



REGULAR MEETING OF THE DOWAGIAC CITY COUNCIL

Municipal Building, 241 S. Front Street, Dowagiac, Michigan

Monday, November 9, 2015, 7:00 p.m.

AGENDA

CALL TO ORDER -Mayor Donald D. Lyons

PLEDGE OF ALLEGIANCE TO THE FLAG -Mayor Donald D. Lyons

SWEARING IN OF ELECTED OFFICIALS

Jane Wilson	City Clerk
Danielle Lucas	Councilmember – Ward 1
James Dodd	Councilmember – Ward 2
Charles Burling	Councilmember – Ward 3

ROLL CALL -Mayor Donald D. Lyons
-Mayor Pro-Tem Leon Laylin
-Councilmember Charles Burling
-Councilmember James Dodd
-Councilmember Danielle Lucas
-Councilmember Lori Hunt
-Councilmember Bob Schuur

APPROVAL OF MINUTES OF PREVIOUS MEETING – October 26, 2015

QUESTIONS FROM CITY COUNCIL –

COMMENTS FROM THE AUDIENCE (NON-AGENDA) –

COMMENTS FROM THE AUDIENCE (AGENDA) –

COMMUNICATIONS –

Christmas Open house weekend – November 13, 14, 15

Candle-light Parade – December 4

APPOINTMENTS

1. Appointment of the Mayor Pro-Tem.

RESOLUTIONS –

1. Resolution to authorize the City Manager to execute a Memo of Understanding with Silver Creek Township and SLAUA for cost sharing of Wastewater Treatment Plant Improvements.
2. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due:
(Roll Call)

<u>BILLS</u>	<u>PAYROLL</u>	<u>TOTAL</u>
\$350,968.16	\$232,544.88	\$583,513.04

ORDINANCES

1. First reading of an ordinance to add Section 2.28 GROUNDWATER USE RESTRICTIONS to the Dowagiac Municipal Code.

COMMENTS FROM CITY OFFICIALS –

ADJOURNMENT –

Kevin P. Anderson
City Manager

Attachments

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

A regular meeting of the Dowagiac City Council was called to order by Mayor Lyons at 7:00 p.m.

Mayor Lyons led the Pledge of Allegiance to the flag.

PRESENT: Mayor Donald D. Lyons, Mayor Pro-Tem Leon D. Laylin; Councilmembers Charles K. Burling, James B. Dodd, Lori A. Hunt, Danielle E. Lucas, Bob B. Schuur and City Clerk Jane P. Wilson.

ABSENT: None

STAFF: City Manager Kevin P. Anderson

Councilmember Dodd moved and Councilmember Laylin seconded that the minutes of the October 12, 2015 meeting be approved.

Approved unanimously.

COMMENTS FROM THE AUDIENCE (NON-AGENDA)

Aaron Miller spoke about legislative proposals concerning road funding and "Dark Stores."

Leon Anderson, Chair of the LOCC, asked whether action had been taken on the Council's recommendations, which were tabled for further discussion at the September 28, 2015 meeting.

COMMENTS FROM THE AUDIENCE (AGENDA)

Diane Barrett-Curtis asked about the City's purchase and proposed use of recently acquired property, such as the property located at 204 Commercial Street.

RESOLUTIONS

1. Councilmember Burling offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

WHEREAS, utility customers have requested the ability to receive bills via e-mail and/or make payments by eft, and;

WHEREAS, the Utilities Department of the City of Dowagiac is successfully e-mailing utility bills and receiving payments and;

WHEREAS, City Council wants to encourage the use of e-mail billing and eft payments in regards to utility customers.

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

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NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac does hereby authorize the City Manager to offer a \$5.00 e-mail billing credit and/or a \$5.00 eft payment credit to each utility customer who signs up for e-billing system or eft payment no later than Memorial Day 2016. The credit will be limited to one e-mail billing credit and one eft payment credit per account.

APPROVED unanimously.

2. Councilmember Laylin offered and moved the adoption of the following resolution; seconded by Councilmember Hunt.

WHEREAS, Article III of the Dowagiac Code of Ordinances sets forth the duties of the City Manager, and;

WHEREAS, the City Manager shall see that all laws, ordinances, rules and regulations adopted by the City Council and provisions of the Code are properly enforced, and;

WHEREAS, the City Manager is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the Charter and City Code, as he shall deem necessary and proper to provide for the adequate functioning of all departments, and;

WHEREAS, such regulations shall comprise the administrative personnel manual, and;

WHEREAS, the City Manager from time to time shall review said manual and recommend necessary changes.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt the changes to the Administrative Personnel Manual as attached hereto effective immediately.

APPROVED unanimously.

3. Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Burling.

WHEREAS, the City has actively pursued the ongoing redevelopment and economic vitality of downtown, and;

WHEREAS, it is in the long-term best interest of the City and the downtown to acquire properties for future development as they become available and as the City has resources available, and;

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

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WHEREAS, the City negotiated purchase price is consistent with the sales price of other similar properties in downtown, and;

WHEREAS, the City Manager has negotiated a purchase agreement, subject to City Council approval, of \$105,000 for purchase of the property located at 204 Commercial Street that would accommodate said development.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize the City Manager to execute the purchase of said property.

ADOPTED unanimously.

4. Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Burling.

WHEREAS, the City has actively pursued the ongoing redevelopment and economic vitality of downtown, and;

WHEREAS, it is in the long-term best interest of the City and the downtown to acquire properties for future development as they become available and as the City has resources available, and;

WHEREAS, the City negotiated purchase price is consistent with the sales price of other similar properties in downtown, and;

WHEREAS, the City Manager has negotiated a purchase agreement, subject to City Council approval, of \$105,000 for purchase of the property located at 204 Commercial Street that would accommodate said development.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize the City Manager to execute the purchase of said property.

ADOPTED unanimously.

5. Council member Laylin, supported by Council member Dodd, moved the adoption of the following resolution:

WHEREAS, in 2009, the City of Dowagiac established the Dowagiac Business Park as a site condominium project by Master Deed; and

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

Page Four

WHEREAS, the City, as developer of the Dowagiac Business Park, constructed Woodhouse Drive and Industrial Drive as private roadways to serve the Dowagiac Business Park; and

WHEREAS, the City, as developer of the Dowagiac Business Park, constructed a sanitary sewer system, a storm sewer collection system, a potable water distribution system, an electrical distribution system, a telephone wiring system, and a cable television/fiber optic wiring system, along with related appurtenances, to serve the Dowagiac Business Park; and

WHEREAS, the City, as developer, has conveyed title to Woodhouse Drive and Industrial Drive, along with corresponding rights-of-ways, as depicted on the Condominium Subdivision Plan, as amended, attached to the Master Deed of Dowagiac Business Park, as amended, to the City of Dowagiac for incorporation into the City's public street system; and

WHEREAS, the City, as developer, has conveyed title to all components of the sanitary sewer system, storm sewer collection system, potable water distribution system, electrical distribution system, telephone wiring system, and cable television/fiber optic wiring system, along with related appurtenances, that serve the Dowagiac Business Park (the "Business Park Utilities"), to the City of Dowagiac for incorporation into the City's public utility systems; and

WHEREAS, the City of Dowagiac wishes to accept Woodhouse Drive and Industrial Drive as public infrastructure; and

WHEREAS, the City of Dowagiac wishes to accept the Business Park Utilities as public utilities; and

WHEREAS, the streets and utilities described above have been constructed in compliance with the ordinances and regulations of the City of Dowagiac and have been inspected and approved by the City's Department of Public Works.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the center lines of Woodhouse Drive and Industrial Drive are depicted on the Condominium Subdivision Plan, as amended, attached to the Master Deed of Dowagiac Business Park, as amended.
2. That Woodhouse Drive and Industrial Drive are located within City of Dowagiac public rights-of-way, are under the control and supervision of the City of Dowagiac Department of Public Works, and shall be maintained, including, but not limited to, snow removal, repaired, replaced, operated, expanded and improved by the City of Dowagiac.
3. That Woodhouse Drive and Industrial Drive are public streets dedicated to public street and highway purposes.
4. That Woodhouse Drive and Industrial Drive are accepted into the City of Dowagiac local street system and the City Engineer is directed to designate and delineate said roadways on the official maps and records of the City.

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

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5. That the City of Dowagiac police and fire departments shall provide police, fire and emergency services to the Dowagiac Business Park in a similar manner, and at the same priority, as other areas within their respective jurisdictions.
6. That the Business Park Utilities are located within City of Dowagiac public rights-of-way, are under the control and supervision of the City of Dowagiac Department of Public Works, and shall be maintained, repaired, replaced, operated, expanded and improved by the City of Dowagiac.
7. That the Business Park Utilities are public utilities dedicated to public utility purposes.
8. That the Business Park Utilities are accepted into the City of Dowagiac public utility systems.

YEAS: Council members: Laylin, Burling, Dodd, Lucas, Hunt, Schuur

NAYS: Council members: None

ABSTAIN: Council members: None

ABSENT: Council members: None

RESOLUTION DECLARED ADOPTED.

6. Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

WHEREAS, Dowagiac City Code, Article V – Electric Provisions and Rates, Section 82-262: Application for Service, allows for the provision of both separate and/or special agreements between the City and an electric customer, and;

WHEREAS, City administration wishes to establish a Utility Extension Agreement to outline the conditions and terms under which a separate and/or special agreement is granted, and;

WHEREAS, Creative Foam Corporation has requested additional electric capacity be supplied to their facility located at 55210 Rudy Road, Dowagiac, Michigan to accommodate additional manufacturing equipment, necessitating the creation and approval of such agreement, and;

WHEREAS, the agreement between the City and Creative Foam Corporation provides for the application of construction cost credits for additional electric usage over a two (2) year period to off-set the City's expense for installation of utilities, and;

WHEREAS, at the end of the two (2) year period Creative Foam will be billed for remaining costs of improvements, if any, and;

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

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WHEREAS, the attached agreement, which satisfies the requirements of Dowagiac City Code, and which has been approved by Creative Foam Corporation, is hereby recommended for approval.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt and approve the Utility Extension Agreement with Creative Foam Corporation, as attached herewith and by reference made a part hereof, for extension of additional electric capacity at their facility located at 55210 Rudy Road, Dowagiac, Michigan and in complete compliance with the requirements of Dowagiac City Code.

BE IT FURTHER RESOLVED that the City Manager be authorized and directed to act as signatory for the execution of same.

Adopted unanimously.

7. Councilmember Burling offered and moved the adoption of the following resolution; seconded by Councilmember Lucas.

WHEREAS, a strong, quality educational system is important to the overall economic and social fabric of communities, and;

WHEREAS, The Dowagiac Union School District has been transparent in their efforts to study options for improving aging buildings and communicate their findings with the community, and;

WHEREAS, the City of Dowagiac City Council has reviewed in detail Dowagiac Union School District's millage election proposals and find that the proposed improvements are necessary to creating the best possible educational opportunities for the children of the community, and;

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac hereby encourage all citizens to exercise their right to vote in the November 3, 2015 general election and support critical improvements to the Dowagiac Union School District facilities.

Adopted unanimously.

DOWAGIAC CITY COUNCIL MEETING

Monday, October 26, 2015

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8. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due:

Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Burling.

The following information has been reviewed by the City Manager and City Treasurer and is being presented to City Council with a recommendation to approve invoices and payroll #2 for the periods ending 10/11/15:

WHEREAS, the following information has been reviewed by the City Manager and City Treasurer and is being presented to City Council with a recommendation to approve invoices and payroll #2 for the period ending 10/11/15:

<u>BILLS</u>	<u>PAYROLL</u>	<u>TOTAL</u>
\$772,448.99	\$120,327.45	\$892,757.44

BE IT RESOLVED that the City Manager and City Treasurer are hereby authorized and directed to pay the following bills and payroll due:

ADOPTED on a roll call vote.

Ayes: (6) Laylin, Burling, Dodd, Lucas, Hunt, Schuur

Nays: None (0)

Absent: None (0)

Abstain: None (0)

9. Councilmember Dodd offered and moved the adoption of the following resolution; seconded by Councilmember Schuur.

WHEREAS, the Michigan Open Meetings Law, Public Act 267 of the Public Acts of 1976 as amended, provides that public bodies may meet in closed session for the purpose to discuss litigation; and

WHEREAS, the Mayor and City Council desire to meet with the City Manager to discuss the aforementioned items.

NOW, THEREFORE, BE IT RESOLVED the City Council will hereby adjourn to closed session to discuss litigation.

Adopted unanimously.

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Monday, October 26, 2015

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ADJOURNMENT

Upon motion by Councilmember Dodd and seconded by Councilmember Schuur, the Dowagiac City Council adjourned at 7:50 PM.

Donald D. Lyons, Mayor

Jane P. Wilson, City Clerk

EVENTS APPROVAL FORM

Event: Christmas Open House Weekend
Date: November 13-15, 2015
Sponsoring Organization: Chamber of Commerce & DDA
Contact Person(s): Vickie Phillipson
Contact Person's Telephone: 782-8212

CITY MANAGER:

Final Approval Denial

Comments: _____

Signature _____ Date _____

Department Heads:

Please review the attached event/activity request; indicate conditional approval, approval or denial; and provide comments regarding possible concerns. All comments will be taken under consideration and final approval remains with the City Manager.

DEPARTMENT OF PUBLIC SAFETY:

Approval Approval with conditions Denial

Comments: _____

Signature St. L. Sumrell Date 10/26/15

DEPARTMENT OF PUBLIC SERVICES:

Approval Approval with conditions Denial

Comments: James Brumfield

Signature _____ Date 10/26/15

FINANCE DEPARTMENT:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____

DOWNTOWN DEVELOPMENT AUTHORITY:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____



Chamber of Commerce & DDA

Tour The Grand Old City at www.dowagiacchamber.com

"Visit Dowagiac often. There are so many memorable ways to fill a day, a week or a lifetime."

Dear Mayor Lyons and City Council:

The Greater Dowagiac Chamber of Commerce and Borgess-Lee Memorial Hospital are pleased to host Dowagiac's Christmas Celebration, which opens Friday, Nov. 13, with our three-day Christmas Open House Weekend. This year's celebration represents an approximate \$5,000 community promotion, funded by the Chamber of Commerce and corporate sponsors that include Borgess-Lee Memorial Hospital, AEP / Indiana Michigan Power, Burling & Gillesby DDS, Chemical Bank, Front Street Crossing / COA, Mahar Insurance and Vylonis Contracting.

In regard to both Open House Weekend and parade night, the Chamber of Commerce would like permission to limit and to select the type of non-profit and commercial vendors, which appear during the community celebration. As a result, we will avoid duplication in terms of street vendors and what they offer.

The tri-fold celebration features Christmas Open House Weekend, which is Friday through Sunday, November 13-15; our Candle-light Christmas Parade on Friday, December 4; and Small Business Saturday. For your convenience, attached herewith is our holiday brochure.

On behalf of the Chamber and as Chairman of Open House Weekend, I would like to request the use of the following for Open House Saturday:

- The Haggin-Wimberley Memorial Bandstand to stage vocal and instrumental performances
- Beeson Street for dance performances.
- Two to three parking spaces on Front Street, adjacent to the park, to serve as a loading area for horse-drawn wagon rides
- Barricades to provide for the temporary closure of Beeson Street and orange safety cones for the loading zone
- The use of downtown streets for horse-drawn wagon rides
- The Beckwith Park for the interactive animal display by Alpacas of Chambana.

As Parade Co-chairmen Kim MacGregor and I will work closely with the Department of Public Safety on the organization of parade line-up. In preparation for the parade, we would like to request the use of:

- The Haggin-Wimberley Memorial Bandstand for pre-parade entertainment featuring the ACTION Chorale
- Barricades to close Front Street to through-traffic in advance of the street performance by Positively Dance
- Residential streets in and around West High Street for parade line-up
- And barricades that may be requested by the Department of Public Safety for use during parade line-up

In advance of Small Business Saturday, I request permission to install temporary informational signage, the size of real estate signs, at several of our major intersections.

Prior to the Nov. 13 Open House Weekend, I am requesting DPS personnel prepare and install the City's lighted wreaths and garlands on downtown lampposts; hang holiday lights on the evergreen at Beckwith Park, on the gazebo and on the ornamental trees on Front Street that are planted within the landscaped islands; and install the decorative street banners.

New this year, with the assistance of DPS, we will be bringing in four evergreens that will be situated at Beckwith Park for the holidays, which four non-profit organizations will decorate and then donate to families in need.

As always, thank you for your consideration and for the much-needed assistance of city support services provided to us by DPS, police, fire and grounds personnel. We look forward to seeing you Open House Weekend and also Parade Night, as we celebrate this joyous season!

Warm Regards, Vickie Phillipson, Chamber of Commerce & DDA Program Director

Located in the Historic Dowagiac Train Depot 200 Depot Drive, Dowagiac, Michigan 49047 269.782.8212

DOWAGIAC CHRISTMAS CELEBRATION

Open House Weekend

November 13-15

Friday, November 13

9 am - 7 pm . . . Visit the Christmas Open Houses of our specialty shops & the Ladies Library Association holiday book sale, as we kick off the Yuletide Season with in-store events the entire weekend. Shopkeepers present their finest merchandise, special discounts, festive treats & weekend drawings. Open Houses continue through Sunday, 12 to 4.

Saturday, November 14

9 - 2 pm . . . Enjoy the hand-made works of Michiana artisans, showcased at the 19th annual Theta Mu Sorority Craft Show, located at Dowagiac Union High School on Prairie Ronde.

9 - 5 . . . Christmas Open Houses at our specialty stores continue, as shopkeepers attend to your every need. For those who tire easily, distinctive dining and even an old-fashioned soda fountain provide the perfect spot to rest awhile.

10 - 2 . . . A true-to-life **Old-World Santa** greets families within the elegant indoor setting of Wood Fire Italian Trattoria. Children receive a coloring book from **St. Nick** and can register for a gift basket of toys & invitation to appear with Santa in the December 4th Candle-light Parade!

10 - 2 . . . Join Mrs. Claus and Alyssa Wainwright, Miss Blossomtime Congeniality, at Who Knew? Consignment, where children can make a jingle bell bracelet.

10 - 2 . . . At Beckwith Park families can meet the **Alpacas of Chambana** and enjoy horse-drawn wagon rides.

