



REGULAR MEETING OF THE DOWAGIAC CITY COUNCIL

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

Monday, December 14, 2015, 7:00 p.m.

AGENDA

CALL TO ORDER

-Mayor Donald D. Lyons

PLEDGE OF ALLEGIANCE TO THE FLAG

-Mayor Donald D. Lyons

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 – November 23, 2015

QUESTIONS FROM CITY COUNCIL –

COMMENTS FROM THE AUDIENCE (NON-AGENDA) –

COMMENTS FROM THE AUDIENCE (AGENDA) –

COMMUNICATIONS –

1. Yeo & Yeo Engagement Letter - 2015 Audit Services.
2. Event request - Ice Time.
3. Steve Grinnwald – Introduction of new police officer

APPOINTMENTS –

1. Housing Commission – Recommended by Mayor, offered by Mayor Pro-Tem: Appoint Judi Owen for a term expiring August 2020.
2. Planning Commission – Recommended by Mayor, offered by Mayor Pro-Tem: Appoint Tony Poarch to fill the unexpired term of Whitney Behnke expiring April 2016.

RESOLUTIONS –

1. Resolution of intent to sell City-owned property located at 202 McCleary Street.

2. Resolution asking the Planning Commission to consider an amendment to the zoning ordinance to classify pot belly pigs as a pet and allow for them to be kept in residential zoning districts.
3. 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>
\$1,023,103.34	\$312,534.35	\$1,335,637.69

ORDINANCES

1. Second 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, November 23, 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 James B. Dodd, Lori A. Hunt, Danielle E. Lucas, Bob B. Schuur and City Clerk Jane P. Wilson.

ABSENT: Councilmember Charles K. Burling

STAFF: City Manager Kevin P. Anderson, Deputy Clerk Rozanne H. Scherr

Councilmember Laylin moved and Councilmember Hunt seconded that the minutes of the Regular November 9, 2015 and Special November 18, 2015 meetings be approved.

APPROVED unanimously.

COMMENTS FROM THE AUDIENCE (NON-AGENDA)

April Elliott, resident, requested the council to consider an amendment to the house pet ordinance to include small pigs as house pets.

Bev Nichols, Dowagiac election worker, expressed her displeasure in the delay in the issuing of checks for election workers from the November 3, 2015.

Diane Barrett-Curtis, resident, asked that the minutes from the past several months be placed on the City's website.

COMMUNICATIONS

1. Update regarding request to vacate alley at Florence and Louise.

City Manager recommended that no action is warranted on this matter. Motion by Councilmember Dodd and second by Councilmember Laylin to accept recommendation.

Motion to remove prior motion. Motion by Councilmember Schuur and second by Councilmember Hunt to accept removal.

Motion to accept recommendation that alley remain open. Motion by Councilmember Laylin, second by Councilmember Lucas to accept recommendation.

RESOLUTIONS

1. Resolution to cancel the regularly scheduled December 28, 2015 City Council meeting.

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

WHEREAS, the regularly scheduled December 28, 2015 City Council meeting falls during the Christmas holiday; and

WHEREAS, the Mayor and City Council desire to cancel the December 28, 2015 City Council meeting; and

WHEREAS, cancellation of the December 28, 2015 City Council meeting will not have an adverse effect on the conduct of City business.

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council hereby cancels the regularly scheduled City Council meeting of Monday, December 28, 2015.

ADOPTED unanimously.

2. Resolution to authorize the purchase of equipment for medical offices in the James E. Snow Professional Building.

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

WHEREAS, the City Council has a lease with Advanced Dermatology at the James E. Snow Medical building that includes certain medical equipment, and;

WHEREAS, staff has received quotes from multiple vendors,

NOW, THEREFORE BE IT RESOLVED that the City Council does hereby approve the quote from Central Medical Supply in the amount of \$16,189.

ADOPTED unanimously.

3. Resolution to approve a Project Authorization agreement with the Michigan Department of Transportation (MDOT) relating to the fiscal year 2016 operating grant for the Dial-A-Ride operation.

