buses and one lift bus from Holland Bus for a total of \$521,281.00. This purchase would come from the 2016 Bond Construction Fund #1, out of the bus purchase allocation. Mr. Herron responded to questions from Trustees.

There being no further business to come before the Board, the meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Barb Atkinson  
Recording Secretary

City of Portage  
Historic District Commission  
Wednesday, January 03, 2018

Meeting Called to Order: 8:21 A.M.

Members Present: S. Nemeth, C. Forrest, J. Duniphin, M. Barton, B. Lopez, F. Grunert, K. Vanlonkhuyzen.

Members Excused: R. Henicky, M. Maytnier

Staff: E. Eklov, K. Mucha, V. Georgeau

Guest(s): Matt Nieuwenhuis, 3221 W. Milham Avenue

Approval of Minutes: Barton moved, seconded by Forrest, to approve the December 6, 2017 meeting minutes with the addition that M. Barton to be added to members present. Erica noted the guests & staff present needed correction, as well as a few spelling errors and the next meeting date correction. Motion approved 6-0 (Vanlonkhuyzen absent).

Old Business:

- a. 2112 Vanderbilt: property has been sold, awaiting deed from county. New owner has not moved in as of yet.
- b. 5720 Oakland: city staff requested approval from HDC to make contact with property owner regarding Certificate of Appropriateness. Eklov summarized stipulations of COA; dismantle existing barn, retain materials that are salvageable, reconstruct new barn within 180 days. Lopez moved, Grunert seconded, a motion to permit city staff to contact property owner and reconfirm the Certificate of Appropriateness. Motion passed 6-0 (Vanlonkhuyzen absent).
- c. 3221 W Milham: Property owner present and provided update to the HDC regarding remaining items left to complete per COA: the installation of four windows will not be possible due to zero window material from historic barn being salvageable; panes were missing on the old windows; wood rotten and damaged. Upon discussion, Barton informed property owner that if windows are not salvageable, then he can replace with similar designs, dimensions and materials, per Secretary of the Interior's guidelines. Grunert, Vanlonkhuyzen & Nemeth reiterated to the property owner that prior to approval to deconstruct the previous barn, considerable time and effort went into the discussion on how to replicate the new barn to match what was deconstructed. Further discussion followed. Barton motioned, seconded by Vanlonkhuyzen, to reconfirm the March 2016 Certificate of Appropriateness with the following stipulations; that if the windows are not salvageable, to rely on the Secretary of the Interior's Rehabilitation Standards and that the windows must be six (6) pane style. Motion passed 7-0. Further discussion on the exterior faux door commenced; track to be included and door does not have to be functional. Barton motioned, seconded by Vanlonkhuyzen, to replace the faux door track with galvanized steel, which will not be visible, and to be covered with a drip-cap. Motion passed 7-0.

- d. Community Awareness: Duniphin updated the HDC about the annual Historic District Commission event, currently scheduled for May 12, 2018 (12pm – 4pm). The Committee outreach is featuring tours of 3821 West Milham Avenue, expo of historic preservation vendors and possible presentation and/or child friendly activity. Discussion followed about sponsorships for the event.

New Business:

- a. Rules of Order & Procedure: Staff gave a brief explanation on the draft rules and recommended the HDC review the proposed draft and vote on adoption at the February 2018 regular scheduled meeting. Staff also asked the HDC to bring any comments or concerns at this time.
- b. Election of officers: Postponed until the next regularly scheduled meeting (February 2018) in light of pending rules and regulations.
- c. Site Designations: staff to send out a revised list of sites for each board member to monitor. New list to be included in next agenda.

Adjournment: with no further commissioner comments, nor citizen comments, meeting was adjourned at 09:56 A. M.

Respectfully submitted,

Kyle Mucha  
City Staff Liaison



## **PLANNING COMMISSION**

**January 18, 2018**

The City of Portage Planning Commission meeting of January 18, 2018 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 12 citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

### **IN ATTENDANCE:**

Vicki Georgeau, Director of Community Development; Michael West, Senior City Planner; Charlie Bear, Assistant City Attorney; and Bryan Beach, Assistant City Attorney.

### **ROLL CALL:**

Mr. West called the roll: Patterson (yes), Shoup (yes), Stoffer (yes), Schimmel (yes), Harrell-Page (yes); Place (yes), and Corradini (yes). A motion was made by Commissioner Patterson, seconded by Commissioner Schimmel, to approve the roll excusing Commissioners Bosch and Joshi. The motion was unanimously approved 7-0.

### **APPROVAL OF MINUTES:**

Chairman Stoffer referred the Commission to the January 4, 2018 regular meeting minutes contained in the agenda packet. A motion was made by Commissioner Schimmel, seconded by Commissioner Harrell-Page, to approve the minutes as submitted. The motion was unanimously approved 7-0.

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

None.

### **PUBLIC HEARING:**

1. Special Land Use Permit Amendment: Jungle Joes (outdoor miniature golf course), 7255 South Sprinkle Road. Mr. West summarized the Department of Community Development staff report dated January 12, 2018 regarding a request from Mr. Jeffrey Rozek to amend a previously approved Special Land Use Permit to allow establishment of an 18-hole outdoor miniature golf course along the north side of the existing Jungle Joes indoor recreational facility located at 7255 South Sprinkle Road. Mr. West summarized the initial discussion which occurred at the December 21, 2016 meeting and referred the Commission to the supplemental letter provided by the applicant and included with the agenda materials. Mr. West discussed the original 2006 approval that allowed establishment of the Jungle Joes indoor recreational facility at the site, along with other similar approvals of indoor recreational facilities within the I-1, light industrial zoning district including SoccerZone, The Courthouse and Kingdom Indoor Center. Mr. West then reviewed Section 42-280.C.10 which allowed the Commission to consider other uses in the I-1 district, along with Section 42-462 which established General Standards or Review for Special Land Uses. Mr. West stated the addition of an outdoor miniature golf course at the subject site with permanent structures and improvements represents a use that has not historically been allowed in the I-1 district, is not consistent with the intent and purpose of the I-1 zone or stated objectives within the Comprehensive Plan, may detract from the appearance and functionality of the Sprinkle Road Industrial Corridor and may set a precedent for similar requests in the future. Mr. West indicated that entertainment centers such as Airway Lanes (Portage Road) and the former Putters (South Westnedge Avenue) and Lazerland (Portage Road) that include outdoor recreational uses such as miniature golf, rope courses, batting cages and go-carts have historically located and are better suited in the B-3, general business zoning district. For these reasons, Mr. West indicated the request was viewed as problematic and was not recommended for approval.

Mr. Jeffrey Rozek (applicant/owner) was present to support the application and to summarize his supplemental letter which also included a letter of support from the owner of adjacent property located immediately to the north and south of his site. Mr. Rozek indicated the proposed outdoor miniature golf course was intended to help diversify his business by offering an outdoor summer-time activity and was similar to other outdoor recreational uses that surround his property. Chairman Stoffer asked for clarification regarding the communication received from Attorney Brown. Mr. West reviewed the communication and the two alternatives presented by Attorney Brown, if the Commission was to formulate a motion to approve the outdoor miniature golf course. Mr. West indicated that Alternative A was complicated and imposed several conditions upon the applicant and was not recommended by staff. Mr. West stated that Alternative B was simpler and reaffirmed the special land use permit ordinance language contained in the Zoning Code.

The public hearing was then re-opened by Chairman Stoffer. No citizens spoke regarding the proposed special land use permit amendment. A motion was then made by Commissioner Place, seconded by Commissioner Harrell-Page, to close the public hearing. The motion was unanimously approved 7-0.

The Commission and staff next discussed various aspects of the request including historical reviews/approvals of indoor recreational uses in the I-1 district, availability of vacant industrial land and the surrounding land use pattern and characteristics. After additional discussion, a motion was made by Chairman Stoffer, seconded by Commissioner Harrell-Page, to approve the Special Land Use Permit Amendment for Jungle Joes (outdoor miniature golf course), 7255 South Sprinkle Road, with a finding that the proposed use was similar to existing recreational uses located immediately to the north, south and east, and would not be detrimental to surrounding properties. The motion also included a condition that the operation of the outdoor miniature golf course, as represented in the drawings and plans submitted by the applicant, is granted on the condition that if the outdoor miniature golf course is abandoned or ceases its operations with no intent for resumption, the Special Land Use may be revoked pursuant to Portage Ordinance Section 42-461(3) & (4). Upon a roll call vote: Patterson (yes), Corradini (yes), Shoup (yes), Place (yes), Stoffer (yes), Harrell-Page (yes) and Schimmel (yes), the motion was unanimously approved 7-0.

2. Special Land Use Permit: Presidential Brewing, 129 West Centre Avenue. Mr. West summarized the Department of Community Development staff report dated January 12, 2018 regarding a request from Mr. Jake Lohse to establish a micro-brewery/brew-pub (Presidential Brewing Company) within an approximate 3,100 square foot tenant space within the south building of the Portage Centre Plaza on property addressed as 129 West Centre Avenue. Mr. West indicated that the Zoning Board of Appeals on January 8<sup>th</sup> granted the applicant a variance that requires a micro-brewery/brew-pub to include a restaurant having a minimum seating occupancy of 100 persons and providing full lunch and dinner service. Mr. West stated the proposal to establish a micro-brewery/brew-pub at the subject property fulfills the requirements for issuance of a special land use permit and was recommended for approval.

Mr. Jake Lohse (applicant) was present to support the application and explain his plans for a phased approach to grow the micro-brewery/brew-pub operations over the first 1-2 years. The public hearing was then opened by Chairman Stoffer. No citizens spoke regarding the proposed special land use permit. A motion was made by Commissioner Schimmel, seconded by Commissioner Place, to close the public hearing. The motion was unanimously approved 7-0.

After additional discussion, a motion was made by Commissioner Shoup, seconded by Commissioner Corradini, to approve the Special Land Use Permit for Presidential Brewing Company, 129 West Centre Avenue. The motion was unanimously approved 7-0.

3. Ordinance Amendment #17/18-A, Medical Marihuana Facilities. Mr. West introduced Director of Community Development, Vicki Georgeau and Assistant City Attorney, Charlie Bear and also referred the Commission to a January 18, 2018 communication received from Kristin Tencza of Oasis Wellness Centers. Ms. Georgeau summarized the staff report dated January 16, 2018 and the proposed ordinance amendments to Chapter 42 (Zoning Code) and Chapter 14 (Businesses, Medical Marihuana Facilities). Ms. Georgeau reiterated that the amendment to Chapter 14 was not subject to Planning Commission review and recommendation, however, was provided for context as the Planning Commission reviews the Zoning Code

amendment. Ms. Georgeau summarized changes made to Chapter 42 (Zoning Code) since the January 4, 2018 preliminary review by the Commission and the rationale for these changes including the addition of “child care center” to the 1,000 foot setback from medical marihuana facilities (child care centers were originally intended to be included, however, were inadvertently not referenced in previous versions of the ordinance); the addition of a 250 foot setback from the corporate boundary of the city with the exception of the south, east and west sides of the airport; the addition of clarifying language that only one medical marihuana facility is permitted per zoning lot (originally intended to be included, however, not specifically referenced in previous versions of the ordinance); a reduction in the separation standard from 1,500 feet to 1,000 feet between growers and processors (for consistency with provisioning center standard); and a revision to the text that the separation requirements between medical marihuana facilities apply to like facilities (the previous version of the ordinance was determined to be overly restrictive). Ms. Georgeau then reviewed maps of eligible properties and potential locational scenarios based on the ordinance changes citing approximately 66 eligible B-3 zoned properties for provisioning centers (previously 70 properties) with 11 potential “locations”, and 97 eligible I-1/I-2 zoned eligible properties for growers, processors, safety compliance and secure transporters (previously 117 properties) with 15 potential “locations” for growers and processors. Ms. Georgeau then summarized changes to Chapter 14 (Business, Medical Marihuana Facilities) and the rationale for these changes including elimination of the waiver from the separation requirement between facilities for the first year of applications and the addition of a lottery system for applicants that do not meet the separation requirements from another like applicant, and revisions to the application process which includes an initial application window for applicants that have been issued a temporary operating permit. Ms. Georgeau stated the waiver from the separation standard between facilities during the first year was contrary to the original intent of the separation standard, which is to avoid a concentration or cluster of facilities in a particular area of the city. Attorney Bear provided additional explanation regarding changes to the application process and inclusion of a lottery system, if multiple applications are received for a specific area with an overlap of the 1,000 foot separation. In addition, Attorney Bear indicated the lottery system is proposed due to concerns with a merit based evaluation, which may not withstand a legal challenge.

Chairman Stoffer asked if the Zoning Code currently has similar separation requirements for other businesses in the B-3, I-1 and/or I-2 zones. Ms. Georgeau stated the adult regulated uses section of the Zoning Code has similar separation requirements between businesses. Ms. Georgeau restated that medical marihuana facilities are a new type of land use with unknown impacts and it was best to proceed carefully and cautiously. Ms. Georgeau indicated the ordinance could be amended in the future to relax restrictions and requirements, after the city has time to evaluate the real impacts of approved facilities. Chairman Stoffer stated he was very concerned about the 1,000 foot setback from schools and future legislation that may allow for recreational marihuana in Michigan. While acknowledging the medicinal benefits, Chairman Stoffer stated he didn’t want to give the wrong impression to students that widespread marihuana use was acceptable. Chairman Stoffer stated that students are very impressionable and the Portage Public Schools are a great asset to the community. Chairman Stoffer referenced the article provided by Ashley Bergeon of the Kalamazoo County Substance Abuse Task Force at the last meeting and the negative impacts of locating facilities close to schools has had on students in Colorado. Chairman Stoffer believes that the city should move cautiously on the ordinance development and believes a much larger setback (possibly one mile) from the Portage Northern High School/Middle School campus and Portage Central High School/Middle School campus should be considered. Chairman Stoffer asked staff how the inclusion of a one mile setback from these high school/middle school campuses would impact the number of eligible properties. Ms. Georgeau stated that a one mile setback would reduce the number of eligible B-3 zoned properties from 66 to 56 (loss of 10) and the number of eligible I-1/I-2 properties from 97 to 84 (loss of 13). If the one mile setback was proposed from Loy Norrix High School in Kalamazoo, Ms. Georgeau indicated there would be a further reduction in available properties. Attorney Bear provided a brief overview of the State law and the preliminary rules that specifically state that medical marihuana can not be marketed or sold to minors and indicated Portage Public Safety intends to monitor medical marihuana facilities. Ms. Georgeau also indicated that minors are not allowed to enter a medical marihuana facility.