10 - 2 . . . Warm up with hot chocolate, served by contestants of the Miss Dowagiac Scholarship Pageant and enjoy **holiday sweets** from the sidewalk booths of MKSOD and Pastry Artist Jordan Anderson, owner of The Baker's Rhapsody. **Nominal fee.**

10 - 2 . . . Shelagh Brown Duo presents your favorite **Christmas carols** at the gazebo.

11 - 2 . . . Dowagiac Area History Museum presents a **Christmas Card Design Workshop** for families. Materials supplied.

11:30 - 12:30 . . . Dance into the holidays with **Positively Dance!** Events in and around Beckwith Park continue through 2 p.m.



Sunday, November 15

Noon - 4 . . . Enjoy holiday shopping the way it used to be, as the **Christmas Open Houses** of our specialty shops continue. Register for the **Weekend Drawing** that awards \$500 in Dowagiac Universal Gift Certificates to shoppers. Register at Booth's Country Florist & Gifts, Caruso's Candy Kitchen, Beeson Street Bar & Grill, Hidden Treasures, Imperial Furniture, The Marshall Shoppe, Rosy Tomorrows, Shabby Bou-Chic, Vincent J. Jewelers & Wounded Minnow.

Borgess Tree of Love

Join Borgess-Lee Memorial Hospital on **Wednesday, Dec. 2**, at 5:30 for this very special tree-lighting event at Farr Park. Symbolic of the donations raised to provide mammography services to the uninsured, a beautiful pine will be set aglow in pink lights. Honor someone special by making a donation to the **Borgess Tree of Love Campaign**. For every \$8 donation, you can help an uninsured woman receive free services.

Candle-light Parade

Friday, December 4

6 pm . . . As you await evening festivities, savor the hot chocolate and sweet delights available from our street vendors.

6:15 - 7 . . . Gather 'round the Beckwith Park for our Tree-Lighting Ceremony, pre-parade entertainment featuring **ACTION Chorale & Positively Dance**, and community caroling led by ACTION.

7 pm . . . Listen for the tolling bell of our Town Crier and join Borgess-Lee Memorial Hospital and the Chamber as we usher in one of **Michigan's largest holiday events**. Our Candle-light Parade of 100 lighted floats, costumed characters & marching bands makes this a magical evening you'll long remember!

Our Proud Sponsors . . .

Borgess-Lee Memorial Hospital & the Chamber of Commerce, as the **Proud Hosts** of our celebration, along with these sponsors, invite you to enjoy our **Grand City** during this special season. . .

AEP / Indiana Michigan Power
Burling & Gillesby DDS
Chemical Bank

Front Street Crossing / COA
Mahar Insurance
Vylonis Contracting

EVENTS APPROVAL FORM

Event: Christmas Candle-Light Parade
Date: December 4, 2015
Sponsoring Organization: Chamber of Commerce & DDA
Contact Person(s): Vickie Phillipson
Contact Person's Telephone: 782-8212

CITY MANAGER:

Final Approval Denial

Comments: _____

Signature _____ Date _____

Department Heads:

Please review the attached event/activity request; indicate conditional approval, approval or denial; and provide comments regarding possible concerns. All comments will be taken under consideration and final approval remains with the City Manager.

DEPARTMENT OF PUBLIC SAFETY:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____

DEPARTMENT OF PUBLIC SERVICES:

Approval Approval with conditions Denial

Comments: _____

Signature James Bradford Date 10/26/15

FINANCE DEPARTMENT:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____

DOWNTOWN DEVELOPMENT AUTHORITY:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____



Chamber of Commerce & DDA

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In regard to both Open House Weekend and parade night, the Chamber of Commerce would like permission to limit and to select the type of non-profit and commercial vendors, which appear during the community celebration. As a result, we will avoid duplication in terms of street vendors and what they offer.

The tri-fold celebration features Christmas Open House Weekend, which is Friday through Sunday, November 13-15; our Candle-light Christmas Parade on Friday, December 4; and Small Business Saturday. For your convenience, attached herewith is our holiday brochure.

On behalf of the Chamber and as Chairman of Open House Weekend, I would like to request the use of the following for Open House Saturday:

- The Haggin-Wimberley Memorial Bandstand to stage vocal and instrumental performances
- Beeson Street for dance performances.
- Two to three parking spaces on Front Street, adjacent to the park, to serve as a loading area for horse-drawn wagon rides
- Barricades to provide for the temporary closure of Beeson Street and orange safety cones for the loading zone
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- The Beckwith Park for the interactive animal display by Alpacas of Chambana.

As Parade Co-chairmen Kim MacGregor and I will work closely with the Department of Public Safety on the organization of parade line-up. In preparation for the parade, we would like to request the use of:

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In advance of Small Business Saturday, I request permission to install temporary informational signage, the size of real estate signs, at several of our major intersections.

Prior to the Nov. 13 Open House Weekend, I am requesting DPS personnel prepare and install the City's lighted wreaths and garlands on downtown lampposts; hang holiday lights on the evergreen at Beckwith Park, on the gazebo and on the ornamental trees on Front Street that are planted within the landscaped islands; and install the decorative street banners.

New this year, with the assistance of DPS, we will be bringing in four evergreens that will be situated at Beckwith Park for the holidays, which four non-profit organizations will decorate and then donate to families in need.

As always, thank you for your consideration and for the much-needed assistance of city support services provided to us by DPS, police, fire and grounds personnel. We look forward to seeing you Open House Weekend and also Parade Night, as we celebrate this joyous season!

Warm Regards, Vickie Phillipson, Chamber of Commerce & DDA Program Director

Located in the Historic Dowagiac Train Depot 200 Depot Drive, Dowagiac, Michigan 49047 269.782.8212

DOWAGIAC CHRISTMAS CELEBRATION

Open House Weekend

November 13-15

Friday, November 13

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Saturday, November 14

9 - 2 pm . . . Enjoy the hand-made works of Michiana artisans, showcased at the 19th annual Theta Mu Sorority Craft Show, located at Dowagiac Union High School on Prairie Ronde.

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10 - 2 . . . A true-to-life **Old-World Santa** greets families within the elegant indoor setting of Wood Fire Italian Trattoria. Children receive a coloring book from St. Nick and can register for a gift basket of toys & invitation to appear with Santa in the December 4th Candle-light Parade!

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10 - 2 . . . At Beckwith Park families can meet the **Alpacas of Chambana** and enjoy horse-drawn wagon rides.

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11 - 2 . . . Dowagiac Area History Museum presents a **Christmas Card Design Workshop** for families. Materials supplied.

11:30 - 12:30 . . . Dance into the holidays with **Positively Dance!** Events in and around Beckwith Park continue through 2 p.m.



Sunday, November 15

Noon - 4 . . . Enjoy holiday shopping the way it used to be, as the **Christmas Open Houses** of our specialty shops continue. Register for the **Weekend Drawing** that awards \$500 in Dowagiac Universal Gift Certificates to shoppers. Register at Booth's Country Florist & Gifts, Caruso's Candy Kitchen, Beeson Street Bar & Grill, Hidden Treasures, Imperial Furniture, The Marshall Shoppe, Rosy Tomorrows, Shabby Bou-Chic, Vincent J. Jewelers & Wounded Minnow.

Borgess Tree of Love

Join Borgess-Lee Memorial Hospital on **Wednesday, Dec. 2**, at 5:30 for this very special tree-lighting event at Farr Park. Symbolic of the donations raised to provide mammography services to the uninsured, a beautiful pine will be set aglow in pink lights. Honor someone special by making a donation to the **Borgess Tree of Love Campaign**. For every \$8 donation, you can help an uninsured woman receive free services.

Candle-light Parade

Friday, December 4

6 pm . . . As you await evening festivities, savor the hot chocolate and sweet delights available from our street vendors.

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7 pm . . . Listen for the tolling bell of our Town Crier and join Borgess-Lee Memorial Hospital and the Chamber as we usher in one of **Michigan's largest holiday events**. Our Candle-light Parade of 100 lighted floats, costumed characters & marching bands makes this a magical evening you'll long remember!

Our Proud Sponsors . . .

Borgess-Lee Memorial Hospital & the Chamber of Commerce, as the **Proud Hosts** of our celebration, along with these sponsors, invite you to enjoy our **Grand City** during this special season . . .

AEP / Indiana Michigan Power
Burling & Gillesby DDS
Chemical Bank

Front Street Crossing / COA
Mahar Insurance
Vylonis Contracting

CITY OF DOWAGIAC

Appointment #1
November 9, 2015

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: November 6, 2015

SUBJECT: Appointment of the Mayor Pro-Tempore

The City Charter Chapter 5, Section 5.2 states the Council shall meet and choose one of its members as Mayor Pro-Tempore, who shall hold office for a term of one (1) year from said date.

It is Mayor Lyons' recommendation that 3rd Ward Councilmember Leon Laylin be appointed Mayor Pro-Tempore for the following year.

CITY OF DOWAGIAC

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: November 6, 2015

SUBJECT: Cost Sharing for Wastewater Treatment Plant (WWTP) Improvements

Earlier this year the governing bodies responsible for the sewer systems that serve Indian Lake and Sister Lakes approached the city with an interest in paying their share of the City's \$2.1 million WWTP improvement project in lump sum rather than pay over-time per the our current agreements for WWTP cost sharing. These utilities have been setting aside funds for capital equipment replacement and paying in lump sum will reduce interest costs for all.