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

WHEREAS, pursuant to a grant agreement between the Michigan Department of Transportation and the City of Dowagiac it is necessary for the City of Dowagiac to enter into an annual project authorization agreement for its local transportation program for the fiscal year 2016 in order to receive State and Federal financial assistance under

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provision of Act 51.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize the Transportation Coordinator Rozanne Scherr to execute a Project Authorization, FY 2016 Section 5311 Operating, attached hereto and by reference made a part hereof, as required to receive financial assistance from the Michigan Department of Transportation, in accordance with Act 51, and;

BE IT FURTHER RESOLVED that, for all public transportation matters, the Transportation Coordinator shall provide such information as deemed necessary by the State Transportation Commission or Department for its administration of Act 51 for fiscal year 2016.

ADOPTED unanimously.

4. Resolution to approve an agreement with Merit that will allow use of the City of Dowagiac Fiber network.

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

WHEREAS, the City Council desires to enter into an Agreement with Merit to extend the opportunities for access to fiber optic network to the public

NOW, THEREFORE BE IT RESOLVED that the City be hereby is authorized to execute any and all documents necessary and appropriate to effectuate an agreement with Merit for use of the City's fiber optic network.

ADOPTED unanimously.

5. 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 Dodd.

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 payroll #4 and invoices for the period ending 11/19/15:

Invoices	\$692,452.73
Payroll #4	<u>\$134,467.37</u>
Total	\$826,920.10

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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>
\$692,452.73	\$134,467.37	\$826,920.10

ADOPTED on a roll call vote.

Ayes: (5) Laylin, Dodd, Lucas, Hunt, Schuur

Nays: None (0)

Absent: One (1) Burling

Abstain: None (0)

ORDINANCES

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

TABLED TO NEXT MEETING

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

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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 P A 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 non mechanical 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.

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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 USEP A 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 USEP A and/or MDEQ are not prohibited by this ordinance.
3. Exception Wells. Two (2) groundwater exception wells approved by USEPA for purposes other than

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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 USEP A 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:

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(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

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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 USEP A 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 USEP A and MDEQ representative with approval authority stating that the proposed Restricted Zone and use regulations have received USEP A and MDEQ approval as part of the response actions for the groundwater contamination. The USEP A 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:

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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 USEP A, MDEQ and the applicant for more information;

1. A description of the groundwater plume and a brief description of the nature of the contamination; and

2. 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 USEP A and MDEQ representative who gave the approval of the proposed Restricted Zone and use regulations and the USEP A and MDEQ district supervisor for the USEP A 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

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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 Dowagiac shall promptly notify the USEP A and MDEQ upon the occurrence of any event described in this section.

K. CONFLICT WITH OTHER ORDINANCES.

All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

L. EFFECTIVE DATE.

This Ordinance shall be in full force and effect ten (10) days after its publication as provided by law.

Adopted and signed this _____ day of _____, 2015.

ATTEST:

EXHIBIT A

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EXHIBIT B

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 UNNAMED 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

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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]

See Original on file with City Clerk.

Moved by: Schuur 1st reading 09 NOV 2015

Seconded by: Lucas

TABLED TO NEXT MEETING. Motion by Councilmember Schuur, second by Councilmember Hunt to approve table to next meeting.

APPROVED on a roll call vote.

Ayes: (5) Laylin, Dodd, Lucas, Hunt, Schuur

Nays: None (0)

Absent: One (1) Burling

Abstain: None (0)

ADJOURNMENT

Upon motion by Councilmember Dodd and seconded by Councilmember Laylin, the Dowagiac City Council adjourned at 7:21 PM.

Donald D. Lyons, Mayor

Jane P. Wilson, City Clerk

CITY OF DOWAGIAC

MEMO TO: **Mayor and Council Members**

FROM: **Kevin P. Anderson, City Manager**

DATE: **December 11, 2015**

SUBJECT: **2015 Audit Services**

The three year renewal for auditing and consulting services with Yeo & Yeo CPAs & Business Consultants was renewed at the Council's April 13, 2015 meeting. An engagement letter is provided from the auditors, yearly, stating the auditor's responsibilities along with the City's responsibilities. These responsibilities need to be communicated to the City Council. The language communicated in this letter is standard for an audit engagement letter. Yeo and Yeo CPAs have modified the correct language to communicate costs and financial statements that are specific to the City's audit.