Commissioner Patterson also referenced the article included with the agenda materials and indicated that illegal activities associated medical marihuana, such as reselling the product to minors, was similar to illegal alcohol sales, which is an issue beyond the scope of the ordinance. Commissioner Patterson stated that he believes the 1,000 foot setback from schools is reasonable. Commissioner Patterson then asked about the currently eligible properties located on the west side of Portage Road, north of East Centre Ave, and the impact of the future trail expansion/construction that was planned along the Consumers Energy Company transmission lines. Ms. Georgeau stated that the trail was planned a couple years out in the Capital Improvement Program and if a medical marihuana facility was to locate at one of these properties prior to the trail construction and designation as a “park”, the facilities would be allowed to continue at this location. Commissioner Place stated that she also believes the 1,000 foot setback from schools was a reasonable standard citing the location of an existing party store that sells alcohol and tobacco at the entrance to Portage Central High School. Commissioner Place indicated that the 250-foot buffer from the city jurisdictional boundary appears to be another restriction added to the ordinance which unnecessarily limits the location of facilities. Commissioner Place also asked for additional clarification on the 1,000-foot separation requirement between facilities and whether the addition of language to address potential odors could be added to the ordinance, thereby eliminating the need for the 1,000-foot separation requirement. Ms. Georgeau indicated that there are existing restrictions regarding odor control contained in Chapter 14 of the ordinance amendment. Ms. Georgeau indicated the intent of the 1,000-foot separation requirement was not related only to odor control, but also to address the overall number and concentration of these new land uses. As previously stated, Ms. Georgeau stated that the ordinance provides for numerous eligible properties and several potential “locations” for provisioning centers, growers and processors and that the 1,000 foot separation requirement does not apply to secure transporters and safety compliance facilities.

The public hearing was reconvened by Chairman Stoffer. Three citizens spoke regarding the proposed medical marihuana ordinance amendments: Ken Jonatzke (8318 Portage Road), Josh Cook (7185 Easling Street, Mattawan, Michigan) and Ashley Bergeon (Coordinator for the Kalamazoo County Substance Abuse Task Force, 611 Whitcomb, Kalamazoo, Michigan). Mr. Jonatzke, a resident and business owner at 8318 Portage Road since 1971, discussed the medical marihuana dispensary that illegally moved into the adjacent property approximately two years ago and the changes to the ordinance which have occurred since the last meeting which would no longer allow him to operate from his location. Mr. Jonatzke stated he didn’t agree with the changes and asked that considerations be given in the ordinance to “level the playing field” between his location and the Lake Effect facility to the north. Ms. Georgeau clarified that Mr. Jonatzke has been operating a home occupation caregiver facility from his residence and he could continue to operate this business. Ms. Georgeau stated that Mr. Jonatzke did make application under the emergency ordinance adopted by City Council in December, however, his application was denied since it did not satisfy the applicable criteria. Mr. Cook indicated that he believes the buffer and separation standards are too restrictive and asked for reconsideration of these requirements to allow for more business opportunities and available properties. Mr. Cook also discussed the significant financial investment necessary to perform the necessary due diligence and receive approval for a medical marihuana facility and his concerns about the proposed “lottery” system for determination of which business could locate at a particular site. Ms. Bergeon provide a summary of a recent survey conducted in Kalamazoo County that indicated approximately 16% of minors illegally obtain marihuana through medical marihuana dispensaries. Ms. Bergeon stated that marihuana was the 3<sup>rd</sup> highest abused drug for treatment in Kalamazoo County and indicated that long-term use of marihuana had negative impacts on brain function similar to lead exposure. Ms. Bergeon cautioned the city to consider the potential impacts on local youth and to utilize a “harm/risk” evaluation when considering adoption of a medical marihuana ordinance. No additional citizens spoke regarding the proposed ordinance amendments. A motion was then made by Commissioner Schimmel, seconded by Commissioner Place, to close the public hearing. The motion was unanimously approved 7-0.

Commissioner Shoup stated that he agrees with both sides on this issue and supports a larger setback from schools and a lesser separation distance between medical marihuana facilities. Commissioner Corradini indicated that he concurs with both Chairman Stoffer and Commissioner Shoup regarding a larger setback from schools and a lesser separation standard between facilities. Commissioner Corradini commended city



staff for their hard work and tremendous effort regarding this issue and is confident that City Council will carefully consider the comments of the Commission and do what is right for the community. Ms. Georgeau provided some clarifying comments regarding the proposed ordinance amendment and reiterated that the maps of eligible properties was intended to be informational and that each particular application would need to be closely reviewed for compliance with all the ordinance requirements. Ms. Georgeau indicated that staff was requesting a Planning Commission recommendation at tonight's meeting and that City Council would accept the ordinance for first reading at the January 23<sup>rd</sup> meeting and set a public hearing to consider adoption of the ordinance at the February 27<sup>th</sup> meeting. Commissioner Place restated that she believes the 250-foot buffer from the city jurisdictional boundaries should be eliminated and the 1,000-foot separation between facilities should be reduced. Commissioner Place indicated that she believes the 1,000-foot setback from schools, churches, etc. was sufficient. Commissioner Schimmel stated that she believes the ordinance amendment should be forwarded to City Council and they can consider the comments from the Commission in their deliberations.

A motion was then made by Commissioner Schimmel, seconded by Commissioner Patterson, to recommend to City Council that Ordinance Amendment #17/18-A, Medical Marihuana Facilities, be approved. Commissioner Harrell-Page asked if other communities are requiring growers and processors to be separated, or whether they were allowed to be located together. Ms. Georgeau stated that the draft emergency rules from the State allow for co-location of facilities, however, there is some uncertainty about the LARA Emergency Rules and the city is awaiting further clarification and finalization of these rules before they would consider co-location. Attorney Bear provided additional comments regarding this issue and stated that his recommendation at this time was to not consider co-location until the State promulgates final rules. Chairman Stoffer again restated his concerns and requested that City Council consider a one-mile setback distance from the two high school/middle school campuses. Chairman Stoffer indicated that he believes the 250-foot buffer standard from the city jurisdiction boundary was a good standard. Upon a roll call vote: Corradini (yes), Place (yes), Harrell-Page (yes), Schimmel (yes), Stoffer (yes), Shoup (yes) and Patterson (yes), the motion was unanimously approved 7-0.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

None.

**STATEMENT OF CITIZENS/COMMISSIONERS:**

None.

**ADJOURNMENT:**

Commissioners Corradini and Patterson stated they were not be present at the February 22, 2018 meeting.

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Michael West, AICP  
Senior City Planner

## **PLANNING COMMISSION**

**January 4, 2018**

The City of Portage Planning Commission meeting of January 4, 2018 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 20 citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

### **IN ATTENDANCE:**

Vicki Georgeau, Director of Community Development; Christopher Forth, Deputy Director of Planning, Development & Neighborhood Services; Michael West, Senior City Planner; Randy Brown, City Attorney; and Charlie Bear, Assistant City Attorney.

### **ROLL CALL:**

Mr. Forth called the role: Patterson (yes), Shoup (yes), Stoffer (yes), Schimmel (yes), Bosch (yes); Place (yes), Joshi (yes) and Corradini (yes). A motion was made by Commissioner Schimmel, seconded by Commissioner Bosch, to approve the role excusing Commissioner Harrell-Page. The motion was unanimously approved 8-0.

### **APPROVAL OF MINUTES:**

Chairman Stoffer referred the Commission to the December 21, 2017 regular meeting minutes contained in the agenda packet. A motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was unanimously approved 8-0.

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

None.

### **PUBLIC HEARING:**

1. Ordinance Amendment #17/18-A, Medical Marihuana Facilities. Mr. Forth introduced Director of Community Development, Vicki Georgeau and Assistant City Attorney, Charlie Bear who having been working closely with City Council on development of the proposed medical marihuana ordinances. Ms. Georgeau summarized the Department of Community Development staff report dated December 29, 2017 and the proposed ordinance amendments to Chapter 42 (Zoning Code) and Chapter 14 (Businesses, Medical Marihuana Facilities). While the proposed amendment to Chapter 14 was not subject to Planning Commission review and recommendation, Ms. Georgeau indicated it was being provided for context as the Planning Commission reviews the proposed Zoning Code amendment. Ms. Georgeau provided a historical overview of medical marihuana legislation in Michigan beginning with the Michigan Medical Marihuana Act (MMMA) approved in November 2008 and subsequent legislation (three bills) approved in September 2016. Ms. Georgeau stated that PA 281 (Medical Facilities Licensing Act), PA 282 (Marihuana Tracking Act) and PA 283 (amendments to MMMA) established a “seed to sale” regulatory framework for medical marihuana in State of Michigan. Ms. Georgeau indicated that PA 281 allows for five types of medical marihuana facilities permits including: 1) Grower, 2) Processor, 3) Secure Transporter, 4) Safety Compliance Facility and 5) Provisioning Center. Ms. Georgeau stated that communities in Michigan have two options regarding medical marihuana; 1) Adopt an authorizing ordinance allowing for one or more types of facilities; or 2) Opt-Out which would not allow for medical marihuana facilities within the community. Ms. Georgeau indicated the City Administration and City Attorney have been working extensively over the past year developing options to permit medical marihuana facilities within the city, while providing adequate measures to minimize potential adverse impacts on adjacent properties and the community as a whole.

Ms. Georgeau stated the proposed zoning amendments would allow for provisioning centers as permitted uses in the B-3, general business zoning district and growers and processors as permitted uses in the I-1, light industry and I-2, heavy industry zoning districts subject to locational and operational requirements and minimum separation requirements. Ms. Georgeau indicated that secure transporters and safety compliance facilities would also be allowed as permitted uses in the I-1 and I-2 zones subject to locational and operational requirements, however, without minimum separation requirements since they are considered less intense land uses. Ms. Georgeau stated the separation requirements would not be applicable during the first year of applications, however, a maximum of 12 provisioning centers, 12 growers and 12 processors would be allowed during the first year, and no limit on the number of secure transporters and safety compliance facilities. Ms. Georgeau then presented a series of maps which identified eligible properties for provisioning centers within the B-3 district, and other permitted facilities within the I-1 and I-2 zones, and then summarized changes also proposed to the home occupation section of the Zoning Code.

Chairman Stoffer asked whether pre-qualification by the State of Michigan is currently available for everyone. Ms. Georgeau indicated the State began accepting applications for medical marihuana facilities licenses on December 15<sup>th</sup> and also stated that pre-qualification by the State was a prerequisite for applying for a provisional permit from the city. Ms. Georgeau then provided a brief overview of the provisional permit process through the city, the proposed amendment to Chapter 14 (Businesses, Medical Marihuana Facilities), and indicated the proposed city ordinance closely mirrors the State licensing requirements. Chairman Stoffer asked why the minimum separation requirement was proposed to be waived during the first year of applications. Ms. Georgeau stated the primary reason revolved around the difficulty in determining which application was submitted 1<sup>st</sup>, 2<sup>nd</sup>, etc. for purposes of establishing where the separation measurements are established. Commissioner Patterson asked for clarification on the proposed changes to the medical marihuana home occupation section of the Zoning Code and whether the amendments would allow for growing/processing within the home and the processing of infused products. Ms. Georgeau stated the proposed changes would remove the restriction that the home occupation only be conducted within the dwelling unit (modified to reference an enclosed, locked facility such as a garage) and would also allow for processing of marihuana infused products as long as it did not involve use of butane extraction. Commissioner Place asked if facilities allowed during the first year of applications would be “grandfathered” the following year for purposes of separation requirements. Ms. Georgeau stated these facilities would be ‘grandfathered’ so long as the use was not abandoned or discontinued. Commissioner Place also asked about the rationale for the 1,000 foot setback distance for various facilities from churches, schools, child care centers, etc. and the 1,000/1,500 foot separation requirement between other medical marihuana facilities. Ms. Georgeau stated the origins were based in the federal Drug Free School Zone requirements and were intended to address the intensity of the land uses and potential impacts, and to prevent the congregation or clustering of medical marihuana facilities. Ms. Georgeau also stated the Zoning Code restricts many land uses and their proximity to residential districts and there are similar setback and/or separation distance requirements for other land uses such as cell towers, gas stations, dog kennels, group child care homes and collection/donation boxes, amongst others.

The public hearing was then opened by Chairman Stoffer. Six citizens spoke regarding the proposed medical marihuana ordinance amendments: 1) Ashley Bergeon (Coordinator for the Kalamazoo County Substance Abuse Task Force, 611 Whitcomb, Kalamazoo, Michigan), Bo Arbanas (6159 South 26<sup>th</sup> Street, Scotts, Michigan), Devin Loker (1595 West Centre Avenue), Ken Jonatzke (8318 Portage Road), Richard Santek (7537 Autumn Lane) and Tom Tarleton (307 Barberry Avenue). Ms. Bergeon expressed concerns about the ordinance and the 1,000 foot setback distance from schools and other similar facilities. Ms. Bergeon stated the 1,000 foot setback distance is not adequate and has not been applied uniformly in other states. Ms. Bergeon provided an article entitled “Under Siege – Marijuana and Colorado Schools” which discusses the increase in illegal student drug use when medical marihuana facilities are located near schools. Mr. Arbanas stated he was associated with a medical marihuana secure transporter and clarified that transporters were allowed a temporary hold on medical marihuana products for up to 48 hours. Mr. Arbanas stated that medical marihuana facilities are highly regulated and secure and questioned whether the 1,000 foot setback distance from schools, churches, etc. was necessary. Mr. Loker stated he was a local attorney who represented many

medical marihuana clients. Mr. Loker stated the requirement that provisioning centers not be located adjacent to residential properties should be eliminated since there are no similar requirements for pharmacies or places that sell alcohol. Mr. Loker also stated the 1,000 foot separation requirement between provisioning centers should also be eliminated citing easier monitoring and enforcement for the city if these facilities were concentrated. Mr. Jonatzke stated he was a business owner and natural medicine advocate that has represented agencies attempting to decriminalize the use of medical marihuana. Mr. Jonatzke discussed the location of his property adjacent to Lake Effect provisioning center and believes the 1,000 foot separation requirement between provisioning centers should be eliminated to "level the playing field". Mr. Santek stated he was a 50 year resident of Portage who lives nearby to a lot of vacant property that might be considered for medical marihuana facilities. Mr. Santek expressed concerns about the impact medical marihuana facilities will have on his and others property values and advised the city to be "very careful" moving forward with the ordinances. Mr. Santek stated a 1,000 foot setback from schools, churches, etc. seems like a large distance on paper, however, is "nothing" on the ground. Mr. Tarleton stated he supports the city's efforts at developing the medical marihuana ordinances. Attorney Brown stated that potential applicants should proceed with caution in their efforts to secure property for a Medical Marihuana Facility as the ordinance and maps provided are still in draft form. No additional citizens spoke regarding the proposed ordinance amendments.

