

AGENDA

Regular Meeting of the Parchment City Commission

Monday - January 4, 2010 - 7:00 P.M.

Robert B. Heasley, Mayor

Robert Britigan III, Vice-Mayor
Wendy Fleckenstein, Commissioner
Terry Hageman, Commissioner
Dennis G. Durham, City Manager
Curtis Flowers, Clerk

Thomas Balmer, Commissioner
Donald Banner, Commissioner
Brian Sell, Commissioner
John Frakes, Treasurer
Robert Soltis, Attorney

During citizen comment periods, each person wishing to address the Commission will be allowed five minutes. Please state your name and address for the record.

1. Call to Order
2. Roll Call
3. Approval of Minutes: 12-21-2009 regular meeting
4. Additions or Changes to the Agenda
5. Citizens Comments not related to the Agenda
(comments on agenda items will be received at the time of discussion)
6. Consent Agenda - Motion to Receive and/or Approve as Indicated:
 - A. Warrant No. 1144 - receive
 - B.
 - C.
 - D.

8. Unfinished Business

A.

B.

C.

D.

9. New Business

A. Proposed Ordinance No.193 - 1st reading

State Construction Code/Floodplain Management

B.

C.

D.

10. Mayor and Commissioner Comments

11. City Manager's Comments

12. Adjournment

MINUTES OF THE REGULAR MEETING OF THE PARCHMENT CITY COMMISSION
HELD ON MONDAY DECEMBER 21, 2009 AT 7:00 P.M.

1. **Call to Order**

The meeting was called to order by Mayor Heasley at 7:00 p.m. He led those present in the "Pledge of Allegiance".

2. **Roll Call**

Present: Commissioners Balmer, Banner, Britigan, Fleckenstein, Hageman, Heasley, and Sell. Dennis Durham, City Manager; Curt Flowers, City Clerk; Robert Soltis, City Attorney; Jeff Kroll, River Reach Partners LLC; Dave Person, Kalamazoo Gazette.

3. **Minutes**

Moved by Britigan and supported by Sell to approve with one correction to item 9-A the minutes of the December 7, 2009 regular meeting. Carried

4. **Additions or Changes to the Agenda**

None

5. **Citizen Comments**

None

6. **Consent Agenda**

Moved by Banner and supported by Hageman to receive and/or approve as indicated the following consent agenda items:

- A. Warrant No. 1143 - approve
- B. Police Report for November - receive
- C. Law Enforcement Millage - receive
- D. COG Planning & Minutes - receive
- E. Flamm Family Thank You - receive

Motion Carried

7. **Unfinished Business**

None

8. **New Business**

A.Moved by Banner and supported by Fleckenstein to approve the second amendment to the Redevelopment and Purchase Agreement between the City of Parchment and the River Reach Partners LLC. thereby extending said agreement to September 21, 2010.

The roll call vote was as follows:

Ayes: Balmer, Banner, Britigan, Fleckenstein, Hageman, Heasley, Sell
Nays: None
Absent: None
Abstain: None

Motion Carried

9. **Mayor and Commissioner Comments**

Commissioner Balmer asked for an update on a collection of barrels located behind the Parchment Party Store at Riverview Drive and Parchmount Avenue.

Commissioner Banner, on behalf of the Personnel Committee, passed out the results of the City Manager's evaluation to the members of the Commission. He also thanked the Personnel Committee for their work in compiling the results.

Commissioner Banner, as the City's representative to the Community Access Center, stated the City of Portage has decided to join the Community Access Center Group and that amendments to our current membership documents would be forthcoming this spring.

Mayor Heasley asked everyone to remember our service men and women during this Holiday season.

A Merry Christmas and Happy New Year was wished to all.

10. **City Manager Comments**

Manager Durham announced the Kindleberger Park/DDA Open House canceled December 10th due to bad weather, was rescheduled for Thursday, January 14, 2010 at the Parchment Community Library.

11. **Adjournment**

There being no more business to come before the Commission, it was moved by Commissioner Balmer and supported by all to adjourn the meeting at 7:45 p.m.

Curtis E. Flowers, CMC
City Clerk

FORD, KRIEKARD, SOLTIS & WISE, P.C.