Cost sharing will be based on the 10 average flow usage which will amount to \$174,297 for SLAUA and \$81,229 from Silver Creek Township.

The attached Memo of Understanding details further details the calculation that have been made and how annual true-up costs for operations will be handled until the bonds are paid off.

If you have questions regarding this matter please feel free to contact me.

RECOMMENDATION

Support Documents:
Cover Memo-City Mgr.
Resolution

Councilmember _____ offered and moved the adoption of the following resolution;
seconded by Councilmember _____.

WHEREAS,

1. The City of Dowagiac has need for \$2,100,000 of improvements to the Wastewater Treatment Plant (WWTP) that will allow operation costs to decrease and continue to meet permit requirements, and;
2. Sister Lakes Area Utilities Authority (SLAUA) and Silver Creek Township (TOWNSHIP) are served by the WWTP and contractually will share in the capital cost increases and the operational cost savings per previous agreements, and;
3. SLAUA and TOWNSHIP authorities have developed sufficient reserves in anticipation of long-term capital needs and determined that a lump sum payment of the capital costs would serve their customers best interest, and;
4. It has been determined that a fair allocation of the capital costs will be the ten (10) year average of the flow usage from SLAUA and TOWNSHIP.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt and approve:

1. That the City Manager is Authorized to execute and implement the Memorandum of Understanding with SLAUA and Silver Creek Township specifying the lump sum payment from SLAUA in the amount of \$174,297 and from Silver Creek Township in the amount of \$81,229 for capital costs associated with WWTP improvements.

ADOPTED/REJECTED

**Memorandum of Understanding
Cost Sharing for Wastewater Treatment Plant Improvements**

1. The City of Dowagiac has need for \$2,100,000 of improvements to the Wastewater Treatment Plant (WWTP) that will allow operation costs to decrease and continue to meet permit requirements, and;
2. Sister Lakes Area Utilities Authority (SLAUA) and Silver Creek Township are served by the WWTP and contractually will share in the capital cost increases and the operational cost savings per previous agreements, and;
3. SLAUA and Silver Creek Township authorities have developed sufficient reserves in anticipation of long-term capital needs and determined that a lump sum payment of the capital costs would serve their customers best interest, and;
4. It has been determined that a fair allocation of the capital costs will be the ten (10) year average of the flow usage from SLAUA and Silver Creek Township.
 - a. The 10 year average flow usage for SLAUA is 8.67151%.
 - b. The 10 year average flow usage for Silver Creek Township is 4.04124%.
5. The lump sum payment from SLAUA in the amount of \$174,297 and from Silver Creek Township in the amount of \$81,229.
6. When calculating the annual true-up all capital and interest costs associated with this bond issue shall be excluded from the formula when calculating SLAUA and Silver Creek Township costs.

City of Dowagiac:

Kevin P. Anderson, City Manager

Date: _____

Sister Lakes Area Utilities Authority

William Kays, Chairman

Date: _____

Silver Creek Township

Bill J. Saunders, Supervisor

Date: _____

Councilmember _____ offered and moved the adoption of the following resolution;
seconded by Councilmember _____.

WHEREAS, the following information has been reviewed by the City Manager and City Treasurer and is being presented to City Council with a recommendation to approve invoices and payroll #3 for the periods ending 10/25/15:

Invoices - 11-05-15 (Sept Billsheet)	\$43,174.90
Invoices - 11-05-15 (Oct Billsheet)	\$307,793.26
Payroll #3 - weeks ending 10/25/15	\$232,544.88
	<hr/>
Total	\$583,513.04

BE IT RESOLVED that the City Manager and City Treasurer are hereby authorized and directed to pay the following bills and payroll due:

<u>BILLS</u>	<u>PAYROLL</u>	<u>TOTAL</u>
\$350,968.16	\$232,544.88	\$583,513.04

Ayes:

Nays:

Absent:

Abstain:

Jane P. Wilson, City Clerk

Vendor		Description	Amount
ACCELA INC #774375	8563	MINUTETRAQ MONTHLY SUBSCRIPTION	349.00
BAZAN, STACEY	685964690-0001	TX REIMBURSEMENT 8/26 - 9/25/15	60.00
BURLING CONSTRUCTION	243	2ND FLOOR CONTRACTOR - MUSEUM	12,877.01
CITY OF NILES	102915D - 4	MOU - WWTP	6,183.00
CITY OF NILES	102915D - 3	MOU - WWTP	8,287.00
CITY OF NILES	102915D - 2	MOU - WWTP	6,984.00
CITY OF NILES	102915D - 1	MOU - WWTP	1,509.50
CITY OF NILES	100915D - 1	MOV - WTP	166.00
CITY OF NILES	101215D - 1	MOV - WTP	1,519.00
CITY OF NILES	100915D - 2	MOV - WTP	4,249.50
FED EX	5-197-79014	SHIPPING	34.63
MIDWEST ENERGY	3503301	CCWS - WELL HOUSES	956.26
		Total:	<u>43,174.90</u>

Vendor		Description	Amount
ABSOPURE WATER COMPANY	83814607	BTL WATER/DEPOSITS	46.00
AMERICAN ELECTRIC POWER	043-149-774-1-6	NUBOUR BOOSTER STATION	92.03
AMERICAN ELECTRIC POWER	042-624-227-0-4	REPEATER RADIO POWER AT M60	2.23
ARBOR DAY FOUNDATION	883-522-5467	ANNUAL MEMBERSHIP - S WATSON	10.00
ARC AMERICAN, INC.	D1501001	WO 16-1002 BECKWITH ST RECONDUCT PROJECT	34,866.10
ARMINTROUT'S NURSERY	11/02/15	5 5-FOOT FRASIER FIR TREES	378.95
ARNT ASPHALT SEALING, INC	22883	ASPHALT PATCH - PENN AVE.	2,000.00
BALOS ENGINEERING & ELECTRIC, INC	8072	WO 16-1004 - REPLACE POLE E PRAIRIE	4,400.00
BAZAN, STACEY	3319353568	TX REIMBURSE 9/26 - 10/25/15	60.00
BENDER ELECTRIC, INC	16958	BISULFATE TANK HEATER WIRING	595.40
BEVERLY GUNTLE	11/2/15	AWARD AMOUNT	250.00
BILL GRANT	11/4/15	MUSEUM CLEANING - OCT 2015	420.00
BRADFORD, JARRID	287248950627	CELL PHONE REIMBURSEMENT 9/7 - 10/6/15	60.00
CAPITAL TIRE, INC	10380840	TIRES - STOCK	916.88
CASS COUNTY ROAD COMMISSION	801330	GRAVEL	162.13
CASSOPOLIS FAMILY CLINIC	10615	CDL PHYSICAL	100.00
CENTRAL ELEVATOR COMPANY, INC	62400	SETTING ELEVATOR - 2ND FLOOR	418.80
CHET NICHOLS, INC	627995	3 HDGM CLAMP (#104)	14.28
CHET NICHOLS, INC	629364	AIR HOSE	194.27
CHET NICHOLS, INC	629436	FEMALE BODY/PLUG (AIR LINE)	10.60
CINTAS LOCATION #336	5003870263	DPS GARAGE - FIRST AID CABINET	69.70
CINTAS LOCATION #336	5003870264	CH - FIRST AID CABINET	26.78
CINTAS LOCATION #336	5003870262	WWTP - FIRST AID CABINET	48.21
CITY OF DOWAGIAC	10/23/15	PURCHASE OF 307 COMMERCIAL ST.	20,267.72
COMCAST	8771402380021236	INTERNET SERVICE - CH	129.41
DARLENE SERRATOS	11/4/15	PAINT/CEILING GRID - J SNOW BLDG	8,000.00
DAVIS, DAVID	10/26/15	COURT HEARING	23.58
EDDIE WAINWRIGHT	11/02/15	PLUMB/MECH INSPECTIONS OCT 2015	1,099.60
ETNA SUPPLY	S101603002.001	12" HYDRANT EXTENSION	632.50
FIRST DUE FIRE SUPPLY COMPANY	15-1029	REPLACEMENT SUSPENDERS FOR PPE	156.73
FLEETMATICS USA, LLC	IN815997	VEHICLE TRACKING SERVICE	40.00
FRONTIER	23118907970401035	PHONE SERVICE 9/20 - 10/19/15	1,742.55
GARY CARLILE	11/5/15	REIMBURSEMENT - RUSSOM PARK DEDICATION &	17.00
GRAMES TIRE & BATTERY, INC	4731	BATTERIES (#2-21)	371.85
GRAMES TIRE & BATTERY, INC	4697	NEW TIRES/DISPOSAL FOR PARKS #132	352.00
GREATER DOWAGIACCHAMBER OF COMMERCE	11/5/15	TICKETS FOR ANNUAL DINNER & MEMBERSHIP	185.50
GREENMARK EQUIPMENT	P01074	OIL FILTER/FILTER ELEMENT/WASHER	16.16
HAAS ALARMS AND SERVICE, INC	065176	CREDIT FOR SALES TAX CHARGED	(249.73)
HAFLER, ANDREW	10/26/15	COURT HEARING	23.58
HAGGIN FORD & MERCURY INC	237042	OIL CHANGE PD VEH #121	49.86
HALE'S HARDWARE, INC	C136230	D SIZE BATTERIES	14.54
HALE'S HARDWARE, INC	B94530	FURNITURE POLISH/CLEANER	26.30
HALE'S HARDWARE, INC	C136576	DECK SCREWS/CHAINSAW OIL	23.25
HALE'S HARDWARE, INC	C135526	FLAT STEELE BAR (GRASS TRUCK)	20.36
HALE'S HARDWARE, INC	C136781	1/4" COUPLING, 1/4" BALL VALVE (AIR	13.45
HANSON BEVERAGE SERVICE	416130	DISTILLED WATER	40.50
HANSON BEVERAGE SERVICE	402733	DISTILLED WATER	40.50
HARDING'S MARKET, INC	6875	CANDY - COMMUNITY EVENT (TRUNK OR TREAT)	38.94
HERALD-PALLADIUM	101172805	YEARLY SUBSCRIPTION	282.50