Ms. Georgeau discussed some recent comments received and changes which will likely occur to the draft ordinances and maps prior to the next Planning Commission meeting on January 18<sup>th</sup> including: 1) Inclusion of a 250 foot buffer area along jurisdictional boundaries (based on a recent meeting with adjacent community leaders); 2) Specific reference to "child care centers" in the ordinance; 3) Clarifying language that would limit the number of facilities to one per zoning lot; and 4) Clarifying language regarding the 1,000 and 1,500 foot separation requirements being from a similar medical marihuana facility. After additional conversation, a motion was made by Commissioner Bosch, seconded by Commissioner Schimmel, to adjourn the public hearing for Ordinance Amendment #17/18-A, Medical Marihuana Facilities, to the January 18, 2018 meeting. The motion was unanimously approved 8-0.

#### **OLD BUSINESS:**

None.

#### **NEW BUSINESS:**

None.

#### **STATEMENT OF CITIZENS/COMMISSIONERS:**

Mr. Forth referenced an earlier email to the Planning Commission inquiring about Commissioner availability for a special meeting on February 22, 2018 to review the 2018 Recreation and Open Space Plan Update. Commissioners Patterson and Corradini indicated that they would not be available for a special meeting on February 22, 2018. Commissioner Bosch indicated that he would not be present at the February 15, 2018 regular meeting.

#### **ADJOURNMENT:**

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:10 p.m.

Respectfully submitted,

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



## **CITY OF PORTAGE HUMAN SERVICES BOARD**

Minutes of Meeting January 4, 2018

**CALL TO ORDER:** 6:30 p.m.

**MEMBERS PRESENT:** Ray LaPoint, Amanda Woodin, Elma (Pat) Maye, Diane Durian, Alice Mwanda, Fiorella Spalvieri, Effie Kokkinos, Nadeem Mirza, Stephanie Upshaw

**STAFF PRESENT:** Tom McCoy, Neighborhood Program Specialist

**APPROVAL OF MINUTES:** Kokkinos moved and Maye supported approval of the December 7, 2017 minutes with one correction. Motion passed 9-0.

### **NEW BUSINESS:**

1. **Presentations by Human/Public Service Funding Applicants:** The Board heard presentations by representatives from 8 local public service organizations who have applied for funding for the 2018-2019 fiscal year. Representatives provided specific information regarding the programs and services that are offered and utilized by residents of the City of Portage, including; at risk youth assistance; housing assistance; personal and family crisis intervention; tax preparation assistance; durable medical equipment assistance; domestic and sexual assault programs; community resource referral advisors; adult literacy programs, food pantry; health care assistance; emergency financial assistance and financial literacy assistance and education. Board members were also provided supplemental printed and promotional materials from each of the representatives. Following each presentation, Board members were offered the opportunity to ask questions and offer comments which were acknowledged and answered by representatives from each organization.

**ADJOURNMENT:** Maye moved and Mirza supported adjournment at 8:35 p.m. Motion passed 9-0.

Respectfully Submitted,

Tom McCoy, Neighborhood Program Specialist

## **CITY OF PORTAGE HUMAN SERVICES BOARD**

Minutes of Meeting January 18, 2018

**CALL TO ORDER:** 6:30 p.m.

**MEMBERS PRESENT:** Amanda Woodin, Elma (Pat) Maye, Diane Durian, Alice Mwanda, Fiorella Spalvieri, Effie Kokkinos, Stephanie Upshaw

**STAFF PRESENT:** Vicki Georgeau, Director Department of Community Development, Tom McCoy, Neighborhood Program Specialist

**MOTION TO EXCUSE ABSENT MEMBERS:** Durian moved and Maye supported motion to excuse Mirza and LaPoint. Motion passed 7-0

**APPROVAL OF MINUTES:** Maye moved and Spalvieri supported approval of the January 4, 2018 minutes. Motion passed 7-0.

### **NEW BUSINESS:**

- 1) **Communication from City Staff:** Director Georgeau presented information to the Board regarding a potential increase in Human Service funding from City of Portage general fund based on current economic conditions. It was relayed by Georgeau to the Board that City Manager Shaffer had expressed an interest in having the Board consider making a recommendation to City Council as to whether an increase would be warranted for: 1) the 2018-2019 Fiscal year and 2) in subsequent years. It is further requested that a suggested percentage of increase be incorporated as part of a recommendation should the board decide to make one. Additional information is to be provided to Board via a memo to be sent as part of February 1, 2018 agenda packet.
- 2) **HPS Funding Score Sheets:** The Board reviewed and discussed Human Service score sheets received from Board members and assembled into a summary spreadsheet by staff. Clarification on individual scoring items was achieved via questions by staff to individual Board members. Outliers were identified and addressed in a group discussion and consensus was reached regarding appropriate scoring values for each applicant and overall rank in relation to each applicant. Scores are yet to be included from two Board members, one of whom submitted scores at the meeting and one who will be sending their scores week of 1/22/18. Staff will include these numbers as received, update the summary and include in the February 1<sup>st</sup> meeting agenda.
- 3) **Metro Transit Update:** Woodin provided an update on Metro Transit activities as of January. She advised that consultant will be hired to review fixed route services including Earth Fare on S. Westnedge, new Metro County Connect vans are in service, a new app is available, new officers have been elected, and new signage and branding are forthcoming.

**ADJOURNMENT:** Upshaw moved and Maye supported adjournment at 7:20 p.m. Motion passed 7-0.

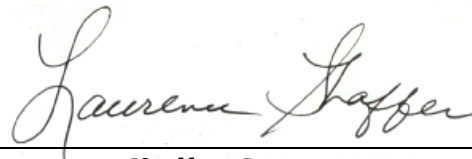
Respectfully Submitted,

Tom McCoy, Neighborhood Program Specialist

## MATERIALS TRANSMITTED

Tuesday, January 23, 2018

1. Citizen Comment Summary for October, November and December 2017 – **Information Only**



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Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager



**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager

**SUBJECT:** Citizen Comment Summary for October, November and December 2017 –  
Information Only

As part of the continuing focus on customer service, citizens are encouraged to complete comment cards after any interaction with city staff. In addition to comment cards available at every city department, citizens also have the opportunity to provide comments regarding their experience with staff via the online Customer Service Survey.

During the month of October, four Citizen Comment Cards and zero responses to the online Customer Service Survey were received. The month of November had five comment card responses and four online survey responses. The month of December had eight comment card responses and no online survey responses. A summary of the responses received during October, November and December is attached for the information of Council.

**Attachments:** October 2017 Summary  
November 2017 Summary  
December 2017 Summary

| Record ID | Visit Date | Department(s) Visited   | Visited By<br>(ASSESSOR<br>COMMENT CARD<br>ONLY) | Purpose of Visit                                  | Staff Demeanor | Staff Knowledge | Facility<br>Condition | Completeness<br>of Response<br>(ASSESSOR<br>COMMENT<br>CARD ONLY) | Comments                                                                                                                   | Name           | Phone        | Address      | City | State | Zip | E-mail              | CC Monthly<br>Summary |
|-----------|------------|-------------------------|--------------------------------------------------|---------------------------------------------------|----------------|-----------------|-----------------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------|--------------|--------------|------|-------|-----|---------------------|-----------------------|
| 1980      | 9/27/2017  | Senior Citizen Services |                                                  | Trip brochures                                    | Satisfied      | Satisfied       | Satisfied             |                                                                   | Receptionis Greta was very helpful and very happy. Always nice to visit a place and have some happy and helpful.           | A visitor      |              |              |      |       |     |                     | OCTOBER (17)          |
| 1981      | 9/22/2017  | Police                  |                                                  | File a identity theft report                      | Satisfied      | Satisfied       | N/A                   |                                                                   | Officer Leemack was courteouis and helpful                                                                                 | B & B Wilson   |              | 3428 (sic)   |      |       |     | blwilson8@gmail.com | OCTOBER (17)          |
| 1982      | September  | Financial Services      |                                                  | Pay tax                                           | Satisfied      | Satisfied       | Satisfied             |                                                                   | Everything was outstanding. Thank you folks at the City of Portage for your efforts and making this a great place to live! |                |              |              |      |       |     |                     | OCTOBER (17)          |
| 1983      | 10/6 17    |                         | Kathy                                            | Check update status on changes to Assessor report | Satisfied      | Satisfied       |                       | Satisfied                                                         | Thanks for visi8t & updating living space area to actual sq. ft.                                                           | Gary Coodchild | 262-527-5023 | 1624 John St |      |       |     | ggoodchild@wirr.com | OCTOBER (17)          |

City of Portage Comment Card Response Summary - November 2017  
5 Response(s)

| Record ID | Visit Date | Department(s) Visited                 | Visited By<br>(ASSESSOR<br>COMMENT CARD<br>ONLY) | Purpose of Visit                          | Staff Demeanor | Staff Knowledge | Facility<br>Condition | Completeness<br>of Response<br>(ASSESSOR<br>COMMENT<br>CARD ONLY) | Comments                                                                                                                                                                                 | Name          | Phone        | Address                  | City    | State | Zip | E-mail                    | CC Monthly<br>Summary |
|-----------|------------|---------------------------------------|--------------------------------------------------|-------------------------------------------|----------------|-----------------|-----------------------|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------|--------------------------|---------|-------|-----|---------------------------|-----------------------|
| 1984      | 9/27/2017  | Community Development                 |                                                  | Discuss plans for<br>proposed parking lot | Satisfied      | Satisfied       | Satisfied             |                                                                   | Met with Chris, Jamie and Roger. Very helpful<br>in giving direction and open to updates<br>presented. Made us feel right at home and<br>very supportive in the direction we want to go. | Ted Mitchell  | 269-327-5445 | 7835 Lovers<br>Ln.       | Portage | MI    |     | pastorted@portageccg.org  | NOVEMBER (17)         |
| 1985      | 10/17/2017 | Assessor                              | Kathy                                            | History of house                          | Satisfied      | Satisfied       |                       | Satisfied                                                         | Very friendly and very helpful.                                                                                                                                                          | Janelle Engle |              | 1601<br>Greenview<br>Ave |         |       |     |                           | NOVEMBER (17)         |
| 1986      | 11/31/2017 | City Manager                          |                                                  | To set up Art Show                        | Satisfied      | Satisfied       | Satisfied             |                                                                   | Thanks for the opportunity to display my art.                                                                                                                                            | Pamela Kerr   | 831-236-5456 |                          |         |       |     |                           | NOVEMBER (17)         |
| 1987      | 10/5/2017  | Treasury and Community<br>Development |                                                  | Electrical permit.                        | Satisfied      | Satisfied       | Satisfied             |                                                                   | All very friendly!                                                                                                                                                                       | Gabe Aldrich  | 760-1600     | 8855 Over<br>Drive       |         |       |     | gabe@gabeselectricllc.com | NOVEMBER (17)         |
| 1988      |            | Senior Citizen Center                 |                                                  | Walk. Senior Center                       | Satisfied      | Satisfied       | Satisfied             |                                                                   | Greta is fabulous- Hire her full time.                                                                                                                                                   | Pat Gherardi  | 349-2324     | 2344 Bender              |         |       |     | patgherardi@yahoo.com     | NOVEMBER (17)         |

City of Portage Online Customer Service Survey – Nov 2017 Summary  
4 Response(s)

| Survey ID | Submission Date | With what city department did you interact? | What was the purpose of your interaction?                                                       | What type of interaction did you have with the City of Portage? | When you telephoned, were you able to get through on your first attempt? | How satisfied were you with:        |                             |                                                             |                                     |                                              |                                                   | As a visitor to a city facility/department, how satisfied were you with: |                         |                                                                          | As a correspondent by letter, fax or e-mail: |                                                       |                                                          |                                                            | As a user of our web site, did you: |                                            | You are welcome to provide additional comments regarding your customer service experience. | Would you like to be contacted regarding the services you were provided? If so, please provide contact information. | Notes |
|-----------|-----------------|---------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------|-----------------------------|-------------------------------------------------------------|-------------------------------------|----------------------------------------------|---------------------------------------------------|--------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------|----------------------------------------------|-------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------|-------------------------------------|--------------------------------------------|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-------|
|           |                 |                                             |                                                                                                 |                                                                 |                                                                          | The time taken to answer the phone? | Handling of call transfers? | Being able to reach the person to whom you needed to speak? | Response time to any messages left? | Staff being courteous, helpful and friendly? | Time taken to deal with response to your inquiry? | The staff being courteous, helpful and friendly?                         | Knowledge of the staff? | The condition of the facilities (clean, well organized, easy to locate)? | Was your correspondence acknowledged?        | Was your inquiry dealt with efficiently and promptly? | Was the reply you received clear and easy to understand? | Was there a contact name and number on the correspondence? | Find the city web site easy to use? | Find the information you were looking for? |                                                                                            |                                                                                                                     |       |
| 70        | 11/2/2017       | Transportation and Utilities                | To report tree trunks and refuse from a clearing operation in the Andover Woods detention pond. | Telephone                                                       | No                                                                       | Satisfied                           | Neutral                     | Dissatisfied                                                | Dissatisfied                        | Satisfied                                    | Satisfied                                         |                                                                          |                         |                                                                          |                                              |                                                       |                                                          |                                                            |                                     |                                            |                                                                                            |                                                                                                                     |       |
| 71        | 11/3/2017       | Transportation and Utilities                | To report tree trunks and refuse from a clearing operation in the Andover Woods detention pond. | Telephone                                                       | No                                                                       | Satisfied                           | Neutral                     | Dissatisfied                                                | Dissatisfied                        | Satisfied                                    | Satisfied                                         |                                                                          |                         |                                                                          |                                              |                                                       |                                                          |                                                            |                                     |                                            | Waiting for a phone call... it's been several weeks.                                       | Dennis Engler<br>4765 Golden Ridge Trl<br>Portage, MI 269-353-1248                                                  |       |
| 72        | 11/15/2017      | Police                                      | request                                                                                         | Telephone                                                       |                                                                          | Satisfied                           | Satisfied                   | Satisfied                                                   | Satisfied                           | Satisfied                                    | Satisfied                                         |                                                                          |                         |                                                                          |                                              |                                                       |                                                          |                                                            |                                     |                                            |                                                                                            |                                                                                                                     |       |
| 73        | 11/27/2017      | Parks and Recreation                        | Will there be another leaf pick up this year?                                                   |                                                                 | No                                                                       | Neutral                             | Neutral                     | Neutral                                                     | Neutral                             | Neutral                                      | Neutral                                           |                                                                          |                         |                                                                          |                                              |                                                       |                                                          |                                                            |                                     |                                            |                                                                                            |                                                                                                                     |       |