Attorneys At Law

Established in 1887 by Alfred S. Frost

William K. Kriekard
Robert A. Soltis
Robert A. Wise

8051 Moorsbridge Road
Portage, Michigan 49024
Telephone: (269) 323-3400
Facsimile: (269) 323-3418

Henry Ford III (1905-1990)
Gordon H. Kriekard (1923-1992)
Donald H. Dunckel II (1947-2000)

David W. McMorrow
Of Counsel

December 30, 2009

Mr. Dennis Durham, City Manager
City of Parchment
650 South Riverview Drive
Parchment, MI 49004

RE: State Construction Code and Floodplain Management Ordinance

Dear Dennis:

Please find enclosed a proposed Ordinance which addresses Construction Code enforcement and Floodplain Management.

With regard to Construction Code enforcement, in reviewing our Code of Ordinances to determine where to put the Floodplain Management Ordinance, I found that, although we assumed responsibility for enforcement of the State Construction Code back in 1990 (Ordinance 139) and are still recognized by the State as the enforcing agency today, our Code of Ordinances don't reflect that fact. In reviewing my files and asking the City Clerk to do the same, I've come to the conclusion that Ordinance 139 was deleted when the City recodified in 2000. Please see a copy of the Municipal Code's letter of April 18, 2000 (attached) proposing the deletion of Ordinance 139. For whatever reason, I must have missed objecting to that deletion.

While it is not necessary for us to adopt the Single State Construction Code and we have already assumed responsibility for its administration and enforcement within the City, every other community whose Ordinances I have reviewed have some Ordinance provision reflecting the fact that they have assumed responsibility for administering the State Construction Code within their jurisdiction. The State Construction Code Act requires a community to assume responsibility by Ordinance. Therefore, I believe it is a good idea to put this back into our Code of Ordinances.

With regard to the Floodplain Management provisions, we have certain areas within the City which have a 1% chance of a flood in any given year. Communities which do not adopt the type of Ordinance proposed will not be allowed to have its residents participate in the National Flood Insurance Program. Therefore, the adoption of these

Mr. Dennis Durham, City Manager
Page Two
December 30, 2009

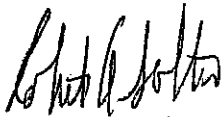
provisions are prerequisites for flood insurance, federal grants and loans, federal disaster assistance and federal mortgage insurance for our residents. These regulations do not require our Building Officials to do significantly more than they presently do in any case.

Please share this with the City Commission for their consideration. If anyone has any questions or comments, please let me know.

Thank you for your cooperation.

Very truly yours,

FORD, KRIEKARD, SOLTIS & WISE, P.C.



Robert A. Soltis

RAS/kb

Enclosure

CITY OF PARCHMENT

KALAMAZOO COUNTY, MICHIGAN

ORDINANCE _____

AN ORDINANCE TO AMEND THE CITY OF PARCHMENT CODE OF ORDINANCES BY READOPTING ORDINANCE 139, AS AMENDED HEREINAFTER, BY ADDING NEW SECTIONS 14.1 THROUGH 14.6 OF THIS CODE; TO RATIFY AND CONTINUE THE ASSUMPTION OF LIABILITY FOR ADMINISTRATION AND ENFORCEMENT OF THE STATE CONSTRUCTION CODE ACT OF 1972 (1972 PA 230), AS AMENDED, AND THE STATE CONSTRUCTION CODE PROMULGATED THEREUNDER, WITHIN THE POLITICAL BOUNDARIES OF THE CITY OF PARCHMENT AND TO CONTINUE TO PROVIDE FOR THE DESIGNATION OF THE ENFORCING AGENCY TO DISCHARGE THE RESPONSIBILITIES OF THE CITY HEREUNDER, AND TO RESERVE THE RIGHT TO PROVIDE THAT AGREEMENT OR CONTRACT WITH ANY OTHER TOWNSHIP, VILLAGE, CITY OR COUNTY FOR JOINT ADMINISTRATION AND ENFORCEMENT HEREUNDER; TO PROVIDE FOR A CONSTRUCTION BOARD OF APPEALS; AND TO CONTINUE TO PROVIDE FOR THE ESTABLISHMENT OF A FEE SCHEDULE BY THE CITY COMMISSION; AND TO CONTINUE TO PROVIDE FOR CRIMINAL PENALTIES AND CIVIL REMEDIES FOR THE VIOLATION OF THIS ORDINANCE OR THE ACT OR STATE CONSTRUCTION CODE PROMULGATED THEREUNDER; TO ADD FLOODPLAIN MANAGEMENT REGULATIONS; TO DESIGNATE THE CITY'S BUILDING OFFICIAL TO ADMINISTER, APPLY AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS; TO ADD NEW SECTIONS 14.51 THROUGH 14.56 AND TO REPEAL ALL EXISTING CITY ORDINANCES IN CONFLICT HERewith.