Vendor		Description	Amount
HUTCHINGS	10/12/15	SEWER RODDING	175.00
IBEX INSURANCE AGENCY	0039033622	HEALTH INSURANCE PREMIUM-11/1 - 11/30/15	61,091.98
INTERNET BUSINESS SOLUTIONS, INC.	16353	MONTHLY WEBSITE MTCE	39.95
J DOHENY SUPPLIES INC	A87600	FOOTAGE COUNTER/MEASURE WHEEL/4" CUTTER	589.56
J DOHENY SUPPLIES INC	A87762	SEWER RODDER TOOLS	66.62
JONES & BARTLETT LEARNING, LLC	3291949	INSTRUCTIONAL MATERIALS - FD	2,217.09
JUDD LUMBER COMPANY, INC	1510-662445	CONCRETE MIX - RUDY ROAD MANHOLE	7.98
JUDD LUMBER COMPANY, INC	1510-662396	CONCRETE MIX - RUDY RD MANHOLE	30.56
JUDD LUMBER COMPANY, INC	1510-663277	CAULKING GUN - 302 S FRONT ST	7.49
JUDD LUMBER COMPANY, INC	1510-662135	PLAY SAND - CROCUS BULBS MUSEUM	7.98
JUDD LUMBER COMPANY, INC	1510-662261	2ND FLOOR EGRESS	6.40
JUDD LUMBER COMPANY, INC	1510-662232	2ND FLOOR EGRESS	23.21
JUDD LUMBER COMPANY, INC	1510-663141	CEMENT MIX - J SNOW BLDG	53.48
JUDD LUMBER COMPANY, INC	1510-663147	CEMENT MIX - J SNOW BLDG	11.46
JUDD LUMBER COMPANY, INC	1510-663322	WO 15-1022 - CONDUIT	69.90
JUDD LUMBER COMPANY, INC	1510-663326	WO 15-1022 - RENTAL MINI LOADER/TRENCHER	115.00
JUDD LUMBER COMPANY, INC	1505-642412	JUDD LUMBER CREDIT (BALANCE ACCT)	(666.45)
KEN SIMPSON	151112	ELECT. INSPECTIONS - OCT 2015	990.00
LAKE MICHIGAN MAILERS, INC	334700	POSTAGE	5,000.00
LARRY COLLINS	10/29/15	ARTWORK - J SNOW BLDG (FINAL PAYMENT)	2,000.00
LEADER PUBLICATIONS, INC	107392	MISC PUBLICATIONS	121.75
MAXIMUM FIRE PROTECTION	2539	RECHARGE FIRE EXT.	30.00
MECHANICAL INSPECTORS ASSOCIATION	0463	2016 MEMBERSHIP FEE-J BRADFORD	75.00
METROPOLITAN MECHANICAL INSP	0463	2016 MEMBERSHIP DUES-J BRADFORD	70.00
MI COMMUNITY ACTION AGENCY ASSOC	11/2/15	EU-MONTHLY PYMT ALLOCATION-11/15	11,521.84
MICHIGAN TRADITIONAL ARTS PROGRAM	6225	2ND FLOOR TEMPORARY EXHIBIT DOWNPAYMENT	500.00
MITCHELL, BRANDY	11/05/2015	UB refund for account: 08-2182-7	96.05
MLGMA	11/2/15	2015 MEMBERSHIP FEE - ANDERSON	110.00
NCL OF WISCONSIN, INC.	363423	LAB SUPPLIES	656.36
PETTY CASH	11/2/15	PETTY CASH REIMBURSEMENT	41.96
POWER LINE SUPPLY, INC	5969334	WO 15-1027 - LUG COMP	108.17
POWER LINE SUPPLY, INC	5969335	INSULATORS/GRIPS/CONNECTORS - STOCK	231.93
POWER LINE SUPPLY, INC	5969336	CAP BUSHINGS - STOCK	131.64
POWER LINE SUPPLY, INC	5967216	METER SOCKETS - STOCK	307.44
POWER LINE SUPPLY, INC	5967217	ELECTRIC STOCK MATERIAL	528.95
POWER LINE SUPPLY, INC	5967218	CROSSARM BRACES - STOCK	274.62
POWER LINE SUPPLY, INC	5967416	WO 15-1027 DEADBREAK	3,154.41
REAL PRO SOLUTIONS, LLC	LM2336	CCWS - MOW VANDALIA TOWER	70.00
REAL PRO SOLUTIONS, LLC	LM2337	CCWS - MOW PENN PUMP HOUSES	90.00
REAL PRO SOLUTIONS, LLC	PR322	PROP MTCE - 302 S FRONT ST	300.00
REAL PRO SOLUTIONS, LLC	1411	BLIGHT CLEAN UP CITY PROPERTY	220.00
ROHDY'S HEATING & COOLING, LLC	10/27/15	INITIAL PAYMENT FOR HVAC SYSTEM - J SNOW	4,000.00
SCOTT SAYLOR	00112	MOW RUSSOM PARK	185.00
SEMCO ENERGY GAS COMPANY	0161871.500	GAS SVC 9/15 - 10/13/15	16.83
SIMMONS TREE & LAWN	11/02/15	LAWN MAINT/PARKS	10,260.00
SLC METER LLC	244108	METER REGISTERS	1,869.31
SMITH'S CONCRETE CUTTING	8691	SAW CUT/REMOVE FLOOR - J SNOW BLDG	450.00
SPARKLE AND SHINE CAR WASH	1105-37	CAR WASH	20.00
STATE OF MICHIGAN	ME-0200312	SALES & TAX-OCT 2015	17,222.59

Vendor		Description	Amount
STATE OF MICHIGAN-MDEQ	937806	ANNUAL WATER SUPPLY FEE	2,843.49
STATE OF MICHIGAN-MDEQ	938259	CCWS - ANNUAL WATER SUPPLY FEE	1,197.26
T&R ELECTRIC, INC	137199	WO 15-1027 - 2000 KVA TRANSFORMER	34,500.00
TELE-RAD, INC.	868344	INSTALL TONE ADAPTER	160.00
TELE-RAD, INC.	868319	INSTALL SWITCH BOX PD V #132	80.00
TERMINIX	349381459	PEST CONTROL - CH	120.00
THE RIDGE COMPANY	642484	FUEL/OIL FILTERS	64.04
THE RIDGE COMPANY	642516	MINI BULB (SL GENERATOR)	0.30
THE RIDGE COMPANY	642763	PLUG (#132)	8.29
THE RIDGE COMPANY	642916	12 V ACC PLUG (#104 CAMERA)	2.05
THE RIDGE COMPANY	642985	RECEIVER TUBE ADAPTER (#80)	21.44
THE RIDGE COMPANY	643297	OIL/FUEL FILTERS (#2-20)	29.60
THE RIDGE COMPANY	643306	AIR FILTER (#2-20)	42.40
THE RIDGE COMPANY	643436	AIR BRAKE FILTER/FUEL OIL/AIR FILTERS	271.18
THE RIDGE COMPANY	643499	FITTINGS/FERRULES (AIR HOSE)	4.92
THE RIDGE COMPANY	643537	WINTER WIPER BLADES (#2-21)	13.54
THE RIDGE COMPANY	642072	LED LIGHTS - GRASS FIRE TRUCK	79.24
THE RIDGE COMPANY	642345	AIR/FUEL FILTERS #174	24.62
THE RIDGE COMPANY	642346	OIL FILTER #174	15.12
THE ROBERT C SHAVER COMPANY, INC	RCS72753-C	WO 15-1021 DECORATIVE ST LIGHTS - W	39,620.00
THYSSENKRUPP ELEVATOR CORPORATION	3002213549	QTRLY ELEVATOR MTCE - J SNOW BLDG	531.00
TOXOPEUS, DAVID	287248782175	CELL PHONE REIMBURSEMENT 9/19 - 10/18/15	60.00
VALARIE MEAD	10/28/15	LITTER DEPOSIT REFUND - ROTARY PARK	52.00
VERIZON WIRELESS	9754487349	MIFI CARD - MONTHLY SUBSCRIPTION	240.06
VERIZON WIRELESS	9754497880	VERIZON TABLET - MONTHLY FEE	144.78
VERIZON WIRELESS	9754505903	CCWS-ITRON FIXED NETWORK	100.04
VERIZON WIRELESS	9754320948	VERIZON WIRELESS MONTHLY INVOICE (CELL	1,193.10
VILLALOBOS, MISTY	11/05/2015	UB refund for account: 08-0141-2	250.00
WASTE MANAGEMENT OF MICHIGAN, INC.	7430100-2529-9	SLUDGE DISPOSAL	2,945.00
WATSON'S TREE SERVICE	3122390	REMOVAL OF TREE & STUMPS	1,850.00
WIGHTMAN & ASSOCIATES, INC	51016	200 E DIVISION UST EXCAVATION	7,714.09
WIGHTMAN & ASSOCIATES, INC	50992	ENGINEERING SVCS	698.25
WIGHTMAN & ASSOCIATES, INC	51000	CONSTR. ENG SVCS - E RAILROAD	7,111.75
WIGHTMAN & ASSOCIATES, INC	50998	RUSSOM FIELD DRAINAGE REVIEW	449.15
WIGHTMAN & ASSOCIATES, INC	50926	2015 BRIDGE INSPECTIONS	2,044.93
WYOMING ASPHALT PAVING CO., INC.	15623	ASPHALT	102.50
WYOMING ASPHALT PAVING CO., INC.	15642	ASPHALT	207.05
Total:			307,793.26