City of Portage Comment Card Response Summary - December 2017  
8 Response(s)

| Record ID | Visit Date | Department(s) Visited                                      | Visited By<br>(ASSESSOR<br>COMMENT CARD<br>ONLY) | Purpose of Visit                | Staff Demeanor | Staff Knowledge | Facility<br>Condition | Completeness<br>of Response<br>(ASSESSOR<br>COMMENT<br>CARD ONLY) | Comments                                                                | Name              | Phone        | Address                 | City    | State | Zip | E-mail                | CC Monthly<br>Summary |
|-----------|------------|------------------------------------------------------------|--------------------------------------------------|---------------------------------|----------------|-----------------|-----------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------|--------------|-------------------------|---------|-------|-----|-----------------------|-----------------------|
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     | akidney@chartermi.net | DECEMBER (17)         |
| 1989      | 11/29/2017 | Treasury                                                   |                                                  | Pay Bill                        | Satisfied      | Satisfied       | Satisfied             |                                                                   | Staff always polite and helpful. Keep up the good work.                 | Art Kidney        |              |                         |         |       |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1990      | 11/30/2017 | City Manager and Treasury                                  |                                                  | Say hello and pay water bill    | Satisfied      | Satisfied       | Satisfied             |                                                                   | It's a great city with a great manager and good luck to your new Mayor. | Terry and Tiffany | 269-929-7595 | 323 Cameo               | Portage | MI    |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1991      | 12/1/2017  |                                                            |                                                  | Paying a Bill. Merry Christmas! | Satisfied      | Satisfied       | Satisfied             |                                                                   | Great! Merry Christmas!                                                 | Linda Benjamin    | 269-327-4090 | 6840 Cromwell           | Portage | MI    |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1992      | 12/1/2017  | Senior Citizen Services, Fire Division and Police Division |                                                  | To pay my taxes.                | Satisfied      | Satisfied       | Satisfied             |                                                                   |                                                                         | Rose Mary Manion  |              | 5847 Iowa               | Portage | MI    |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1993      | 12/7/2017  | Treasury                                                   |                                                  | Pay winter taxes                | Satisfied      | Satisfied       | Satisfied             |                                                                   | I loved your train set-up. Very festive for the Christmas season!!      | Maryann Stratman  | 269-342-8038 | 201 W. Kilgore          | Portage | MI    |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1994      | 10/20/2017 | Police Division                                            |                                                  | To get a report (copy)          | Satisfied      | Satisfied       | Satisfied             |                                                                   |                                                                         | Phyllis Johnson   | 269-501-2603 | 6741 Marlow             | Portage | MI    |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1995      | 12/6/2017  | Police Division                                            |                                                  | Pick up evidence                | Satisfied      | Satisfied       | Satisfied             |                                                                   |                                                                         | Dan Wytko         | 806-7001     | 3371 Hampstead Ct.      |         |       |     |                       | DECEMBER (17)         |
|           |            |                                                            |                                                  |                                 |                |                 |                       |                                                                   |                                                                         |                   |              |                         |         |       |     |                       |                       |
| 1996      | 12/6/2017  | Police Division                                            |                                                  |                                 | Satisfied      | Satisfied       | Satisfied             |                                                                   |                                                                         | Maurice Edmunds   | 517-936-9657 | 5451 Meredith St. Apt L | Portage |       |     |                       | DECEMBER (17)         |

**TO:** Honorable Mayor and City Council

**FROM:** Adam Herring, City Clerk



**SUBJECT:** Calendar of Meetings

**ACTION RECOMMENDED:** Information Only

The following are upcoming meetings of city advisory Boards and Commissions and/or other publicly noticed meetings of local importance.

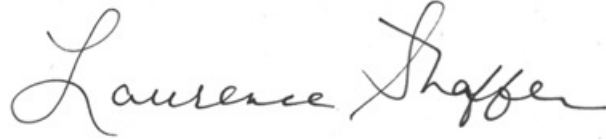
- a. Wednesday, February 14, 9:00 a.m., Kalamazoo County Environmental Health Advisory Council, Kalamazoo County Building (201 W. Kalamazoo Avenue).
- b. Wednesday, February 14, 7:00 p.m., Environmental Board, City Hall Room No. 1.
- c. Thursday, February 15, 7:00 p.m., Planning Commission, Council Chambers.
- d. Wednesday, February 21, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
- e. Thursday, February 22, 4:30 p.m., Public Media Network Board, 359 S. Kalamazoo Mall (3<sup>rd</sup> floor).
- f. Tuesday, February 27, 8:00 a.m., City Council and Mayor for the Day Program, Council Chambers.
- g. Tuesday, February 27, 5:30 p.m., Committee of the Whole Meeting – Senior Center Planning, City Hall Room No. 1.

**FUNDING:** N/A

**Attachments:** N/A

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Youth Advisory Committee Annual Update

**SUPPORTING PERSONNEL:** Adam Herringa, City Clerk

**ACTION RECOMMENDED:** Information Only

In accordance with the City Council adopted policy, advisory boards are expected to provide regular board/commission status reports as a means of keeping Council apprised of each advisory board's activities and programs.

As such, the officers of the Youth Advisory Committee (YAC) will be providing a verbal update regarding recent activities of the youth in association with the attached 2018 YAC Goals Update. The YAC consists of up to 30 high school youth representatives and is tasked with providing input to the City Council and City Administration regarding programs, services, projects and issues affecting area youth. Speaking will be chair Ben Miller, vice chair Aiyla Arif and secretary Megan Chow.

**FUNDING:** N/A

**Attachments:** 1. YAC Goals Update 2018

**TO:** Honorable Mayor and City Council

**DATE:** January 24, 2018

**FROM:** Ben Miller, Youth Advisory Committee Chairperson

**SUBJECT:** 2017-2018 Youth Advisory Committee Goals and Objectives

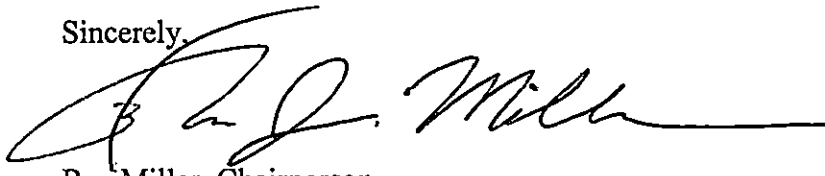
The Youth Advisory Committee (YAC) is pleased to submit the following update on our Goals and Objectives:

- 1.) Continue to support educating members of the YAC on the roles and functions of the City of Portage Government.
  - a. The Youth Advisory Committee met several times throughout the summer of 2017 with the sole purpose of learning more about local government and how it operates. Tours of various departments were held.
  - b. Youth members on other boards and commissions report back to the YAC at each meeting.
- 2.) Continue a commitment to community service by volunteering time at organizations such as the Portage Community Center. In addition, to take initiative and volunteer in support of other causes as the need may arise.
  - a. We volunteered several times at the Portage Community Center in advance of Christmas and supported other events/activities of the Park Board and Environmental Board.
- 3.) Promote environmental awareness in the community by hosting an annual Earth Day event in conjunction with the Environmental Board and Park Board.
  - a. The annual Greenathon is planned for this spring at Celery Flats.
- 4.) Participate in and support community efforts – specifically those of the Kalamazoo County Substance Abuse Task Force – related to addressing substance abuse in the community. Provide teens an opportunity to socialize without the use of drugs and alcohol, including hosting activities such as the Snow Party and Teen Movie Night.
  - a. The Youth Advisory Committee participated in the annual Sticker Shock campaign coordinated by the Substance Abuse Task Force. The effort is held every spring and is designed to raise awareness about dangers surrounding the use of alcohol by minors.
  - b. The Snow Party will be held on February 3<sup>rd</sup> and was a big success last year with approximately 300 participants and more than a dozen entries in the cardboard sled contest.
  - c. The Youth Advisory Committee continues to partner with the Teen Library Board of the Portage District Library in hosting a teen event (historically a movie) and we are looking at expanded activities at the library.
  - d. Support compliance checks by the Department of Public Safety and the Substance Abuse Task Force.



- e. Partner with the Breakfast Optimist Club and the Department of Public Safety to host a community movie night and law enforcement education opportunity. Last year the movie "Moana" was shown.
- 5.) Advise the City Council in areas / subjects under the purview of the Youth Advisory Committee.
  - a. Provided the annual presentation to City Council in January 2017.
- 6.) The Youth Advisory Committee is currently working with the Department of Public Safety and the Kalamazoo County Substance Abuse Task Force on a "Social Host" ordinance for the City of Portage. The YAC voted to support a draft ordinance and it is currently under review by the Department of Public Safety.
- 7.) Present an annual verbal report to the City Council.
  - a. Completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Miller", with a long horizontal flourish extending to the right.

Ben Miller, Chairperson  
Youth Advisory Committee

**TO:** Honorable Mayor and City Council

**FROM:** Patricia M. Randall, Mayor

**SUBJECT:** 2018 Calendar Year City Council Committee Appointments

**ACTION RECOMMENDED:** That City Council receive the 2018 calendar year appointments to City Council Committees.

Following review of the City Council committee preferences, I recommend that City Council accept the 2018 calendar year appointments to City Council Committees as noted in the attached listing. The appointments will be effective immediately, unless stated otherwise within respective external agreements.

**FUNDING:** N/A

**Attachments:** 1. 2018 City Council Committee Assignments

| <b>Committee</b>           |                                                 | <b>Appointments</b>                                     | <b>Meeting Times</b>                                                                                                                            |
|----------------------------|-------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>On-going Committees</b> | City Manager Salary Review/Evaluation Committee | Randall, Pearson, Ford                                  | Fall – as called by the committee. Typically provides recommendation to the full Council as to compensation for next contract year in November. |
|                            | Water / Sewer (Utility) Rate Committee          | Urban, Burns, Ford<br>(citizens Ted Vliek, Randy Orwig) | Spring – as called by the City Administration.                                                                                                  |
|                            | Investment Committee                            | Burns<br>(citizens Aimee Kornowicz, Richard Kraas)      | June / December – as called by the City Administration. Monitors and advises on city investments and city investment policy.                    |
|                            | City Council School / Library Committee         | Burns, Reid, Urban                                      | Varies – as scheduled by the City Council.                                                                                                      |
|                            | Community Survey Committee                      | Ford, Knapp, Reid                                       |                                                                                                                                                 |
|                            | City Council Property Committee                 | Ford, Knapp, Urban                                      | Varies – as needed and determined by the City Administration.                                                                                   |
|                            | Communications/Social Media Committee           | Burns, Ford, Knapp                                      |                                                                                                                                                 |
|                            | Senior Center Committee                         | Knapp, Pearson, Randall                                 |                                                                                                                                                 |

|                               |                                                                        |                                                                             |                                                                                                                                                                                             |
|-------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| External/Community Committees | Kalamazoo Area Transportation Study Policy Committee                   | Randall, Shaffer                                                            | Jan. 24, Feb. 28, March 28, April 18, May 30, June 27, July 25, Aug. 29, Sept. 26, Oct. 31, Nov. 28, Dec. 19. 9:00 a.m. at Metro Transit office – 530 N. Rose St.                           |
|                               | Discover Kalamazoo Advisory Board                                      | Ford                                                                        | Feb. 14, April 11, July 11, Sept. 12, Nov. 14. Second floor conference room – 141 E. Michigan Ave. Kalamazoo                                                                                |
|                               | Kalamazoo County Environmental Health Advisory Council                 | Reid                                                                        | Second Wednesday of February, April, June, August, October and December at 9:00 a.m. in the ground floor conference room D, main wing, Nazareth Complex.                                    |
|                               | Austin Lake Governmental Lake Board                                    | Knapp, Pearson                                                              |                                                                                                                                                                                             |
|                               | Long Lake Governmental Lake Board                                      | Reid                                                                        |                                                                                                                                                                                             |
|                               | Gourdneck Lake Governmental Lake Board                                 | Urban                                                                       |                                                                                                                                                                                             |
|                               | Public Media Network (PMN) Board                                       | Randall, Pearson<br>(citizens Don Ramlow)                                   | Third Thursday of each month at 4:30 p.m. at PMN, 359 S Kalamazoo Mall.                                                                                                                     |
|                               | Kalamazoo County Public Arts Commission                                | Knapp, Reid (alt.)                                                          | Fourth Tuesday of each month at noon at the Kalamazoo Institute for the Arts.                                                                                                               |
|                               | Central County Transportation Authority (CCTA) Board                   | Pearson (exp. 10/31/2018),<br>Burns (exp. TBD)                              | January 15, Feb. 12, March 12, April 9, May 14, June 11, July 9, Aug. 13, Sept. 10, Sept. 24, Oct. 8, Nov. 12, Dec. 10 – 11:30 a.m. Metro Transit Administration Building – 530 N. Rose St. |
|                               | Kalamazoo County Central Dispatch Authority (KCCDA) Board of Directors | Shaffer (exp. TBD),<br>Randall (alt.),<br>Pearson (exp. TBD)<br>Ford (alt.) | Meets the 2 <sup>nd</sup> Thursday of each month at 3:30 p.m.<br><br>(KCCDA Technical Committee – Nick Arnold / Dan Mills – alt.)                                                           |



## Adam Herringa

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**From:** Adam Herringa  
**Sent:** Monday, January 29, 2018 4:38 PM  
**To:** Laurence Shaffer  
**Cc:** Kaitlin Benn; Mary Beth Block; Erica Eklov  
**Subject:** City Council Appointments  
**Attachments:** Auto-Color0041.pdf

Larry,

In response to your inquiry regarding City Council Committee Appointments I can offer the following.

Traditionally, the topic of City Council Committee appointments is introduced to City Council via a memo the Office of the City Manager has put together on behalf of the Mayor identifying his/her suggested appointments (see attached Communications from Mayor Strazdas of March 8, 2016 and February 25, 2014 as examples). The phrase "the appointments will be effective immediately, unless stated otherwise within respective external agreements" is included in the memo.

Interestingly, it should be noted that the minutes of February 25, 2014, reflect that the Mayor is responsible for making the committee appointments:

*After an inquiry from Councilmember Ford regarding whether City Council has to approve the report from Mayor Strazdas, since these are his appointments, Mayor Strazdas deferred to City Attorney Brown, who noted that City Council has approved the appointments in the past, but they really only need to receive it. Mayor Strazdas asked that the motion be amended to read, "Motion by Pearson, seconded by Urban, to receive the 2014 calendar year appointments to City Council Committees as noted," and the makers of the motion agreed. Upon a voice vote, motion carried 6 to 0.*

With regard to external approval of the appointments, the Central County Transportation Authority appears to be the only one that requires approval by the Kalamazoo County Board of Commissioners.

I would recommend the appointment memo from the Mayor be included on the February 13<sup>th</sup> City Council agenda. All appointments (including CCTA) can then be formalized on the 13<sup>th</sup> and City Administration can take care of notifying the various committees of any appointment changes.

I hope this answers your questions and please let me know if I can be of further assistance.