Support Documents:
 Cover Memo-City Mgr.
 Transmittal Letter
 Engagement Letter



August 12, 2015

Kevin Anderson, City Manager
City of Dowagiac
241 S. Front St.
P.O. Box 430
Dowagiac, MI 49047

Dear Kevin:

Enclosed is the engagement letter for City of Dowagiac for the year ending September 30, 2015. Generally Accepted Auditing Standards and Government Auditing Standards require that we communicate, during the planning stage of an audit, certain information to the City Council. This information includes the auditors' responsibilities in a financial statement audit, including our responsibilities for testing and reporting on compliance with laws and regulations and internal control over financial reporting, and the planned scope and timing of the audit. The engagement letter includes the items which must be communicated to the City Council.

Therefore, please make copies of the attached engagement letter and forward the copies to each member of the City Council.

Please sign and return the enclosed copy of the attached engagement letter to us at your earliest convenience.

If you have any questions, please call me.

Sincerely,

Jamie L. Rivette, CPA
Yeo & Yeo, P.C.
CPAs and Business Consultants

Enclosures



August 12, 2015

City Council
City of Dowagiac
241 South Front Street
Dowagiac, MI 49047

We are pleased to confirm our understanding of the services we are to provide City of Dowagiac for the year ended September 30, 2015. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of City of Dowagiac as of and for the year ended September 30, 2015. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of Dowagiac's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Dowagiac's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- Management's discussion and analysis.
- Budgetary comparison schedules
- Pension information
- Other postemployment benefit (OPEB) information

We have also been engaged to report on supplementary information other than RSI that accompanies City of Dowagiac's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

- Nonmajor governmental funds combining statements
- Internal service combining statements
- Component unit combining statements
- Schedule of indebtedness
- D.A.R.T. fund schedules and statements

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of City of Dowagiac and other procedures we consider necessary to enable us to express such opinions. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The reports on internal control and compliance will each include a paragraph that states that the purpose of the report is solely to describe the scope of testing of internal control over financial reporting and compliance, and the result of that testing, and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance and that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering internal control over financial reporting and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that City of Dowagiac is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein.

In conjunction with the audit, we will provide certain non-audit services, which will include:

- Assist in preparing financial statements, related notes [and supplementary financial information]
- Assist in preparing the entity-wide conversion

You agree to assume all management responsibilities for the non-audit services listed above, and any other non-audit services we provide; oversee the services by designating one or more individuals, preferably from senior management, who possess suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us, and for ensuring that management is reliable and financial information is reliable and properly recorded. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, grants, and for taking timely and appropriate steps to remedy any fraud, violations of contracts or grant agreements, or abuse that we may report.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles (U.S. GAAP). You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with U.S. GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with U.S. GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

With regard to using the auditors' report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents.

You acknowledge that as a condition of our agreement to perform an audit, you agree to the best of your knowledge and belief to be truthful, accurate, and complete in the representations you make to us during the course of the audit and in the written representations provided to us at the completion of the audit.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We may also request written representations from the government's attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of City of Dowagiac's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Engagement Administration, Fees and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, and other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to City of Dowagiac; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Yeo & Yeo, P. C. and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to the State of Michigan or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Yeo & Yeo, P. C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the State of Michigan. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Jamie L. Rivette is the engagement principal and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. We expect to begin our audit on approximately September 25, 2015 and to issue our reports no later than January 15, 2016.

Professional standards require us to be independent with respect to the Organization in the performance of our services. Any discussions that management has with personnel of Yeo & Yeo regarding employment could pose a threat to our independence. Therefore, we request that management inform the engagement principal prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.

Neither party shall, during the term of this engagement and for one year after its termination, solicit for hire as an employee, consultant or otherwise, any of the other party's personnel without such other party's express written consent. If the Organization desires to offer employment to a Yeo & Yeo employee and the employee is hired in any capacity by the Organization, a compensation placement fee of 25% of their salary may apply.

Any litigation arising out of this engagement, except actions by us to enforce payment of our professional invoices, must be filed within one year from the completion of the engagement, notwithstanding any statutory provision to the contrary. In the event of litigation brought against us, any judgment you obtain shall be limited in amount, and shall not exceed the amount of the fee charged by us, and paid by you, for the services set forth in this engagement letter.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses will not exceed \$19,300. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your engagement. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes past due and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If additional time becomes necessary to complete your engagement, we will discuss the issues with you and arrive at a new fee estimate, which may or may not occur before we incur the additional time.