CITY OF DOWAGIAC

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: November 6, 2015

SUBJECT: Groundwater Ordinance

For several decades the former Sundstrand property has been involved in an extensive environmental cleanup project per EPA requirements and oversight. The cleanup has been successful and is about to enter the phase of long term monitoring.

The city has been working with the MDEQ and the current owners of the property to develop a groundwater protection ordinance for the area to minimize any opportunity for expose through drinking water sources. This ordinance was drafted by the City's attorney and has been reviewed by the MDEQ. It is now ready for Council consideration.

Ordinance approval is a two-step process that requires the ordinance to be considered at two (2) City Council meetings.

If you have questions regarding this matter please feel free to contact me.

RECOMMENDATION

Hold the first reading of the proposed groundwater ordinance and set November 23, 2015 as the date for the second reading and action.

Support Documents:
Cover Memo-City Mgr.
Ordinance

CITY OF DOWAGIAC, MICHIGAN

SECTION 2.28 GROUNDWATER USE RESTRICTIONS.

The City of Dowagiac City Council finds that the use of certain groundwater wells and water supplies from such wells for human consumption or other purposes may constitute a public health risk and endanger the safety of the residents of the City of Dowagiac and therefore the City has determined that it is in the best interests of the public health, safety and welfare to prohibit uses of groundwater from wells at properties located in the vicinity of contaminated sites.

A. DEFINITIONS. For the purposes of this Ordinance, the following definitions shall have the following meanings:

Affected premises means a parcel of property any part of which is located within a Restricted Zone as defined below.

Applicant means a person who applies for the establishment of a Restricted Zone pursuant to this Ordinance.

Contaminated groundwater means groundwater in which there are present concentrations of materials that exceed the residential drinking water criteria established by the Michigan Department of Environmental Quality in operational memoranda or rules promulgated pursuant to Part 201, Environmental Remediation (MCL 324.20101 et seq.), or part 213, Leaking Underground Storage Tanks (MCL 324.21301a et seq.), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 et seq., dependent upon whether the release is regulated pursuant to Part 201 or part 213.

Exacerbation means “Exacerbation” as defined in Part 201, Environmental Remediation (MCL 324.20101, et seq.).

Groundwater means underground water within the zone of saturation.

MDEQ means the Michigan Department of Environmental Quality, or its successor agency.

Person means any individual, co-partnership, corporation, association, club, joint venture, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Release means a “release” as defined in Part 201, Environmental Remediation (MCL 324.20101 et seq.), or Part 213, Leaking Underground Storage Tanks (MCL 324.21301a et seq.), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 et seq., dependent upon whether an underground storage tank is involved.

Restricted Zone means an area or areas described within Section B of this Ordinance within which the prohibition of groundwater wells and the use of groundwater applies.

Well means an opening in the surface of the earth for the purpose of removing fresh water through nonmechanical or mechanical means for any purpose other than a public emergency or conducting response actions that are consistent with the Michigan Natural Resources and Environmental Protection Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, or other applicable statute.

USEPA means the U.S. Environmental Protection Agency.

B. RESTRICTED ZONE.

1. Except as provided in Section E of this ordinance, and after the effective date hereof, no person or legal entity shall install or allow, permit or provide for the installation or utilization of a well on any affected premises on which they have an ownership interest, or lessee or tenant interest or control, within the Restricted Zone. Property within the Restricted Zone shall be serviced only by public water supply.

2. Exhibit A attached hereto is a scaled map illustrating the groundwater well restricted zone ("Restricted Zone").

3. Exhibit B attached hereto contains the narrative description of the Restricted Zone.

4. Exhibit C attached hereto contains a listing of all affected premises within the Restricted Zone by parcel identification number and address.

5. A notice shall be sent to the Van Buren/Cass County Public Health Department advising the health department of the Restricted Zone established hereunder and the health department's written acknowledgement that it will not issue permits for prohibited wells within the Restricted Zone, shall be filed with MDEQ prior to the effective date of this Ordinance.

C. WELLS AFFECTING CONTAMINATED GROUNDWATER WAIVER. No well may be used or installed at any place in the City if the use of the well will have the effect of causing the migration of contaminated groundwater or a contaminated groundwater plume to previously unimpacted groundwater, or adversely impacting any groundwater treatment system, unless the well is part of an MDEQ or USEPA approved groundwater monitoring or remediation system.

If the MDEQ determines that the use of a well is not influenced or potentially influenced by contaminated groundwater and further determines the use of that well will remain permanently unaffected by the future migration of contaminated groundwater, and proof of those determinations is delivered to the City, the City Manager may execute a waiver allowing the use of the well. For example, a well may be installed within a restricted zone in a deep aquifer below a geologic aquitard, provided that the person proposing to install such a well:

- a. Uses well construction techniques (e.g. double casing) that will maintain the integrity of the lower aquifer and prevent the migration of contaminants from the upper aquifer into the lower aquifer; and
- b. Submits to the City Manager, the USEPA and MDEQ the proposed well construction techniques for review and approval, prior to the installation of the well.

D. NON-CONFORMING WELLS. Any existing well, the use of which is prohibited by this Ordinance, shall, within 180 days of the effective date hereof, be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction, or, in the absence of an applicable law, rule, regulation, requirement, order, directive, in conformance with the protocol developed consistent with the American Standards for Testing and Materials standard #D5299-92 and the person requesting the ordinance shall provide for the abandonment and plugging of all existing wells prohibited by this Ordinance on the affected premises and connect such premises to The City of Dowagiac Public Water Supply, without cost to the owners or occupants of the premises.

E. EXCEPTIONS.

1. Construction of De-Watering Wells. Wells in the Restricted Zone used for construction de-watering are not prohibited by this Ordinance, provided that the water generated by that activity is properly handled and disposed in compliance with all applicable laws and regulations and the use of a de-watering well does not result in the unacceptable exposures to contaminated groundwater, possible cross-contamination between saturated zones, or exacerbation of contaminated groundwater. Any exacerbation caused by the use of wells under this exception shall be the responsibility of the person operating the de-watering well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

2. Groundwater Monitoring and Remediation Wells. Wells used for groundwater monitoring and/or remediation as part of response activity approved by the USEPA and/or MDEQ are not prohibited by this ordinance.

3. Exception Wells. Two (2) groundwater exception wells approved by USEPA for purposes other than drinking water ("Exception Wells") are located in the Restricted Zone at the locations identified on *Exhibit C*, attached hereto, 504 Louise (aquaculture) and 601 Louise (toilet flushing), and may continue to be utilized for the limited purposes identified thereon.

4. A well may be used in the event of a public emergency. Notice of such use shall be provided to the MDEQ within a reasonable time thereafter.

F. ENFORCEMENT.

1. Any well in violation of any provision of this Ordinance is hereby declared to be a nuisance per se, subject to abatement and immediately taken out of service and lawfully

abandoned or plugged consistent with all applicable rules and regulations. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Ordinance shall be guilty of a civil infraction punishable by the sanctions as set forth below.

2. The City Manager or his or her designee, together with law enforcement officers, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this Ordinance.

3. Each day that a violation continues may be deemed a separate infraction.

4. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994 and the Code of Ordinances of the City of Dowagiac.

5. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by resolution of the City Council.

6. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

7. In addition, the City may seek an order from a court of appropriate jurisdiction to obtain equitable relief to restrain any person from violating this Ordinance and to properly and lawfully remove or abandon the well and such other relief as may be available to the City pursuant to Chapter 83 and 87 of the Michigan Remedial Judicate Act, as amended at the present time or in the future, including the collection of costs and actual attorney fees associated with such enforcement action.

G. NOTIFICATION OF INTENT TO AMEND OR REPEAL. At least thirty (30) days prior to adopting a revision or amendment to this Ordinance or prior to its repeal, the City of Dowagiac shall notify the USEPA and MDEQ, or their successor agencies, of its intent to so act.