- Adam

Adam Herringa  
City Clerk  
Office of the City Clerk  
City of Portage, Michigan  
[herringa@portagemi.gov](mailto:herringa@portagemi.gov)  
(269) 329-4512 (phone)  
(269) 324-8070 (fax)

**TO:** Portage City Council

**FROM:** Peter J. Strazdas, Mayor

**SUBJECT:** 2016 Calendar Year City Council Committee Appointments

**ACTION RECOMMENDED:** That City Council accept the 2016 calendar year appointments to City Council committees.

Following review of the City Council committee preferences, I recommend that City Council accept the 2016 calendar year appointments to City Council Committees as noted on the attached listing. The appointments will be effective immediately, unless stated otherwise within respective external agreements.

**FUNDING:** N/A

**Attachments:** 2016 City Council Committee Listing

| Committee                       |                                                                        | Appointments                                                                       |
|---------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| On-going Committees             | City Manager Salary Review/Evaluation Committee                        | Pearson, Randall, Strazdas                                                         |
|                                 | Water / Sewer (Utility) Rate Committee                                 | Ford, Reid, Strazdas<br>(citizens Ted Vliek, Randy Orwig)                          |
|                                 | Investment Committee                                                   | Strazdas<br>(citizens Aimee Kornowicz, Chris Burns, Richard Kraas)                 |
|                                 | City Council School / Library Committee                                | <b>Committee of the Whole</b>                                                      |
|                                 | Advisory Board Review Committee                                        | <b>Committee of the Whole</b>                                                      |
|                                 | Community Survey Committee                                             | <b>Committee of the Whole</b>                                                      |
|                                 | City Council Property Committee                                        | <b>Committee of the Whole</b>                                                      |
| External / Community Committees | Kalamazoo Area Transportation Study Policy Committee                   | Urban, Reid                                                                        |
|                                 | Discover Kalamazoo Advisory Board                                      | Ansari (voting), Ford (alt.), Randall (alt.)                                       |
|                                 | Kalamazoo County Environmental Health Advisory Council                 | Ford                                                                               |
|                                 | Austin Lake Governmental Lake Board                                    | Pearson, Ansari                                                                    |
|                                 | Long Lake Governmental Lake Board                                      | Urban                                                                              |
|                                 | Public Media Network (PMN) Board                                       | Reid                                                                               |
|                                 | Kalamazoo County Public Arts Commission                                | Randall, Reid (alt.)                                                               |
|                                 | Council of Governments                                                 | Ansari, Reid (alt.)                                                                |
|                                 | Central County Transportation Authority (CCTA) Board                   | Pearson (exp. 9/16/2016),<br>Urban (exp. 9/16/2017)                                |
|                                 | Kalamazoo County Central Dispatch Authority (KCCDA) Board of Directors | Pearson (exp. 11/18/2017), Reid (exp. 11/18/2017),<br>Strazdas (alt.), Ford (alt.) |



**TO:** Portage City Council

**FROM:** Mayor Peter J. Strazdas

**SUBJECT:** City Council Committee Appointments

**ACTION RECOMMENDED:** That City Council approve the 2014 calendar year appointments to City Council Committees as noted.

**BACKGROUND INFORMATION:**

Following review of the committees at the City Council Goal Setting Retreat, I recommend that City Council approve the 2014 calendar year appointments to City Council Committees as noted on the attached listing. The appointments will be effective immediately, unless stated otherwise within respective external agreements.

**Attachments:** 2014 City Council Committee Appointments



| <b>Committee</b>                                   |                                                                    | <b>Appointments</b>                  |
|----------------------------------------------------|--------------------------------------------------------------------|--------------------------------------|
| <b>On-going Committees</b>                         | City Manager Salary Review/Evaluation Committee                    | Pearson, Ford, Strazdas              |
|                                                    | Water / Sewer (Utility) Rate Committee                             | Ansari, Ford, Reid                   |
|                                                    | Investment Committee                                               | Strazdas                             |
|                                                    | City Council School / Library Committee                            | Pearson, Ansari, Ford                |
|                                                    | Advisory Board Review Committee                                    | <b><i>Committee of the Whole</i></b> |
|                                                    | Community Survey Committee                                         | <b><i>Committee of the Whole</i></b> |
|                                                    | City Council Property Committee                                    | <b><i>Committee of the Whole</i></b> |
| <b>External / Community Committees<sup>1</sup></b> | Kalamazoo Area Transportation Study Policy Committee               | Urban, Reid                          |
|                                                    | Discover Kalamazoo Advisory Board                                  | Randall                              |
|                                                    | Kalamazoo County Environmental Health Advisory Council             | Ford                                 |
|                                                    | Austin Lake Governmental Lake Board                                | Pearson, (Sackley)                   |
|                                                    | Long Lake Governmental Lake Board                                  | Urban                                |
|                                                    | Public Media Network (PMN) Board                                   | Reid, Ansari                         |
|                                                    | Metro Transit ADA Local Advisory Committee                         | HSB Chair to Appoint Member          |
|                                                    | Kalamazoo County Public Arts Commission                            | Randall                              |
|                                                    | Ad Hoc Countywide Public Transit System Transition Leadership Team | Urban, Pearson                       |
|                                                    | Ad Hoc Consolidated Dispatch Political Leadership Group            | Reid, Pearson                        |

<sup>1</sup> Terms as appointed by City Council, unless stated otherwise within respective external agreements.

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Public Media Network (PMN)

**SUPPORTING PERSONNEL:** Devin Mackinder, Director of Technology Services

**ACTION RECOMMENDED:** Information Only

Beginning in approximately the fall of 2017, Ed Sackley, the City of Portage representative on the Public Media Network Board of Directors, communicated with the Mayor and administration, his issues with the performance of Public Media Network. Mr. Sackley's issues with PMN defy summarization but at the core of it, his concerns center around a number of administrative and operational processes. Those concerns include the size of the unappropriated fund balance within the organization as compared to the operational budget, the lack of a fixed asset inventory, the method and limitation of retirement plan participation for PMN employees, type of programs supported by PMN, FOI administration and the lack of internal control for financing processes. Mr. Sackley was removed as Treasurer/Secretary of the Board of Directors.

Mr. Sackley's recommendation is that the City terminate its relationship with PMN and seek a partnership with Texas Township to provide the services presently provided by PMN.

My objective throughout this conversation has been to reduce the tension between Mr. Sackley and PMN. I don't believe it is in the best interest of the City of Portage to have its representative on the PMN Board engaged in an unproductive and damaging public airing of the performance of PMN. Consequently, I have promoted with all parties my wish to see respectful and productive dialogue that would lead to enhanced performance for the people we jointly serve.

Mr. Sackley has resigned from the Board of PMN, effective November 26, 2017. A new Executive Director has been hired by PMN. Matt Schuster, the new Executive Director, has indicated that many of the issues raised by Mr. Sackley that are deemed legitimate will be addressed. Mr. Coleman, the Chair of the PMN Board, has also committed to a complete review of the issues raised. On a tangential topic, it has been asked that Devin Mackinder work with Matt Schuster to develop a plan that will improve the quality of the live streaming and television broadcasting of City Council meetings. That planning process is presently underway.

The City Administration is also preparing for the potential that the City Council may decide to consider the various alternatives to provide services rendered by the cable television franchise agreement. Those preparations include how Portage might provide such services independent of PMN, under contract with PMN or as a continued charter member of PMN. Analysis of the cost of technical resources and potential output will continue to be a part of that review. The Administration will continue to work closely with PMN as the review goes forward.

Attached are the correspondence associated with the discussion above.

**FUNDING:** N/A

**Attachments:**

1. October 24, 2017 - Sackley letter regarding PMN Administration Issues
2. November 6, 2017 - Mr. Schuster to Larry Shaffer
3. December 8, 2017 - Improvement of Broadcast Quality letter to Mr. Schuster and Mr. Coleman

October 24, 2017

Mayor Peter J. Strazdas  
City Manager Laurence Shaffer  
City of Portage  
7900 S. Westnedge Avenue  
Portage, MI 49002

Subject: Public Media Network

Honorable Mayor Strazdas and City Manager Shaffer,

**Preliminary statement regarding confidentiality and/or attorney-client privilege**

My service on Public Media Network's Board of Directors is pursuant to an appointment by the Portage City Council. As such, I consider myself an official representative of the Portage City Council and have endeavored to provide information on my participation, issues of general and specific concern, and other matters to the attention of Council and City administration during the entirety of my tenure. My initial appointment was made while I was an elected member of the Council, a position I left nearly four years ago. The following communication is a follow-up to private meetings I have had with Mayor Strazdas, Manager Shaffer and Councilwoman Reid. The words and opinions expressed herein are intended to be a formal communication as one of the City's three current representatives supplementing not only those conversations, but multiple emails and on-the-record comments made at PMN Board meetings. I would also note that many of the statements made at PMN Board meetings were not reflected in the organization's official minutes even over my objection. For that reason, I do not believe that PMNs minutes accurately reflect the full substance, conversation and decision-making process of those meetings. That said, it is possible that some of what I say in this letter may be used by the City of Portage and/or its attorneys for legal purposes. Should that be the case and/or as deemed necessary by the City in its sole discretion, I claim privilege and/or confidentiality expressed in this example judicial opinion (element 3) in *United States v. United Shoe Machine Corp.* That court explained the privilege as follows:

*The privilege applies only if (1) the asserted holder of the privilege is or sought to become a client; (2) the person to whom the communication was made (a) is a member of the bar of a court, or his subordinate and (b) in connection with this communication is acting as a lawyer; (3) the communication relates to a fact of which the attorney was informed (a) by his client (b) without the presence of strangers (c) for the purpose of securing primarily either (i) an opinion on law or (ii) legal services or (iii) assistance in some legal proceeding, and not (d) for the purpose of committing a crime or tort; and (4) the privilege has been (a) claimed and (b) not waived by the client.*

As you both know, I have expressed severe concerns over the governance and administration of Public Media Network ("PMN") for well over a year. Although I have been candid with you and Councilwoman Claudette Reid during this period and have used my best efforts to encourage positive change both within and outside the organization, I have been unsuccessful. The dysfunctional governance model and entrenched administrative



bureaucracy are, in my opinion, harmful to the City of Portage and other governmental units which enable the existence of Public Media Network under the Michigan Urban Cooperation Act.

Outsiders generally applaud whistleblowers. Insiders rarely do. Although my initial efforts to understand and address serious areas of concern as both as an appointed representative of the City of Portage and PMN Board-elected Secretary-Treasurer remained internal to the Board and organization, I later found it necessary to bring those multiple legal, accounting, finance, personnel and governance issues to your attention. I appreciate the many hours of telephone and face-to-face discussions with each of you. Claudette is aware of the issues confronting PMN and its municipal partners, but I speak now only on my behalf. These are my opinions and, although I believe well-founded, are always subject to alternative points of view.

The serious issues surrounding PMN are systemic and cannot be addressed or resolved within its current structure. PMN's governance model is severely flawed and not conducive to healthy change. The stranglehold of its lifetime at-large members, blind indifference exhibited by several long-term governmental appointees and acquiescence of others has produced an organization that does not reflect my values and, in my opinion, does not reflect positively upon the City of Portage and its citizens.

### ***UNKEPT PROMISES***

As you know, Claudette and I have been champions of PMN for many years. Along with then-Councilwoman Margaret O'Brien, we advocated for Portage's entry into the PMN consortium to join five other local governmental entities in the spirit of urban cooperation. That transition was precipitated by a breakdown in the relationship between the City and Portage Public Schools, which had operated the Portage Community Access Center under a contract for many years. Terms of the agreements with both Portage Public Schools and Public Media Network were to result in several outcomes. Portage Public Schools ("PPS") would provide dedicated, private space in its new Waylee administration building to house a PMN Government Production Services Unit ("GPSU") for an initial term of ten years under a fixed-cost lease agreement that was well below market rates. PPS kept its word. PMN was to create a Portage-based satellite facility that was open to the public and offer classes like those available in its downtown Kalamazoo location. PMN never delivered on that commitment and instead operates a standalone GPSU facility not open to the public. PMN has no plans to live up to its promise to the City of Portage which, to me, was an instrumental part of our decision-making process.

### ***FINANCIAL ISSUES & RISKS***

I began PMN board service as a member of the Finance Committee when Portage joined PMN. My bookkeeping, accounting, finance, audit, payroll, compliance, employee benefit, personnel, risk management, insurance, administrative, non-profit, governmental and broadcast experience spans over 40 years. I believed myself to be well-qualified for the role and took my participation seriously. I participated actively in the budget and financial review process, but largely left administrative and policy matters to the Finance Committee chairperson, Frank Jamison, and Executive Director, Harry "Hap" Haasch. In 2015, I was elected Secretary-Treasurer by the Board. With that election came considerably more commitment and accountability. The new office included significant duties and responsibilities specific to the Secretary-Treasurer as reflected in PMN's various policies and procedures. As an officer, understanding of and adherence to PMN's organizational documents, policies and procedures, the Urban Cooperation Act with respect to its local partners, applicable state and federal law, and community standards take on new meaning. My election as an officer – more than simply serving as an appointed representative of the City of Portage – initiated a series of revelations, discoveries, confrontations and backlash that culminated in my abrupt removal as Secretary-Treasurer in January. The preparations for that ambush-style removal were documented to the Board as violating the Michigan Open Meetings Act, but no one cared and that's the least of my concerns.



The revelations and discoveries have been well-documented over the past year. In the financial area, PMN did not: annually review (nor adhere to) its Financial Policies and Procedures; follow Generally Accepted Accounting Principles with respect to its recordkeeping and reporting; maintain oversight with respect to use of the PMN credit card(s); require vacation/annual leave for its bookkeeper to avoid single-individual control over payroll, check writing and bank reconciliation; require arms-length review of employee reimbursement requests; reflect Petty Cash and PayPal accounts on its balance sheet; conduct an annual review of financial service providers; deduct Michigan Sales Tax from exempt invoice payments; and competitively and transparently solicit bids for goods and services. In the case of employee health insurance coverage, Hap asked only the existing broker to get quotes. Without soliciting bids from outside brokers/companies, PMN has no idea whether it has the best deal for its employees. PMN also did not maintain a fixed asset inventory.