Our engagement will end upon delivery of your audited financial statements and our report thereon for the year set forth above. Any additional services that may be required will be part of a separate and new engagement. Should you wish to engage us to audit your financial statements for any other year, and should we accept such engagement, such engagement will be a separate and new engagement. A new engagement letter for any services beyond the scope of this engagement will govern the terms and conditions of the new engagement.

Page 7
City of Dowagiac
August 12, 2015

We appreciate the opportunity to be of service to City of Dowagiac and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

Yeo & Yeo, P. C.
CPAs and Business Consultants



Jamie L. Rivette, CPA
Principal

Acknowledged:

City of Dowagiac

Kevin Anderson
City Manager



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."

December 7, 2015

Mayor Don Lyons and City Council
Dowagiac City Hall
241 S. Front Street
Dowagiac MI 49047

Dear Mayor Lyons and Council Members:

On behalf of the Greater Dowagiac Chamber of Commerce and event chairman Kris Lamphere, I am seeking permission for the Chamber to hold its 19th-annual Ice Time Festival in the central business district on Saturday, February 6.

As you may recall, Dowagiac's Ice Time Festival was previously profiled by *The Chamber Executive Network* as one of the many creative ways communities across the nation are celebrating winter. Richard Hakes, publisher of the national publication based in Iowa, said winter festivals and special events are "hot" with chambers of commerce across the country, regardless of the climate. Dowagiac Ice Time was featured in the special report on winter activities, along with Minnesota's Polar Fest and Tennessee's Winterfest.

Members of the Michiana Ice Carving Association will carve numerous 400-pound ice blocks into art sculptures, with work beginning Saturday at 8 a.m. Area businesses have the opportunity to sponsor the carving of ice blocks.

I am requesting permission to:

- Locate the ice blocks on Front, Commercial and Beeson Street sidewalks, and also within the Beckwith Park, where the professional ice carving competition will be held in the afternoon. Carvers will be instructed to carefully move all discarded chunks of ice to a safe zone, within a snow bank or one of the landscaped islands.
- Utilize electric outlets within the landscaped areas of Front Street and within the park.
- Charge a nominal participatory fee to those organizations, businesses or individuals, which do not have businesses downtown and wish to be a part of the activities on festival day, when they: set up a sidewalk display or food booth, bake sale, or sell raffle or other tickets. Vendor fees provide essential and supplemental funding to our non-profit organization.
- Reserve on Friday afternoon several parking spaces adjacent to Beckwith Park for the arrival and overnight parking of the truck, transporting the ice.
- Close Commercial Street, from Front to Penn Avenue, for the location of the food concession operated by Smokin' Good BBQ; and the warming station and contained campfire, which is being hosted by the City's Department of Public Safety and its police and fire personnel, and CERT volunteers, who will prepare warm and chocolaty S'mores for festival goers. Closure of Commercial Street will only be to the alleyway, with the remainder of that section of Commercial Street open for parking.
- Utilize the three parking spaces in front of the gym for the second food vendor trailer.
- Close Commercial Street, from Front to Depot Drive, for the location of demonstrations by the timber carver and the festival's Silent Art Auction.
- Run a snow shuttle from Depot Drive to the Dowagiac Area History Museum, which will involve a rubber-tracked snow groomer.
- Have the train depot open on festival day to allow access to public restrooms.



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."

In terms of support services from the City, I would like to request the assistance of city crews to:

- Override outlets on the street lights on Front, Beeson and Commercial streets, providing access to same for ice artisans, who use electric tools.
- Ensure sidewalks and the bricked area of the Beckwith Park are clear of snow to allow room for carving to take place. The sidewalk winding through the park should also be cleared. However, we do caution the use of salt on the sidewalks, as this will prematurely melt the bottom of the ice blocks, causing them to tip over.
- Install snow fencing within Beckwith Park for the ice carve-off.
- Shovel out the electrical boxes within the landscaped islands on Front and Commercial streets, and in front of City Hall, and make certain all electrical outlets are working, including those at Beckwith Park.
- Provide the necessary barricades to close Beeson and Commercial streets, and the assistance of police to set up those barricades early Saturday morning, after restaurants close Friday evening, and to keep a watchful eye on the ice blocks and sculptures to guard against vandalism during the day and over night.