THE CITY OF PARCHMENT ORDAINS:

ARTICLE I

CONSTRUCTION CODE

14.1. Title.

This Ordinance shall be known and may be cited as the City of Parchment State Construction Code Ordinance.

14.2. Continued Assumption of Responsibility for Enforcement of State Construction Code.

In accordance with and pursuant to Section 8 and Section 9 of the State Construction Code Act of 1972 (1972 PA 230; MCLA 125.1501 et seq.), as amended, the City of Parchment hereby continues to assume responsibility for the administration and enforcement of said Act within its political boundaries. Such Act adopts the Single State Construction Code, which includes, but is not limited to, the Michigan Building, Electrical, Mechanical and Plumbing Codes and any subsequent amendments..

14.3. Construction Board of Appeals.

Pursuant to 1972 PA 230, a Construction Board of Appeals is hereby created consisting of not more than seven nor less than three members. Members are determined by the City Commission. The members of the Construction Board of Appeals shall be appointed by the Mayor, subject to the approval and majority vote of the City Commission. The Construction Board of Appeals members shall have a term of two years.

14.4. Designation of Enforcing Agency/Reservation of Right to Provide for Joint Enforcement.

In accordance with the aforereferenced Act, and pursuant to the provisions of the State Construction Code, the Parchment City Commission is hereby authorized to designate by Resolution an enforcing agency that shall discharge the responsibilities of the City under said Act and Code promulgated thereunder and adopted therein, which shall be any person or persons qualified by experience or training to perform the duties associated with Construction Code administration and enforcement, and otherwise in accordance with the Building Officials and Inspectors Registration Act (1986 PA 54; MCLA 33.2301 et seq.). The Commission is further authorized to remove by Resolution any such person(s) from said position, in the sole discretion of said Commission. The City specifically reserves the right to provide by agreement or contract with any other Township, Village, City or County in the State of Michigan for joint enforcement and administration of this Ordinance and the Act and State Construction Code promulgated.

14.5. Establishment of Fee Schedule.

The Parchment City Commission is hereby given the authority to establish, by Resolution, at any regular or special meeting, a schedule of fees, rates and charges for the administration and enforcement of this Ordinance and the Act and State Construction Code promulgated thereunder and adopted herein, and for the conducting of various activities authorized by said Act/Code and this Ordinance; provided that the same shall be reasonable and bear a reasonable relationship to the cost and expense of such administration, enforcement and activity. The City Commission shall further have the right to amend by Resolution the aforementioned schedule from time-to-time.

14.6. Violations/Penalties.

Any violation of this Ordinance or the Act or State Construction Code promulgated thereunder and adopted herein shall be a misdemeanor punishable upon conviction by a fine not to exceed \$500.00 plus costs, imprisonment in the County Jail for a term not to exceed 90 days or both. Each day that a violation continues to exist shall constitute a separate offense. In addition, the City specifically reserves the right and shall have the authority, without waiving any of its rights set forth herein or permitted by law, to proceed in any Court of competent jurisdiction for the purpose of obtaining injunctive relief or other appropriate remedy to compel compliance with this Ordinance and said Act and Code.

ARTICLE II

Section 14.42 to 14.50 are hereby reserved.

ARTICLE III

FLOODPLAIN MANAGEMENT

Section 14.51. Title.

This Article shall be known and cited as the Parchment Floodplain Management Ordinance.