The last item is perhaps the most troubling in the financial area. PMN does not now nor has it ever maintained an inventory of its fixed assets. It is not unusual for PMN to spend \$100,000 or more on equipment in a single year and, on occasion, much more. Over the course of its history, PMN has spent millions on fixed and capital assets. When asked about the absence of an inventory, Hap replied that (accountant) Jack Ullrey had a fixed asset listing which was updated annually. I've seen the listing and it is woefully deficient in identifying individual items and occasionally aggregates them. Mr. Ullrey refers to it as a depreciation schedule. It's a poor one, at best. Neither a fixed asset listing nor depreciation schedule is an inventory – a listing updated in real-time to reflect the purchase or disposition of an item which is subject to capitalization. Without an accurate and regularly-maintained fixed asset inventory, PMN is open to procurement fraud and asset theft that is difficult to detect and prevent. Given the type of high value electronic equipment typically purchased by PMN, this risk is real and the organization is doing nothing to reduce it. Furthermore, PMN's routine is to regularly loan out much of this valuable equipment to non-employee community volunteers. There is supposedly a check-out check-in procedure, but I've never seen it and without a true inventory, how would it be verified or audited? The only true and accurate inventory system captures description, cost and serial number information for each individual asset at the time of purchase. In response to my concerns and in concurrence with the Finance Committee and Board, Hap solicited bids and the Board approved the project with the stipulation that our accountant be involved in the process and that the contractor's data and further data management be compatible with PMN's Quick Books software. Unfortunately, Hap did not contract for a fixed asset inventory. He opted for an "asset tagging project" that would reflect all items that the vendor/staff could find, put a tag on whatever turned up and deliver that list in a data file that may or may not be compatible with Quick Books. So rather than a true inventory created from actual purchase records and physical examination, PMN spent \$20,000 for a list of what the vendor/staff could see. Not what PMN purchased. Hap refused to make the project invoice-based. This project does nothing to detect procurement fraud, theft, mysterious disappearance. etc. I doubt any PMN member public agency would find this appropriate.

### **ACCOUNTABILITY**

In the months that followed inquiry about the inventory, I began a more deliberate review of financial policies and procedures in conjunction with the Board-mandated annual review of the policy document. Claudette, as Board chair, provided a very thorough and detailed analysis of the policy document and expressed support for the review. As I asked more questions, Hap became more and more irritated. [As an aside, in my examination of an undocumented purchase from Toys R Us by employee Nick Eppinga with bookkeeper Linda Tetzloff, I joked that absent written documentation of the business purpose on the invoice, one could conclude that he was buying Christmas gifts for his kids. That remark and my persistent information requests to the Executive Director were later cited as "employee harassment" by the Human Resources Committee and formed the basis for my removal as an officer.] My repeated requests to complete the mandated annual review of the Financial Policies and Procedures (last performed in 2014) was opposed by Hap and rejected by the Board. It was quite evident that my interest in the policies was not welcome and Hap later instructed me to direct all questions to him and not the bookkeeper, Linda Tetzloff. Eventually, he told me that he would only accept questions from me in writing. Later that month, he and a group of long-term board members orchestrated my removal from office.



## LEGAL ISSUES

Until this year, the PMN Board and Hap did not know and/or accept the fact that the organization was subject to the Michigan Open Meetings Act ("MOMA"). PMN was routinely referred to as a non-profit organization. More on that later. In December, Claudette forced Hap to publicly announce his plan to leave PMN on June 30, 2017. Although he'd informed a handful of longtime board members the prior summer, he kept it a secret from the whole board. His announcement triggered the creation of a Search Committee to find a replacement. Curiously, that committee pretty much appointed itself and became an extension of the Human Resources Committee. Its membership morphed over a couple of months, but eventually settled on a group whose majority voting members were either at-large members or PMN employees. Neither the City of Kalamazoo nor the City of Portage – PMN's largest member agencies and funders – were represented on the committee. The committee, in coordination with the departing executive director, identified a search consultant that was hired by the Board. No one disclosed that Hap, PMN's Operations Manager Mark Monk and PMN Board member Frank Jamison had known the consultant for over 20 years and that all four of them had worked in community access in Michigan during the same time. Nor did anyone disclose that the candidate ultimately recruited and hired has known them all for 20 years, as well. MOMA-related compliance legal bills were incurred because the committee (including PMN staff members) chose to conduct its activities in private and restrict participation/access by non-members of the Board. I asserted that this was in violation of the Michigan Open Meetings Act (let alone Board courtesy), which prompted objections from the committee and other Board members. I was forced to send a certified letter to the new PMN Secretary-Treasurer, Grant Taylor, informing him that PMN was subject to the Michigan Open Meetings Act. "Someone" at PMN then contacted Miller Canfield, PMN's legal counsel, who did research and authored an opinion that PMN was, in fact, subject to MOMA. I say "someone" because it has become apparent over the years that Hap relies on a tiny subset of Board members to guide him through murky waters. (I suspect they are members of the Human Resources Committee, which I consider a shadow board of directors.) As a Board member, I had also requested information on the applicants which was initially denied. Again, I sent a certified letter to PMN requesting the material under the Freedom of information Act ("FOIA") which, in turn, was referred to Miller Canfield. PMN was told that as a government entity, it was subject to FOIA. It is somewhat telling that during its history – at least since the City of Portage came on board – PMN had no idea that it was subject to the same laws governing other governmental bodies ... perhaps because it conveniently deemed itself a non-profit organization when that was more expedient. PMN subsequently adopted a FOIA policy prepared by Miller Canfield. Keep in mind that PMN has been operating as a government entity for over 25 years. Its board now knows that it is subject to both the OMA and FOIA. Those are just two examples of PMN's lack of understanding and, by extension, the poor counsel of its lawyers. Of course, PMN has had the privilege of paying for them both for faulty organizational advice and to deal with the fallout.

## RETIREMENT PLAN

For over 25 years, PMN and its predecessor, the Community Access Center, has sponsored an employee retirement program. Although it operated under a different form initially, it settled into a 403(b) Plan. I began asking questions about the plan in the early summer of 2016. Little did I know at that time that issues surrounding that plan and its administration would become the largest legal expense and, potentially, the largest liability in PMN's history. The plan has discriminated against non-management employees since at least 2005. I know this by examining PMN's financial statements, the PMN Employee Handbook and the PMN payroll register. I determined that only Hap and Mark Monk were receiving contributions amounting to 10% of salary from PMN monthly. That expense was reflected on the monthly financial reports and reflected in the annual budget. This seemed odd for two reasons. First, the Employee Handbook clearly stated that the retirement plan benefit was available to all regular full-time employees and, second, the plan was non-contributory. That means that no employee deduction is required. It's free money. Why wouldn't all eligible employees take it? When I asked Hap about it last summer, he told me that the retirement benefit was available only to exempt employees and gave me a copy of the plan, which was marked "Sample Plan" and produced by TIAA-CREF for the Community Access Center, now PMN, over 20 years ago. Under the federal Fair Labor Standards Act ("FLSA"), exempt employees are simply "exempt" from the overtime provisions of the act. A "regular full-time employee" simply works a scheduled 40 hours per week and is not temporary. The sample plan said regular full-time employees were eligible, just like the Employee Handbook. I



persisted in questioning administration of the plan, discrimination against non-management employees and the potential liability in not addressing the disconnect. Hap was furious. I simply saw an employee benefit that was available to only the two highest-paid employees. Based on what I could glean by examining old financial records, comparing them to annual budgets and doing some math, I confirmed that only Hap and Mark had been the beneficiaries of contributions in recent years, but someone else had been receiving PMN contributions, too. After some further inquiry, Frank Jamison told me that now-deceased former employee, Tim Lang, was in the plan. Tim, however, had not been a salaried/exempt employee. I had now determined that Mr. Lang, whose employment had preceded Hap's, was participating even while others were being denied enrollment. That's discrimination.

The Internal Revenue Code permits discrimination under government-sponsored 403(b) plans. Although that doesn't seem fair, it's legal. Non-profits are not exempt from discrimination rules. PMN claims both governmental and non-profit status. That may be the end of it were it not for the fact that PMN made contributions for non-exempt employees prior to Hap's employment in 2005. Tim Lang was already an employee when Hap started. I have attempted to obtain documentation to determine if other pre-Hap employees were also beneficiaries, but those attempts have been futile. There is no reason to believe that there are other employees, like the late Mr. Lang, who were participants. Only newly-hired employees were refused. Mr. Jamison mentioned that "the Board" had talked about restricting participation to only "senior management" due to "budget concerns." [Insert cynical comment here like "When the budget is tight, screw the little people first."] Under FOIA, I did receive information that at least one "ineligible under today's rules" employee was grandfathered by the Board. No legal authority was cited. The biggest problem in this whole mess is the fact that the PMN/Community Access Center 403(b) plan was never submitted to the IRS for approval. No one has been able to produce anything other than the TIAA-CREF Sample Plan from 1992 or 1994 or the TIAA-CREF Summary Plan Description from the same era. Both samples include the Community Access Center name, but the full plan document sample is conveniently missing all pages describing eligibility. Since no other complete document – sample or otherwise – can be produced, we'll have to settle for what purports to be the summary of the plan document. This was the copy that Hap gave me when I began my inquiry last summer. He also gave me an unrelated letter regarding the "plan" from Miller Canfield. I called Miller Canfield attorney Leo Goddeyne to ask if he had any additional information on the plan, but he said they weren't involved. He immediately called Hap to report my contact. Ironically, when forced to submit a FOIA request in May for additional documents, I received the copy of the Summary Plan Description which includes the eligibility pages. Yes, those pages confirm that all the employees who have been denied participation for at least the past 12 years were, in fact, eligible. Of course, the plan was never filed with the IRS, so that's simply speculation. Which takes us back to the lawyers.

There's another IRS issue facing PMN. Although Miller Canfield is relying upon PMN's status as a governmental entity on its defense of a discriminatory 403(b) plan it doesn't have the right to simply choose its status to fit the situation. PMN did file for and receive IRS 501(c)(3) status over 20 years ago. It files an IRS Form 990, but intentionally omits disclosure of "Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions)" required on IRS Form 990, Part IX, Line 8. That information is specifically itemized/reported in the audited financial statements provided by accountant Jack Ullrey to the PMN Board, but is intentionally unreported on the 990. It's simply rolled into "Other employee benefits" on Line 9. I do not see this as anything other than a deliberate effort to conceal the fact that PMN is operating a discriminatory employee benefit plan in violation of IRS rules. All elements – non-profit status, retirement plan discrimination rules, 403(b) plan approvals and 990 submissions – reside with the IRS. This failure to report is available for all to see in online postings of PMN's 990s via Guidestar or other non-profit watchdog sites.

Hap alerted the Human Resources Committee, which essentially functions as a shadow Board of Directors, and they referred the matter to Miller Canfield. It was an unbudgeted expense and they did not seek Board approval. Instead, they began reporting to the Board and saying that Miller Canfield was doing research and would offer suggestions. Keep in mind that this was never an issue until raised by me, but was now a serious matter that required expert legal advice. A closed session meeting was held at a Board meeting that I did not attend. I learned that an audio recording had been made of the meeting and that a legal opinion was provided to those in attendance. I asked to listen to the recording and view the documents, but that request was initially refused. "They" later relented. Board member and attorney Lisa Godfrey – another lifetime at-large appointee – steadfastly opposed my access to the recording. Before listening to the recording, I was aware of the issues as I had been the one to bring them to light. There were no



surprises and my concerns were validated. Also about that time and in apparent violation of attorney-client privilege, Leo notified Hap that I had called him regarding concerns over Hap's production of documents. Leo has been with the firm and it has been involved with the Plan since the 1990s, so I guess Leo was a bit nervous. Can you imagine a city attorney immediately calling the city manager after a private conversation with an elected official?

An organization with \$1.5 million in cash needn't discriminate against its rank and file employees while paying a tax-deferred 10% bonus to its highest-paid managers. At two separate board meetings, I asked the Board to do the right thing and make those employees who had been denied the benefit promised in the Employee Handbook whole. That request was refused. Instead, the Board apparently wants to attempt a sleight-of-hand with the IRS and fix the mess it created through the back door. The same law firm involved in implementation of the plan 25 years ago (yet avowed any "involvement" in 2016) is being paid tens of thousands of dollars to accomplish that goal today.

### **MISSION CREEP**

PMN's mission, according to its website, is *"to provide training, production, and distribution resources so that local voices can be expressed and heard in our community through electronic media."* PMN's operations and expenditures have expanded far beyond its historic mandate to provide cable/community access services to its member public agencies' cable television customers. We all know that the industry and society has seen significant changes over the past 20 years. In many areas – most recently thanks to financial support from Portage – this change at PMN has been linear. PMN's capabilities to support the media goals of its member public agencies has been greatly enhanced with the creation of the Government Production Services Unit, upgrades to audiovisual origination facilities at those units whose meetings are broadcast, live streaming of meetings, archival storage of meetings for delayed playback and increased focus on highlighting the good things government does in our communities. That said, PMN has also embraced mission creep that draws financial and other resources from member public agencies which, under the current governance model, have little say or oversight in these areas. Some, like full coverage of the week-long USTA Boys' 18 and 16 tennis tournament at Kalamazoo College for 30 years, have been going on for years and predate Portage's participation. Each year, the tournament requires thousands of dollars in direct and indirect financial support from PMN. Over the past 30 years, the total may reach hundreds of thousands of dollars. In return, PMN receives no compensation from the tournament's sanctioning body, the U.S. Tennis Association, which derives the full value of whatever benefit they see. The USTA website doesn't even mention PMN's coverage. It does refer to the local USTABoys website, but a visit to that site showcases only sponsor Secant's live stream, which is produced by PMN. The local USTA host organization at Kalamazoo College retains all sponsor revenues. PMN, which arguably provides more direct and indirect support than many other sponsors, is largely invisible on the local website and is completely invisible on the USTA national website. No one has answered the question as to why PMN would assume this huge annual financial and staff burden which, one could argue, provides the most value to out-of-town relatives of the teenage participants. I've never watched the tournament (most of which is televised during the day when people are at work) and know no one else who does. It is worth noting that Hap is a USTA tennis professional and serves as the principal match announcer. Since Portage joined, however, PMN has added some very resource-intensive and expensive projects. PMN now hosts and sponsors the North by Midwest ("NxMW") film festival previously hosted in Ann Arbor, Hap's home before Kalamazoo. According to Ann Arbor's *Current* magazine, NxMW was in "cinematic cardiac arrest" and was "reborn from the ashes" by PMN. The "festival" is the showing of the winning films produced by filmmakers across the Midwest, not necessarily in Kalamazoo. These needn't be films created in PMN's service area nor produced in PMN's facilities. PMN provides \$10,000 in cash awards and receives the rights to broadcast the films on PMN's Public Channel. In addition to the cash awards, PMN assumes all costs – direct and indirect – for hosting and managing the process. In 2016, PMN added full coverage of the Kalamazoo Marathon to its annual work plan, including the attendant direct and indirect expense of this significant undertaking. That's right, live coverage of a marathon. The marathon is a great community event, but it is not the only event to fit that category. Personally, I have no idea why PMN undertook this annual obligation. It is worth noting that PMN board member, Sid Ellis, is a member of the marathon's advisory council. PMN is a sponsor of the Kalamazoo Public Library's Teen Filmmaker Festival and has been for many years. PMN Board Member Lisa Godfrey is an elected Trustee of the Kalamazoo District Library.