Chamber volunteers will begin unloading ice blocks Saturday by 5:30 a.m. In preparation for same, the week prior to the festival, we will provide the Department of Public Services with a map, showing the location of the ice blocks, to ensure our placement of same will not hinder snow removal that may occur during or after the festival. The ice blocks will remain on the sidewalks through the weekend and until they have melted or have lost a significant amount of their form.

As always, a BIG thank you to City personnel for their essential support services. We look forward to seeing you at Ice Time and at that day's Winter Hibernation Sale!

Best Regards,

Vickie Phillipson, Program Director
Greater Dowagiac Chamber of Commerce
And Downtown Development Authority

EVENTS APPROVAL FORM

Event: Ice Time
Date: Saturday, February 6, 2016
Sponsoring Organization: Chamber of Commerce
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 Steve L. Munnell Date 12/7/15

DEPARTMENT OF PUBLIC SERVICES:

Approval Approval with conditions Denial

Comments: _____

Signature James Budzgal Date 12/7/15

FINANCE DEPARTMENT:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____

DOWNTOWN DEVELOPMENT AUTHORITY:

Approval Approval with conditions Denial

Comments: _____

Signature _____ Date _____

CITY OF DOWAGIAC

TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: December 11, 2015

RE: Appointment to Boards and Commissions

Mayoral appointments are on Monday's agenda for your consideration. The appointments are recommended by the Mayor and offered by the Mayor Pro-Tem. The proposed appointments are as follows:

- ✓ Appoint Judi Owen to the Housing Commission.
- ✓ Appoint Tony Poarch to the Planning Commission.

CITY OF DOWAGIAC

BOARDS & COMMISSIONS APPLICATION

Your willingness and interest to serve the City of Dowagiac is greatly appreciated. The purpose of this application form is to provide the Mayor, City Council and City Administration with basic reference information. Advanced education or college degrees are not necessary to be considered for appointment. Residency within the City or service area is a requirement for appointment.

Name: Judi (First) M (Middle) Owen (Last)
 Address: 134 S. Front St. LOFT B (Street Address) (813) 244-2582 (Telephone Number)

Name of Employer: N/A

May we contact you at work if necessary? If yes, indicate business telephone number:

Please mark your choice(s), if choosing more than one list by priority (i.e. 1 - first choice, 2 - second choice):

- | | | |
|---|---|---|
| <input type="checkbox"/> Airport Board | <input type="checkbox"/> Downtown Development Authority | <input type="checkbox"/> Local Officers Compensation Commission |
| <input type="checkbox"/> Board of Review | <input type="checkbox"/> Electric Facilities Board | <input type="checkbox"/> Parks & Recreation Board |
| <input type="checkbox"/> Cemetery/Tree Board | <input type="checkbox"/> Housing Citizens Review Commission | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Const Board of Appeals | <input checked="" type="checkbox"/> Housing Commission | <input type="checkbox"/> Police Citizen Advisory Board |
| <input type="checkbox"/> Design Review Committee | <input type="checkbox"/> Housing Finance Commission | <input type="checkbox"/> Russom Park Board |
| <input type="checkbox"/> Dial-A-Ride Local Advisory Board | <input type="checkbox"/> Library Board | <input type="checkbox"/> Zoning Board of Appeals |
| | <input type="checkbox"/> Museum Advisory Committee | |

To the best of your knowledge:

Are you eligible to serve on this board?	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>
Are you able to attend meetings regularly?	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>
Are you currently in default to the City?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>

What community activities are you currently (or in the past) involved with?

I have not participated in local communities - however while living in Florida - I was very active within the community, at the County and local municipality level.

Please indicate any information such as professional qualifications and/or work experience that you would like to present for consideration:

I have a Bachelor's in Psychology and a Masters Degree in Human Services Counseling and Leadership. I am an honorably discharged Combat Veteran - Served two tours in Iraq - held leadership positions while deployed and State side. I work well with all personalities and I am a natural diplomat.