H. PUBLISHING AND RECORDING. This Ordinance or an amendment to this Ordinance shall be published as follows:

(a) If the release is regulated pursuant to Part 201, then this Ordinance or an amendment to this Ordinance shall be published and maintained in the same manner as zoning Ordinances.

(b) If the release is regulated pursuant to Part 213, then this Ordinance or an amendment to this Ordinance shall be filed with the Cass County Register of Deeds as an Ordinance affecting multiple properties.

I. ADDING NEW RESTRICTED ZONES. The City of Dowagiac City Council may amend this Ordinance to address new Restrictive Zones in accordance with the following procedure:

(1) An applicant shall first file a request with the City of Dowagiac City Manager advising the City of the applicant's interest in establishing a Restricted Zone pursuant to this article. The notice shall describe the proposed boundaries of the proposed Restricted Zone, the reason for the proposed Restricted Zone, a preliminary map of the proposed Restricted Zone, the proposed time schedule for implementing the proposed Restricted

Zone and the proposed groundwater use restrictions to be applicable within the Restricted Zone. The City Manager will, after notifying the City Council of the notice of intent, respond to the applicant with a preliminary and non-binding indication of the City's willingness to consider the proposed Restricted Zone. The City Manager, or his or her designee, may also be an applicant for the purposes of initiating this procedure.

- (2) The Applicant shall seek and obtain the USEPA and MDEQ's approval of the proposed Restricted Zone and proposed groundwater use restrictions to be applicable therein prior to filing an application with the City. In order to be considered by the City, the Restricted Zone must minimize or eliminate the need for restrictive covenants on property that is not owned or operated by and is not subject to remediation by a party responsible for the contaminated groundwater. The creation of a Restricted Zone should have the effect of eliminating the need for non-responsible parties to impose environmental restrictive covenants on their property and be beneficial to the owners or occupants of property that was not the site of a release.
- (3) If any premises, which will be subject to the proposed new Restricted Zone, are not already served by City water service, the applicant shall assure such service is, if it is feasible from an engineering perspective to do so, served with City water service at no cost to the property owners or occupant. The applicant shall have to assure such service is provided. The applicant shall also provide for the abandonment and plugging of nonconforming wells on any affected premises without cost to the owners or occupants of the premises and in compliance with Section D above. Proof of the provision of such service and plugging/abandonment of such wells shall be required or an escrow account shall be established therefor in an amount and form acceptable to the City Council.

- (4) After USEPA and MDEQ approve the proposed Restricted Zone as an alternative to restrictive covenants on property on which no release has occurred, an applicant shall file with the City Manager a formal request to the City including, at a minimum, the following information, together with an escrow deposit as required under this section. The information can be in the form of a proposed remedial action plan (RAP), corrective action plan (CAP), or other similar document if appropriate cross-references are made for ease of reference.
- a. The name, address, and phone number of the applicant, as well as each person having an interest as owner, tenant, easement holder or mortgagee in the real property which is the source or site of the contaminated groundwater, if known.
 - b. The street address and legal description of the real property which is a source or site of the contaminated groundwater, if known, and the nature of the applicant's relationship to that property and involvement concerning the contaminated groundwater.
 - c. The nature and extent of the contaminated groundwater and the contamination causing it, both in summary form in plain English, and in detail in technical terms, stating the types and concentrations of contaminants; a map or survey showing their current location; a statement of their likely or anticipated impact on groundwater and the nature of the risks presented by the use of the groundwater, as well as the likely or anticipated path of migration if not remediated or corrected and a detailed statement of any plan to remediate, correct, and/or contain the contamination.
 - d. A detailed map and narrative description of the proposed Restricted Zone.

- e. The street addresses and general description of all affected premises.
- f. The names, addresses (mailing and street), and phone numbers (if readily available) of all persons with an interest as owner, tenant, easement holder or mortgagee of all affected premises.
- g. The location, current status, and usage characteristics of all existing groundwater wells within the proposed restricted zone.
- h. A detailed statement or description of the proposed regulation or prohibition of the use of existing and future wells within the Restricted Zone needed to adequately protect the public from the potential health hazards associated with the contaminated groundwater, including a description of permissible uses of such wells, together with the written consent of the USEPA and MDEQ to such uses of groundwater.
- i. A description and time schedule for any actions the Applicant will take to implement any remediation plan, mitigate the adverse impact of the Restricted Zone (e.g., providing substitute water service), and to properly close and abandon any existing wells subject to the use prohibition within the proposed Restricted Zone.
- j. A copy of the information submitted to the USEPA and MDEQ concerning the proposed Restricted Zone, along with a written statement from an USEPA and MDEQ representative with approval authority stating that the proposed Restricted Zone and use regulations have received USEPA and MDEQ approval as part of the response actions for the groundwater contamination. The USEPA and MDEQ

approval may be contingent upon the City's establishment of the proposed Restricted Zone pursuant to this Article.

- k. Copies of the notice provided to the Van Buren/Cass County Public Health Department concerning the New Restricted Zones established hereunder, as well as Restricted Zones that may be created in the future. This documentation, accompanying regulations, and the health department's written acknowledgement that it will not issue permits for prohibited wells within the New Restricted Zone(s) must be provided.
- l. Copies of the notices provided to the owners of affected property together with a sworn statement that such notices were provided to all such owners with the details of the manner in which such notices were provided. At minimum, the notice must:
 1. Identify the sender of the notice including the sender's name, address, contact person and telephone number;
 2. Identify the owner of the property which is the source of the contamination or who is seeking the Restricted Zone including the owner's name and the property address;
 3. State what the effects of the Restricted Zone will be, i.e. how use of the groundwater will be restricted;
 4. Who can be contacted at the City, the USEPA, MDEQ and the applicant for more information;
 5. A description of the groundwater plume and a brief description of the nature of the contamination; and

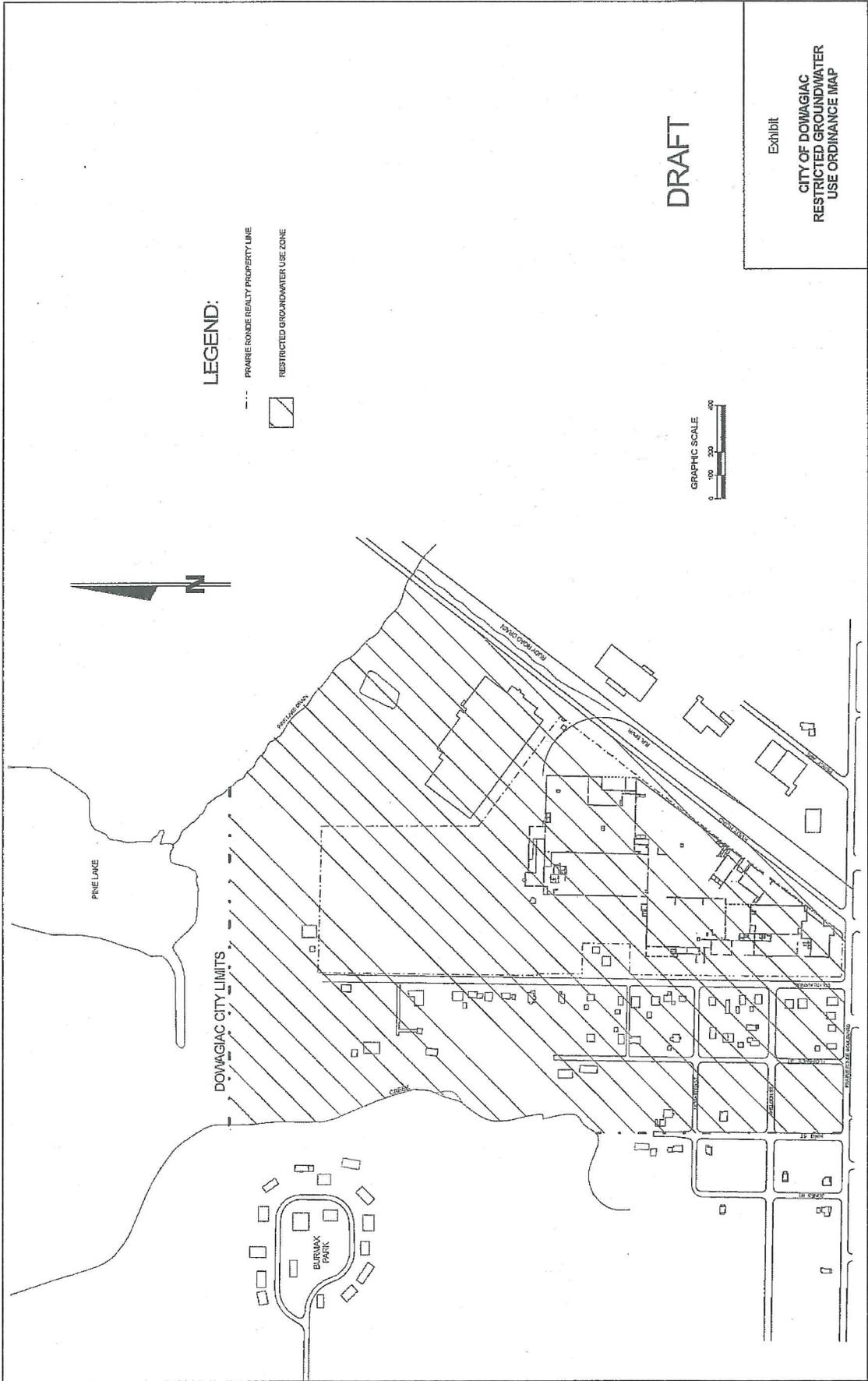
6. Any other information reasonably requested by the City Manager.
- m. A statement that the applicant agrees to pay all costs incurred by the City in the establishment of the proposed Restricted Zone, including without limitation, reimbursement for staff time, the fees of environmental consultants and legal counsel, the cost of publication, any per diem or other amounts paid to public officials for attending any special meetings, etc. This statement shall also consent to the placement of a lien on the applicant's premises of the amounts due under this section if same, are not timely paid (i.e. paid within 30 days of the issuance by the City of an invoice therefor). That statement shall be in the form acceptable to the City's legal counsel and shall be in a form so as to be recordable in the records of the county register of deeds.
- (5) Along with the application, the applicant shall pay a deposit for escrow of the amount estimated by the City Manager to be the costs incurred by the City for the establishment of the proposed Restricted Zone as described in 4 above. The deposit shall not bear interest and the City may use funds from it to pay the costs as they are incurred, requiring the applicant to maintain a minimum balance of \$5000.00 in the escrow account. Any failure by the applicant to maintain the escrow as required by this provision may result in the City's discontinuance of its processing of the request to establish a Restricted Zone and can result in the filing of a lien against the premises of the applicant.
 - (6) Once the City Manager or his or her designee is satisfied that the application is complete, the City Manager shall place the matter on the City Council's agenda to set a time, date, and place for a public hearing on the application.