### **CONFLICT OF INTEREST/LACK OF DISCLOSURE**

It is very difficult to determine the breadth and scope of conflict of interest at PMN largely because it has never been policy or practice to ask for or require such disclosure. I'd raised the issue repeatedly. At a board meeting this past summer which I did not attend, I understand PMN adopted its very first Conflict of Interest Policy. Putting that together with MOMA and FOIA, I'd say it's been a very good year for policy adoption by PMN, albeit a few decades late. Just a couple of quick areas where non-disclosure had been spotlighted by me and which now should be disclosed. Likely too late, however, to have any meaningful significance. 1) Lifetime-appointee At-Large Board member John Haas is an employee of K-RESA. PMN maintains two contracts with K-RESA to provide Education for Employment classroom services annually. PMN full-time employees serve as instructors, PMN hosts the classes in its downtown facilities and provides all equipment and supplies for the students. The Board is told each year that PMN does not receive full reimbursement from K-RESA for the services provided. In addition, PMN is required to advance the cost of textbooks purchased for the K-RESA students and wait months for reimbursement. Mr. Haas has never publicly disclosed this conflict and routinely votes on PMN budget and policy questions without abstention. 2) Lifetime-appointee At-Large Board Member Lisa Godfrey is an elected Trustee of the Kalamazoo District Library. PMN is a co-sponsor and significant in-kind and financial contributor to KPL's annual Teem Filmmaker Festival. Ms. Godfrey has never publicly disclosed this conflict and routinely votes on PMN budget and policy questions without abstention. 3) Lifetime-appointee At-Large Board Member Sid Ellis is an Advisory Board Member for the Kalamazoo Marathon. Two years ago, PMN inaugurated full live coverage of this event requiring significant in-kind and direct financial contributions. The only "justification" I recall was that this was "a big community event." How many citizens in our local area watch a marathon on cable access television? 4) Kalamazoo Public Schools is the FCC Licensee of FM Radio Station WKDS 89.9. Many years ago, WKDS's license was about to be reclaimed by the FCC because KPS had failed to operate the station. It had been off the air. Kalamazoo Public Schools, the then-Kalamazoo Intermediate School District (again, Mr. Haas) and the Community Access Center joined forces to rescue WKDS and recommence programming. Although initially under the jurisdiction of Loy Norrix Media Center Director Kris Kirkpatrick, it later morphed to K-RESA employee Christine Dahl and now sits with PMN. The Federal Communications requires that any licensee (KPS) which allows another entity (PMN) to exercise control over its facility enter into a Local Marketing Agreement and file such agreement with the FCC for review and approval. Until pressured by me, no such agreement was contemplated or completed. The conflicts here are multiple: a) PMN pays KPS an estimated \$10,000 per year for the right to operate WKDS; b) PMN incurs legal expenses in connection with that arrangement which, to my knowledge, go unreimbursed; c) PMN then contracts with K-RESA to provide local area high school students credit-earning instruction as part of an Education for Employment Radio Production class (which, as noted, is operated by PMN at a loss); d) PMN programs a very small part of the WKDS broadcast day with recorded vignettes produced by the students; e) pays WKDS's music licensing royalties; and f) fills the majority of the broadcast week with programming purchased from Democracy Now. Choose your conflict. In know it's confusing. And why is PMN operating KPS's abandoned radio station anyway?

### **GOVERNANCE**

PMN governance is especially problematic. Neither the City of Kalamazoo nor the City of Portage – together contributing around 60% of PMN's funding – were represented on the Search Committee and neither is currently represented as a Board officer. Although Claudette and I served as officers for two years, my term was cut short in retaliation for my inquiries. During the last six months of her term, Claudette was marginalized. I believe that her quest for good and transparent governance – as well as support for financial policy review – was her offense. As you know, PMN has offered an amendment to its bylaws that would reduce representation for the City of Portage. Although Portage and other governmental units generally impose term limits for their appointed members, there are no such limits for lifetime at-large members. Several PMN at-large members have served 20 years or more. At the end of the fiscal year, June 30<sup>th</sup>, there were four at-large members and only three each for Portage and Kalamazoo. One lifetime at-large member has since resigned from the Board, but the current bylaws do not limit appointment of a replacement. At-large members ostensibly represent "the community," but there is no evidence that

October 24, 2017

I very much appreciate your assistance in this matter and look forward to hearing from you soon.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Sackley". The signature is fluid and cursive, with a large loop at the end of the last name.

Ed Sackley

P.S. I'm not going to leave you without a suggestion. One which, I believe is viable and in the best interest of the City or Portage and the community we serve. Form a Community Media Center housed in Portage. The City of Portage, Portage Public Schools and Texas Township are logical and ideal partners for this enterprise. The financial resources, technical expertise and physical facilities are readily available. John Hinkle and his board – especially Wendy Mazer and Tim Brown – would be excellent resources for such an enterprise. Texas Township's integration with Portage Public Schools should bode well for Mark Bielang's involvement – especially with PPS' expressed intention to reclaim the Waylee space at the end of the current PMN lease. The City of Portage would provide the major financial support while, at the same time, likely reduce its commitment due to more effective financial and mission management. By my calculation, Portage has contributed more than \$1.25 to PMN coffers since it joined the consortium. Also by my calculation, more than \$300,000 in current cash (PMN has a \$1,250,000 cash reserve) and more than \$100,000 in leasehold improvements to its credit. Negotiate an early exit by PMN from the Waylee facility. Return it to PPS for use as a PPS-centric Community Media Center, invite the public to once again participate in community media as a local resource. Provide true added value to the communities footing the bill and put an end to the stifling bureaucracy, self-dealing any cronyism infecting PMN. Part of the negotiations should include recapture of some cash, establishment that all Portage City Hall equipment upgrades belong to the City, orderly transition of streaming and archival programming, return of Portage's two channels on both Spectrum and AT&T, opening contract negotiations with Comcast where their service area overlaps the new boundaries, and settling on a timeline and in-place facilities transfer of all or part of the Waylee operation. I am not an attorney and offer no legal opinion, but I do believe there is basis with which to negotiate a favorable separation agreement with PMN.





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NOV 06 2017  
CITY MANAGER'S OFFICE  
PORTAGE, MI

November 6, 2017

Larry Shaffer  
City of Portage  
7900 South Westnedge Avenue  
Portage, MI 49002

This letter is in response to the statements made by Mr. Sackley in his October 24, 2017 letter provided to Mr. Shaffer and Mayor Strazdas. Public Media Network ("PMN") takes its role to be a good steward of the public investment in community media seriously. We strongly disagree with Mr. Sackley's conclusion that Public Media Network has a dysfunctional governance model and entrenched administrative bureaucracy that is harmful to the governmental units working together as provided under the Michigan Urban Cooperation Act.

Public Media Network is a respected community media center with an established history of serving the greater Kalamazoo area with access to production resources, training, and local programming. As the media environment evolves, Public Media Network is committed to continuing to meet the needs of our community.

PMN welcomes comments and concerns from its Board of Directors, including Mr. Sackley, but he certainly does not qualify as a "whistleblower." Instead, it is his behavior that has created risks for the organization. As described below, he has been deliberately and extraordinarily disruptive to daily operations of the PMN office, he has been aggressive towards and inappropriate with staff members, he has disregarded procedures, policies and Board resolutions, and he repeatedly bypasses the normal management structure of requesting assistance from the Executive Director and goes directly to staff members and demands that they provide him with immediate assistance, ignoring that the staff have other duties to perform and that the Board of Directors is not to be involved in day-to-day operation of PMN.

#### "Un-kept Promises"

Mr. Sackley refers to un-kept promises by PMN including the operation of a Portage-based satellite facility housed in the Waylee administration building. PMN has met the conditions of the lease agreement with Portage Public Schools and upgraded the facility to support media production activities and services. PMN is willing to work with the City of Portage to address any concerns related to providing programs from the Portage facility. Through trial programs at the satellite location, including production workshops, and hours for public use, PMN can determine if there is a demonstrated need to further develop those opportunities at Portage facility.

#### "Financial Issues & Risks"

Mr. Sackley's removal from office as Secretary/Treasurer was based on a number of factors. A significant impetus for his removal was his inappropriate use of the Executive Director's social

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**public media network**

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security number to assume his identity. Mr. Sackley inappropriately exerted his power as a Board member to pressure PMN's bookkeeper to provide him with the Executive Director's confidential social security number, and then proceeded to contact PMN's banking institution and represented himself as the Executive Director using the Executive Director's social security number to verify his identity. In deciding to remove Mr. Sackley from the Secretary/Treasurer position, the Board found his behavior to be unethical and potentially illegal. Further documented interactions with staff members also supported the Board's decision to remove Mr. Sackley as an officer (this is discussed below).

An independent auditor conducts an annual audit that is presented to the Board of Directors. PMN's accounting firm and independent auditor have not identified any material concerns, internal control deficiencies, or indicated any significant failures related to financial procedures. As Mr. Sackley indicated, there are some areas in the organization's financial policies and procedures that may have been missed on occasion, like the annual review of financial service providers and vacation leave periods for employees involved with financial procedures. However, there is no indication of financial mismanagement or misappropriation of funds and none has been reported by PMN's auditor. PMN's adopted financial policies do not require the balance sheet to reflect the detail of the Petty Cash and Paypal Accounts, and PMN's Board has not requested that this be reported in the balance sheet. PMN has implemented competitive and transparent policies and procedures in soliciting bids for goods and services. For employee health insurance, PMN's insurance broker compares and solicits information from multiple companies to determine the best options for employee health insurance coverage; PMN believes that this makes it unnecessary to have another broker also solicit quotes.

Since Mr. Sackley's request to develop a more detailed Fixed Asset Inventory, PMN worked with an external company to complete a full fixed asset inventory of our current equipment. The project was completed to the satisfaction and requirements of the Board. There has been no indication of loss of capital equipment by the organization. PMN maintains a detailed check-in and check-out procedure for all equipment loaned to members of the public. The equipment loan is maintained electronically and in paper form, and inventoried as it is released for public use and upon return. In addition, all equipment is reviewed for any damage caused by the community producer during its use. Community producer use of production equipment is a core function of PMN, and best practice standards for community media are followed.

PMN has always strived to, and will continue to work to ensure that practice follows written policies and procedures. In addition, PMN has started a process for an independent organization to conduct a review of current financial policies and procedures to ensure they provide proper controls and follow best practice principles for similar organizations.

#### "Accountability"

While Mr. Sackley may have construed his remark related to a purchase from "Toys R Us" by an employee as a joke, staff perceived his comments and tone in a significantly different manner. Prior to making the comments, Mr. Sackley had not taken steps to have the Executive Director clarify the use of the items purchased. This behavior is part of a larger pattern presented by staff to the Board, demonstrating the erosion of any constructive working relationship between Mr. Sackley and PMN Staff.

This is not the only instance of Mr. Sackley having negative interactions with PMN's staff members. He is documented with coming to PMN's office when the Executive Director was not present and speaking loudly to staff members so that others could hear and accusing them of making inappropriate expenditures (later proved to be false) or speaking to them in a tone that was described as "berating" by those who heard the comments.

The PMN Human Resources Committee's recommendation to the Board for Mr. Sackley's removal as an officer took into consideration these interactions between Mr. Sackley and PMN staff, but its recommendation was based primarily on Mr. Sackley's actions to assume the identity of the Executive Director through the use of his social security number in order to authorize and request actions to be taken by one of PMN's banking institutions.

#### "Legal Issues"

Public Media Network makes every effort to comply with the Michigan Open Meetings Act and conduct business accordingly. When Public Media Network became aware of the need to adopt a FOIA policy, the organization worked with legal counsel to develop and implement that policy.

An ad hoc committee to review the responses to the RFPs for the E.D. Search Consultant was appointed by board motion at the January 26, 2017 Board of Directors Meeting. The motion established the committee as three members from the board of directors and two members from PMN staff. Chair Reid asked which members of the Board, in addition to the maker of the motion, would like to serve on the committee and two additional board members volunteered.

The Ad-Hoc Committee presented the Board of Directors with two choices for an executive search consultant at their February 23, 2017 meeting. The Board passed a motion retaining the executive search firm and authorizing negotiation of the contract.

The Board Chair was directed to create an Executive Director Search Committee by a motion at the March 23, 2017 meeting of the Board of Directors. The approved motion established that the committee would consist of the members of the search consultant ad-hoc committee, plus two representatives from the HR Committee to be determined by members of the HR Committee. This motion was approved by the Board of Directors with Mr. Sackley dissenting. The selection and appointment of members to the Search Committee was transparently conducted and approved by the Board of Directors.

Public Media Network received legal consultation to clarify when a committee, specifically the Executive Search Committee, is subject to the Michigan Open Meetings Act. Based on legal recommendation, the Executive Director Search Committee followed the Michigan Open Meetings Act. Search Committee meetings were then posted and any member of the public (including board members) was invited to attend. Mr. Sackley did attend an initial meeting of the Search Committee and provided input to the final deliberations for a candidate recommendation.

During the search process, Mr. Sackley worked outside the search committee's process and his authority as a board member. He blatantly disregarded and violated the Board's resolution that Board members were not to contact candidates directly. Instead, he made personal contact with one candidate and during the conversation explicitly asked the candidate (who was employed



by PMN at the time) if she was African-American. He then mentioned her race again during the search committee's final deliberations. Mr. Sackley's conduct was unprofessional and completely unacceptable. Despite the fact that the candidate's race had nothing to do whatsoever with PMN's ultimate decision to hire someone else for the Executive Director role, and although the candidate/employee indicated that she did not want PMN to take further action as a result of Mr. Sackley's behavior, the behavior still exposes PMN to risks of litigation and liability. PMN's Board Chair has attempted to contact Mr. Sackley on multiple occasions to address this issue with him and he has repeatedly refused to respond to those requests.

The search process for the new executive director was conducted in an open and transparent manner. Any initial effort to minimize release of candidate information was to protect the confidentiality of the applicants. Also, there is no requirement for individuals to disclose their professional relationships during an employment search process. No efforts were made to conceal these facts from members of the search committee or Board of Directors. All Board Members were allowed to attend meetings of the Search Committee. Mr. Sackley did not raise any concerns related to the search process at the Board meeting selecting the Executive Director on June 29, 2017. Mr. Sackley further offered a motion to authorize the Executive Committee to negotiate the Employment Agreement for the new Executive Director. Historically, Public Media Network has worked to follow the requirements of the Michigan Open Meetings Act.

#### "Retirement Plan"

Public Media Network established an Internal Revenue Code Section 403(b) Plan effective December 15, 1992. Unfortunately, we recently discovered certain concerns regarding the establishment and administration of the Plan. We are working closely with our attorneys to correct these concerns, including a corrective submission to the Internal Revenue Service.