Section 14.52. Definitions.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. **FLOOD or FLOODING** means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal water; (2) the unusual and rapid accumulation or runoff of surface waters from any source; (3) mudflows; and
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by

an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph 1(a) of this definition.

2. **FLOOD INSURANCE RATE MAP ("FIRM")** means the official map on which FEMA has delineated both the area of special flood hazards and the risk premium zones applicable to the community.
3. **FLOOD INSURANCE STUDY** means the official report provided by FEMA that includes flood profiles, FIRMs, and the water surface elevation of the base flood.
4. **FLOODPLAIN** means any land area susceptible to being inundated by water from any source (see definition of flooding).
5. **FLOODPLAIN MANAGEMENT** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.
6. **FLOODPLAIN MANAGEMENT REGULATIONS** means Zoning Ordinances, subdivision regulations, building codes, health regulations, Special Purpose Ordinances (such as a Floodplain Ordinance, Grading Ordinance and Erosion Control Ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
7. **STRUCTURE** means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

Section 14.53. Agency Designated.

1. Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of the State Construction Code Act, Act 230 of the Public Acts of 1972, as amended (the "Construction Code Act"), the Building Official of the City is hereby designated as the enforcing agency to discharge the responsibility for the administration and enforcement of the Construction Code Act throughout the corporate limits of the City.
2. The Building Official is directed to administer, apply, and enforce the floodplain management regulations as contained in the State

Construction Code, including Appendix G, and to be consistent with those regulations by:

- a. Obtaining, reviewing and reasonably utilizing flood elevation data available from federal, state or other sources pending receipt of data from the FEMA to identify the flood hazard area and area's potential flooding.
- b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resource Protection", of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
- c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area, the Building Official shall implement the following applicable codes according to their terms:
 - i. Floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
 - ii. Floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
 - iii. Appendix G of the current Michigan Building Code.
- d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
- e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas,

maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies and persons for floodplain management.

- f. Advising FEMA of any changes in community boundaries, including appropriate maps.
- g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing and elevations to which structures have been floodproofed.

Section 14.54. Code Appendix Enforced.

Pursuant to the provisions of the State Construct Code, in accordance with Section 8b(6) of the Construction Code Act, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City.

Section 14.55. Review of Flood Insurance Rate Maps (FIRMs).

The City assures the Federal Insurance Administrator ("Administrator") that it intends to review, on an ongoing basis, all amended and revised FIRMs and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.

Section 14.56. Designation of Regulated Flood Prone Hazard Areas.

The FEMA Flood Insurance Study entitled "Kalamazoo County, Michigan (All Jurisdictions)," dated February 17, 2010, and the FIRMs panel numbers of 26077CIND0A, 26077C0075D, 26077C0175D, 26077C0179D, 26077C0180D and 26077C0185D, dated February 17, 2010, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

ARTICLE IV

Section 1. Severability.

Should any portion of this Ordinance or 1972 PA 230, as amended, or the State Construction Code promulgated thereunder and adopted herein be declared unconstitutional, illegal or otherwise of no force or effect by a Court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion thereof.

Section 2. Repeal of Conflicting Ordinances/Savings Clause.

All other Ordinances or parts thereof in conflict herewith, including any Construction Codes or Construction Code Ordinances previously adopted by the City, are hereby repealed and shall be of no further force or effect upon the effective date of this Ordinance; provided, however, construction permits validly issued before the effective date of this Ordinance shall not be invalidated by this Ordinance and the construction may be completed in compliance with any such permits, or renewals thereof, and in compliance with any previous Construction Codes of the City under which the permits were issued. Further, any pending proceedings, including prosecutions for violations, or rights and liabilities acquired or incurred under any previous Ordinance or City Construction Code being repealed hereby shall not be affected by this Ordinance and may be continued pursuant to said previous Ordinances and Codes.

Section 3. Effective Date.

This Ordinance shall take force and effect on _____, 20__.

CERTIFICATE

I, Curt Flowers, City Clerk for the City of Parchment, do hereby certify that the foregoing Parchment Ordinance No. _____ was adopted by the City Commission at a regular meeting held on _____, 2010, and that the following is a record of the vote of the members of said City Commission on said Ordinance.

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Curt Flowers
City Clerk