- (7) After the City Council sets the public hearing, the applicant shall cause a written notice of the hearing to be sent by first class mail to all persons having an interest as owner, tenant, easement holder, or mortgagee in any of the affected premises. The notice shall include a brief statement regarding the application fairly designed to inform the recipients of its main features and potential impact on the recipients in general. The notice shall be mailed at least ten days prior to the hearing. The notice of hearing shall also be published in a newspaper of general circulation in the City at least seven days before the hearing. The notice shall also be mailed to the USEPA and MDEQ representative who gave the approval of the proposed Restricted Zone and use regulations and the USEPA and MDEQ district supervisor for the USEPA and MDEQ regulatory program with jurisdiction over the contaminated site. A copy of the notice, an affidavit of publication and an affidavit of mailing shall be filed with the City Manager before the hearing.
- (8) Upon the establishment of a new Restricted Zone, the City Clerk shall publish notice of the amendment to this article in the manner required by law for ordinance amendments. The applicant shall give notice to the owners and occupants of all property on which wells are located of the need to close and abandon wells under this chapter as amended.

J. SAVINGS PROVISION. If any article, section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the Ordinance, it being the intent of the City of Dowagiac that this Ordinance shall be fully severable. The City of

EXHIBIT A

[*Drawing*]

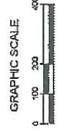


LEGEND:

PRAIRIE RONDE REALTY PROPERTY LINE

RESTRICTED GROUNDWATER USE ZONE

DRAFT



Exhibit

**CITY OF DOWAGIAC
RESTRICTED GROUNDWATER
USE ORDINANCE MAP**

EXHIBIT B

[Narrative *Description*]

**NARRATIVE DESCRIPTION OF A GROUNDWATER RESTRICTED ZONE IN THE
CITY OF DOWAGIAC, CASS COUNTY, MICHIGAN**

OCTOBER 16, 2015
(PROJECT NO. 154220)

THAT PART OF THE NORTH HALF OF SECTION 31, TOWNSHIP 5 SOUTH, RANGE 15 WEST, CITY OF DOWAGIAC, CASS COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF PRAIRIE RONDE STREET AND THE WEST RIGHT OF WAY LINE OF KING STREET; THENCE NORTHERLY ON SAID WEST RIGHT OF WAY LINE AND ON SAID WEST RIGHT OF WAY LINE EXTENDED TO THE SOUTHEASTERLY BANK OF AN UN-NAMED CREEK ALSO KNOWN AS THE KING STREET STORM WATER OUTLET; THENCE NORTHERLY ON SAID SOUTHEASTERLY BANK AND ON THE EASTERLY BANK OF SAID UN-NAMED CREEK TO THE NORTH LINE SAID SECTION 31 AND THE NORTH LINE OF THE DOWAGIAC CITY LIMITS; THENCE EASTERLY ON SAID NORTH LINE TO THE SOUTHWESTERLY TOP OF BANK OF PINE LAKE DRAIN; THENCE SOUTHEASTERLY ON SAID SOUTHWESTERLY TOP OF BANK TO THE NORTHWESTERLY TOP OF BANK OF THE RUDY ROAD DRAIN; THENCE SOUTHWESTERLY ON SAID NORTHWESTERLY TOP OF BANK TO THE NORTH RIGHT OF WAY LINE OF SAID PRAIRIE RONDE STREET; THENCE WESTERLY ON SAID NORTH RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

EXHIBIT C

[List of Restricted Zone Parcels by Parcel Identification Number and Address]

14-160-200-126-05	LOUISE AVE (VACANT)
14-160-200-126-15	504 LOUISE AVE
14-160-200-126-25	601 LOUISE AVE
14-160-200-126-31	413 LOUISE AVE
14-160-200-126-35	FLORENCE ST (VACANT)
14-160-200-126-40	404 LOUISE AVE
14-160-200-656-00	301 E PRAIRIE RONDE ST
14-160-200-657-00	303 E PRAIRIE RONDE ST
14-160-200-658-00	305 E PRAIRIE RONDE ST
14-160-200-659-00	307 E PRAIRIE RONDE ST
14-160-200-660-00	401 E PRAIRIE RONDE ST
14-160-200-661-00	403 E PRAIRIE RONDE ST
14-160-200-662-00	405 E PRAIRIE RONDE ST
14-160-200-663-00	407 E PRAIRIE RONDE ST
14-160-200-664-00	415 E PRAIRIE RONDE ST
14-160-200-665-00	105 LOUISE AVE
14-160-200-667-01	106 FLORENCE ST
14-160-200-668-00	105 FLORENCE ST
14-160-200-669-00	106 KING ST
14-160-200-670-00	108 KING ST
14-160-200-671-00	107 FLORENCE ST
14-160-200-672-01	404 SHELDON ST
14-160-200-674-00	107 LOUISE AVE
14-160-200-675-00	203 LOUISE AVE
14-160-200-676-00	201 LOUISE AVE
14-160-200-677-00	403 SHELDON ST
14-160-200-678-00	204 FLORENCE ST
14-160-200-679-00	401 SHELDON ST
14-160-200-680-00	307 SHELDON ST
14-160-200-681-00	305 SHELDON ST
14-160-200-682-00	303 SHELDON ST
14-160-200-683-00	301 SHELDON ST
14-160-200-684-00	206 KING ST
14-160-200-685-00	205 FLORENCE ST
14-160-200-686-00	206 FLORENCE ST (VACANT)
14-160-200-687-00	205 LOUISE AVE
14-160-200-688-00	207 LOUISE AVE
14-160-200-689-00	302 MCMASTER ST
14-160-200-690-00	207 FLORENCE ST
14-160-200-691-00	208 KING ST
14-160-200-692-00	302 KING ST
14-160-200-693-00	KING ST (VACANT)
14-160-200-694-00	FLORENCE ST (VACANT)
14-160-200-695-00	301 FLORENCE ST
14-160-200-696-00	301 MCMASTER ST
14-160-200-697-00	303 LOUISE AVE
14-160-200-698-00	301 LOUISE AVE

14-160-200-699-00	305 LOUISE AVE
14-160-200-700-00	FLORENCE ST (VACANT)
14-160-200-701-00	FLORENCE ST (VACANT)
14-160-200-702-00	KING ST (VACANT)
14-160-200-703-00	KING ST
14-160-200-704-00	FLORENCE ST (VACANT)
14-160-200-705-00	306 FLORENCE ST
14-160-200-706-00	307 LOUISE AVE
14-160-200-709-00	309 LOUISE AVE
14-160-200-710-01	308 FLORENCE ST
14-160-200-711-01	309 FLORENCE ST
14-160-200-713-01	315 FLORENCE ST
14-160-200-715-00	313 FLORENCE ST
14-160-200-717-00	LOUISE AVE
14-160-200-718-00	312 LOUISE AVE
14-160-200-719-00	LOUISE AVE
14-160-200-720-00	313 LOUISE AVE
14-160-200-721-03	312 FLORENCE ST
14-160-200-723-02	317 LOUISE AVE
14-160-200-726-00	LOUISE AVE
14-160-200-728-51	LOUISE AVE
14-160-205-020-00	55210 RUDY RD
14-160-205-021-00	RUDY RD
14-160-300-972-00	415 LOUISE AVE
14-160-300-973-00	409 LOUISE AVE
14-160-300-974-00	407 LOUISE AVE
14-160-300-975-00	405 LOUISE AVE
14-160-300-976-00	403 LOUISE AVE
14-160-300-977-00	401 LOUISE AVE
14-160-300-978-00	LOUISE AVE (VACANT)