Please state your reason for desire to serve on this board(s):

I have a strong desire to help - and to lend my voice to those that may feel vulnerable. The Housing Commission offers me the opportunity to help those truly in need, by offering the security of safe housing and meeting basic needs of every individual.

Signature: Judi Owen

Date: 12-7-2015

CITY OF DOWAGIAC

BOARDS & COMMISSIONS APPLICATION

Your willingness and interest to serve the City of Dowagiac is greatly appreciated. The purpose of this application form is to provide the Mayor, City Council and City Administration with basic reference information. Advanced education or college degrees are not necessary to be considered for appointment. Residency within the City or service area is a requirement for appointment.

Name: TONY (First) BOARCH (Last)
 Address: 134 S. FRONT ST. LOFT B (Street Address) 813-523-9016(C) (Telephone Number) 269-462-9414(L)
 Name of Employer: SELF

May we contact you at work if necessary? If yes, indicate business telephone number:

Please mark your choice(s), if choosing more than one list by priority (i.e. 1 - first choice, 2 - second choice):

- | | | |
|---|---|---|
| <input type="checkbox"/> Airport Board | <input type="checkbox"/> Downtown Development Authority | <input type="checkbox"/> Local Officers Compensation Commission |
| <input type="checkbox"/> Board of Review | <input type="checkbox"/> Electric Facilities Board | <input type="checkbox"/> Parks & Recreation Board |
| <input type="checkbox"/> Cemetery/Tree Board | <input type="checkbox"/> Housing Citizens Review Commission | <input checked="" type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Const Board of Appeals | <input type="checkbox"/> Housing Commission | <input type="checkbox"/> Police Citizen Advisory Board |
| <input type="checkbox"/> Design Review Committee | <input type="checkbox"/> Housing Finance Commission | <input type="checkbox"/> Russum Park Board |
| <input type="checkbox"/> Dial-A-Ride Local Advisory Board | <input type="checkbox"/> Library Board | <input type="checkbox"/> Zoning Board of Appeals |
| | <input type="checkbox"/> Museum Advisory Committee | |

To the best of your knowledge:

Are you eligible to serve on this board? Y N
 Are you able to attend meetings regularly? Y N
 Are you currently in default to the City? Y N

What community activities are you currently (or in the past) involved with? I did volunteer work while residing in Florida by planning, organizing, and marketing of the Annual Spring Time Festival in the Greater Tallahassee Area as well as other sports functions.

Please indicate any information such as professional qualifications and/or work experience that you would like to present for consideration: AS A SPORTS AGENT AND MARKETING CONSULTANT I HAVE SIGNIFICANT BUSINESS, MARKETING, MANAGERIAL, AND LEGAL EXPERIENCE. I CAN ADVISE, UNDERSTAND, AND ASSIST WITH GOALS AND ASPERATIONS HELPING TO MOVE THE CITY FORWARD.

Please state your reason for desire to serve on this board(s): I HAVE GREAT IDEAS AND WOULD LIKE TO BE AN ACTIVE PLAYER IN MOVING DOWAGIAC FORWARD! I VERY MUCH WANT TO BE INVOLVED WITH PLANNING AND DEVELOPING THIS COMMUNITY.

Signature: [Signature] Date: 12/7/15

CITY OF DOWAGIAC

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: December 11, 2015

SUBJECT: Sale of Property - 202 McCleary Street

A resolution of intent to sell property located at 202 McCleary Street to Mr. Richard Accoe for \$600.00 is on Monday's agenda for your consideration. A final form resolution is also included for your review.

Once the final form resolution has been introduced, the issue must remain "on the table" for the required 21-day period before final Council action can be taken on January 11, 2016.

Conditions of the sale will be as follows:

- Total sale price will be \$600.00 cash – "as is";

RECOMMENDATION

Introduce intent to sell and final form resolution for the sale of 202 McCleary Street.

Support Documents:

- Cover Memo-City Mgr.
- Resolution – Intent to Sell
- Resolution – Final Form
- Letter of Request
- Map
- Real Estate Summary

Council member _____ offered and moved the adoption of the following resolution, seconded by Council Member _____.