Since its inception, the Plan was intended to only provide contributions (equal to ten percent (10%) of compensation) to certain key employees. While Mr. Sackley characterized this as "discrimination" against non-management employees (but, later acknowledged in his letter that "[a]lthough that doesn't seem fair, it's legal"), these targeted contributions are permitted by the Internal Revenue Code. And, while Public Media Network could potentially provide these contributions to all employees, our economic model and compensation policies make such contributions financially imprudent. Of course, our Human Resources Committee is constantly reviewing and benchmarking our compensation practices and is always willing to discuss with our governmental partners new ways to properly and prudently reward our employees. However, again, it needs to be stressed that governmental plan sponsors, such as Public Media Network, like the City of Portage, are not subject to many of the retirement plan non-discrimination provisions of the Internal Revenue Code.

Please note that the Board elected in writing to grandfather Mr. Lang's participation in the Plan and he continued to receive contributions after Public Media Network reclassified its workforce in accordance with its efforts to comply with the federal Fair Labor Standards Act.

Despite Mr. Sackley's claims to the contrary, Code Section 403(b) retirement plans are not required to be submitted to the Internal Revenue Service. Instead, it is common for these plans to be established based upon generic documents provided by third party providers.

This is the first time the omission of information on the IRS Form 990 has been brought to the organization's attention. We will work with our accountant to address any errors on the IRS Form 990 filings. There has been no "deliberate effort to conceal" PMN's operations concerning the Plan.

PMN's legal counsel, Miller Canfield, works for the organization. Per this relationship, legal counsel represents PMN through the Executive Director or the Board, and not individual board members. It was appropriate for legal counsel to contact the Executive Director when contacted by an individual board member and did not violate any attorney-client privilege.

Mr. Sackley's motions related to the Plan and inclusion of other employees were either withdrawn by him at meetings, or did not pass. Mr. Sackley made three motions related to the 403(b) Plan and proposed actions at the June 22, 2017 Board of Directors Meeting. All three of the motions were defeated on a vote of 2 in favor and 10 opposed. Mr. Sackley's requests were not refused or ignored. But, a majority of the Board decided to address the Plan errors in a manner different than Mr. Sackley's preference. Accordingly, Public Media Network is working with its attorneys to properly resolve these concerns with the Internal Revenue Service.

#### "Mission Creep"

As part of regular strategic planning activities, Public Media Network's mission has undergone review by the Board of Directors. Mr. Sackley's comments on mission creep are his opinion. PMN's mission is broad and designed to allow for shifts in operational focus to accommodate the changing media landscape. PMN's Strategic Plan was last revisited and adopted by the Board of Directors in 2013. In that plan, PMN's vision is to "...be our community's primary noncommercial resource for creating and distributing local information, entertainment, and dialogue on cable television, radio, and the Internet." One of the primary goals in the strategic plan is to "Leverage relationships to optimize funding, content, and community relations". The activities listed by Mr. Sackley fit within the Board's strategic goals and the organization's mission.

The mission of Public Media Network extends beyond providing government production services to our member public agencies. Public Media Network also engages with individuals, community organizations, and educational institutions to access media production resources to share their voice and strengthen the cultural fabric of our community. Event coverage serves several purposes, including but not limited to, the sharing of community and cultural events with people who may not be able to attend; increased community exposure for PMN; and development of relationships and community partnerships.

Public Media Network's mission is significantly different from mainstream media and is not based on attracting a large audience for programming. People's interest will vary with some being interested in government meeting coverage, others in coverage of the USTA tournament, and others in the Kalamazoo Marathon, or Parade coverage. Public Media Network has not previously pursued financial compensation as a requirement for coverage of community events. As PMN evaluates its success and mission impact, a review of the structure of community partnerships and sponsorship recognition requirements will be conducted.



Sponsorship and hosting of film festivals further supports the development of creative uses of media for individual expression. Programs such as North by Midwest (NxMW) and Cinema 2880 can also be developed to diversify financial streams for Public Media Network.

These various activities are included in the annual budget approved by the PMN Board of Directors. The Kalamazoo Marathon Coverage has been included in written materials presented to the PMN Board of Directors during Mr. Sackley's tenure. The involvement of individual board members with various nonprofit partner organizations and events does not inherently present a conflict (see discussion below). In fact, Mr. Sackley is involved on the advisory councils for the EFE Radio Curriculum, Kalamazoo Holiday Parade, and Doo Dah Parade. PMN also provides live coverage of both of these parades, incurring direct and indirect costs for PMN.

"Conflict of Interest/Lack of Disclosure"

Public Media Network has not experienced any conflict of interest on the matters outlined by Mr. Sackley. Per IRS rules, a conflict of interest exists when someone in a position of authority over an organization (e.g., a director) may benefit personally from a decision he or she could make. Where a person serves as a volunteer director on the Boards of two organizations that are tax exempt under Section 501(c)(3) and/or are governmental entities (e.g., K-RESA or Kalamazoo Public Library ("KPL") or Kalamazoo Public Schools ("KPS")) there can be no conflict of interest when these organizations enter into agreements with each other because, by law, these organizations must operate for the benefit of the public and cannot provide personal benefits to individual Board members. In the situations described by Mr. Sackley, no member of the PMN Board or employee had any personal gain or benefit from the decisions or the resulting transactions. Even if there was a conflict, any agreements between PMN and K-RESA, Kalamazoo Public Library or Kalamazoo Public Schools were fair and reasonable to PMN and were approved by a majority of PMN's disinterested board members, which would prevent the agreements from being voided.

Public Media Network's partnership with K-RESA to provide Education for Employment classroom services fits within the mission of PMN to provide training resources so that local voices can be expressed and heard through electronic media. In addition, the program provides students with workforce skills. The agreements with K-RESA are comparable to contracts with other organizations and individuals to provide instruction services. Additionally, the classes are held at times when Public Media Network's production resources are not in demand by volunteer community producers. The Education for Employment agreements further PMN's goals to diversify revenue.

PMN's partnership and involvement in activities like KPL's annual Teen Filmmaker Festival and community event coverage like the marathon fall under the operational discretion of the Executive Director. The Teen Filmmaker Festival supports and encourages teens to use media and develop their voice and creative self-expression. Public Media Network's involvement is not financially significant and directly aligns with our mission and strategic goals.

In relation to WKDS, PMN's vision statement, approved by the Board of Directors, specifically mentions radio as one of the platforms used by PMN. Public Media Network is not unique in expanding operations to include radio. Community Media Centers throughout the country operate radio stations with many as the license holders. As part of this arrangement, PMN

leases air time from Kalamazoo Public Schools to provide community programming for WKDS. The remaining air time is programmed by students involved in the Education for Employment radio programming. Programming provided by PMN for WKDS includes local government meeting coverage, Democracy Now, and other local programming. Any legal expenses incurred by PMN for direct operations of WKDS, are reimbursed by Kalamazoo Public Schools. Christine Dahl continued her responsibility for the management of WKDS when she transferred to a position with K-RESA. Since her recent retirement, PMN and KPS have been working to finalize a local management agreement with KPS. PMN will continue to pay a modest fee to "lease" air time on WKDS for community programming, while KPS will pay PMN a management fee and continue to reimburse direct costs (engineering, legal, music licensing, etc) for the operation of the radio station. The PMN Board of Directors and KPS believe the partnership is mutually beneficial and maintains WKDS as a community resource.

The PMN Board of Directors adopted a formal conflict of interest policy on February 23, 2017 to provide further guidance. As stated in the policy, "PMN provides this Conflict of Interest Policy to ensure that there is full disclosure by its Directors, Officers and others in positions of influence in connection with entering into any transaction that may provide an economic benefit to a Director, Officer or to any person or entity with whom they are related or have a financial interest."

#### "Governance"

There is no requirement in the PMN Bylaws that a City of Kalamazoo or a City of Portage representative serve as an officer of PMN or be represented on all committees. Board Officers are appointed each year by the Board of Directors. Both the City of Kalamazoo and City of Portage have the largest number of representatives allowing a greater degree of influence in the selection of board officers and committee representation. Most recently, a Portage representative served as Chair of the PMN Board. In the election of the current Board officers, no representative from the City of Kalamazoo or the City of Portage was nominated to serve as an officer. The Board of Directors needs to continue to make these decisions based on who is best able to fulfill the duties, rather than on how they were appointed to the board. As previously stated, Mr. Sackley's removal from office was not due to his inquiries, but rather due to his unethical and improper conduct.

In his letter Mr. Sackley is critical of the At-Large Representatives that serve on PMN's Board of Directors. He incorrectly describes these representatives as "lifetime appointments". These are not "lifetime appointments", as the Board determines the term and can remove an At-Large Representative.

PMN's current Bylaws provide for up to five (5) At-Large Representatives, but currently there are only three (3) At-large Representatives, which is a small in comparison to the number of representatives appointed by the member public agencies.

The PMN Board has proposed amendments to PMN's Bylaws, that set term limits and a reduction in the number of seats for At-Large Representatives and this amendment was supported by PMN's Chair, a Portage appointee. These amendments, which also include a reduction in the number of seats for municipal partner representation, have not yet been



adopted by a majority of the member public agencies. Based upon feedback, Public Media Network is currently re-evaluating the proposed amendments.

PMN believes that it is important to have At-Large Representatives continue to serve on its Board. The At-Large Representatives play an important role on the Board. They speak for the entire community and also assist with fund development, which is consistent with best practices for 501(c)(3) nonprofit organizations. PMN's member municipalities will continue to provide critical direction to ensure the organizational structure is best suited to effectively meet community needs.

#### Other

It is not our recommendation for the City of Portage to leave the PMN consortium and form a separate organization. Continuing involvement and membership in PMN provides the City of Portage with significant cost savings for overhead and avoids duplication of services. If the City of Portage feels that community needs are not being met, we welcome a discussion to see how services can be improved to better meet the public, educational, and government access media needs of the community.

Public Media Network is addressing the appropriate issues raised by Mr. Sackley. Unfortunately Mr. Sackley, as a PMN Director, has engaged in behavior that is unprofessional, unethical, improper and possibly illegal. Mr. Sackley has failed to follow the direction of the majority of the Board of Directors when he has been in disagreement. His behavior and conduct has been disruptive to the daily operations of PMN and in PMN moving forward in its service to the community.

Because of this conduct, the Board removed Mr. Sackley from his position as an officer of PMN, but it could not remove Mr. Sackley as a director on the Board (although several directors expressed interest in this) because PMN's current Bylaws provide that, as a governmental appointee to PMN's Board, he can only be removed by the governmental entity that appointed him (i.e., the City of Portage).

PMN looks forward to continuing to work with the other City of Portage's representatives (including new appointments) and with the Portage City Manager and Portage City Staff to further develop a productive working relationship for the benefit of the entire community.

Sincerely,



Matt Schuster  
Executive Director



Ron Coleman  
Chair, Board of Directors

December 8, 2017

Ronnie L. Coleman, Chair  
Matt Schuster, Executive Director  
Public Media Network  
359 South Kalamazoo Mall, Suite 300  
Kalamazoo, MI 49007

Dear Chairman Coleman and Mr. Schuster,

Thank you for taking time the last week to join me for lunch in Portage. I appreciate the time you each took from your busy schedule to discuss issues of mutual interest to PMN and the City of Portage.

I have enclosed a copy of the letter of resignation submitted by Ed Sackley to the City of Portage announcing his departure from the Board of Directors of PMN, effective upon its acceptance by the City Clerk dated November 27, 2017. Mr. Sackley previously provided a letter to Mayor Strazdas and me, listing a series of issues he had with PMN and its performance. PMN responded to the City of Portage challenging the issues raised by Mr. Sackley or, alternatively or additionally, providing responses to the issues raised. After reviewing both Mr. Sackley's letter and the response from PMN response, I am satisfied that either the issues raised are those that are exclusively administrative procedures that should be addressed by PMN or have been addressed with additions or adjustments in procedure by PMN. Frankly, although I think that some of Mr. Sackley's concerns should be addressed by PMN, those concerns are not within the domain of the City of Portage. Consequently, I will not seek further action by PMN nor make any recommendations on how PMN might handle those issues.

A more important matter to the City of Portage is the quality of the broadcast for City Council meetings, both on the cable access channel and live streaming on the internet. Both broadcasts, in my opinion, need to be accomplished at a much higher level of quality. Sound quality, coordination of sound and action, sound volume and live streaming have been poor and/or have not occurred at all. I believe that our unique operational setup, whereby the City of Portage and PMN share responsibility for the quality of the broadcasts, have led to each entity feeling that the other has been deficient from a performance perspective. That is both unproductive and unfortunate.

I proposed at our lunch meeting that our teams work together to create a plan that would allow for a higher quality performance for the City Council broadcasts. I have asked

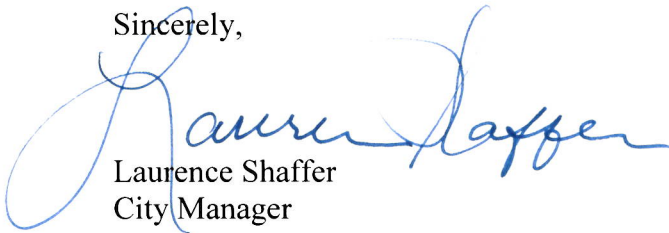


Technology Services Director, Devin Mackinder, to work directly with Mr. Schuster to create a plan that would take our mutual performance up to a level that each of us would like to achieve. I will ask Mr. Mackinder to contact Mr. Schuster to lay out an aggressive schedule for how such a plan might be achieved. I have asked him to report back to me by January 30, 2018 with his progress.

The City of Portage and PMN have enjoyed a long and productive relationship. The City of Portage will continue to look for opportunities to participate in regional efforts that support our community. I am confident that a plan to improve our performance will be accomplished in order to meet our shared mutual goal of providing the highest quality service to the citizens we serve.

Thank you.

Sincerely,



Laurence Shaffer  
City Manager

Attachment: Sackley letter of resignation dated November 26, 2017

c: Claudette Reid, Member of PMN Board of Directors  
Don Ramlow, Member of PMN Board of Directors  
Rob Boulis, Deputy City Manager  
Devin Mackinder, Technology Services Director

## Mary Beth Block

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**From:** Adam Herringa  
**Sent:** Friday, December 08, 2017 9:05 AM  
**To:** Mary Beth Block  
**Subject:** FW: Resignation

**From:** Ed Sackley [mailto:esackley@msn.com]  
**Sent:** Sunday, November 26, 2017 12:24 PM  
**To:** Adam Herringa  
**Subject:** Resignation

Hello Adam,

Last spring, PMN Board Chair Claudette Reid and I met with Larry Shaffer to discuss various concerns we had about the about the operations of Public Media Network. My efforts to present many serious fact-based issues has resulted in deflection, personal attacks and innuendos based largely on hearsay that are false and to which I have never been given an opportunity to respond. It's apparent that I can no longer be an effective member of this board and therefore am tendering my resignation.

Ed