WHEREAS, the City of Dowagiac wishes to convey and sell a parcel of real property owned by the City in accordance with the provisions of Section 14.9 of the City Charter; and,

WHEREAS, to do so requires the formal approval of the final-form resolution authorizing such conveyance a minimum of twenty-one (21) days in advance of the final adoption of the said, final-form resolution.

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council, by the affirmative vote of its City Council, does hereby adopt and introduce the attached, final-form resolution for the conveyance of City-owned real property in accordance with the provisions of Section 14.9 of the City Charter, and further directs the City Clerk to maintain on file for public review said same final-form resolution for a period of not-less-than twenty-one (21) days preceding the formal action by Council to approve the resolution as attached.

ADOPTED/REJECTED

City Property Sale; 202 McCleary Street; Mr. Richard Accoe; \$600.00

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

WHEREAS, at the December 11, 2015 City Council meeting by way of an adopted resolution introducing same, the Dowagiac City Council approved of a final-form resolution authorizing the conveyance of City-owned, real property in accordance with the provisions of Section 14.9 of the City Charter, and the specifications outlined in the City Council Policy enacted on June 21, 1993, and;

WHEREAS, having now remained on file for public inspection with the Office of the City Clerk for in-excess-of the minimum twenty-one (21) day period required by the City Charter, the City of Dowagiac wishes to formally convey and sell the parcel of surplus real property legally described in Exhibit "A", commonly known as 202 McCleary Street in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-300-750-00, to Mr. Richard Accoe, for the total sale price of six hundred dollars (\$600.00).

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council, by the affirmative roll call vote of five or more of its City Council Members, does hereby adopt and approve the sale and conveyance of City-owned real property legally described in Exhibit "A", commonly known as 202 McCleary Street in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-300-750-00, to Mr. Richard Accoe, for the total sale price of six hundred dollars (\$600.00).

BE IT FURTHER RESOLVED that the said conveyance shall be accomplished by means of the transfer of a Quit-claim Deed, as prepared by the City Attorney, signed by the Mayor and Clerk respectively of the City of Dowagiac, and executed within thirty (30) days following adoption of this resolution.

ADOPTED/REJECTED

December 14, 2015

EXHIBIT A

202 McCleary Street

Parcel Description:

Tax I.D. #14-160-300-750-00

. DW 2083A N 1/2 LOT 46 MESHEW'S FAIRGROUND ADD CITY OF DOWAGIAC.

Richard J Accoe

54461 Twin Lakes Rd

Dowagiac, Mi 49047

November 16, 2015

Kevin Anderson

Dowagiac City Manager

I am interested in purchasing the ½ lot at 202 McCleary ST. Dowagiac. It adjoins property my wife owns at 501 Keene Ave.

I would offer \$600 for the property.

Sincerely

Richard Accoe

228-1082

A handwritten signature in black ink, appearing to read "R J Accoe". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

RECEIVED
DEC 01 2015

Real Estate Summary Sheet

Information herein deemed reliable but not guaranteed

12/11/2015 9:31 AM

Parcel:	14-160-300-750-00	Current Class:	701.EXEMPT-IMPROVED
Owner's Name:	CITY OF DOWAGIAC	Previous Class:	701.EXEMPT-IMPROVED
Property Address:	202 MCCLEARY ST DOWAGIAC, MI 49047	Gov. Unit:	160 CITY OF DOWAGIAC
		MAP #	DW2083A
		School:	14020 DOWAGIAC SCHOOLS
		Neighborhood:	403 SOUTHSIDE RESIDENTIAL
Liber/Page:	964-1247	Created:	//
Split:	//	Active:	Active
Public Impr.:	None		
Topography:	None		

Mailing Address:

CITY OF DOWAGIAC
241 S FRONT ST
DOWAGIAC MI 49047

Description:

. DW 2083A N 1/2 LOT 46 MESHEW'S FAIRGROUND ADD CITY OF DOWAGIAC.

Most Recent Sale Information

Sold on 08/27/2007 for 2,378 by CASS COUNTY TREASURER.

Terms of Sale: WARRANTY DEED

Liber/Page: 964-1247

Most Recent Permit Information

Permit PB07-210 on 11/20/2007 for \$0 category R-EXTERIOR.

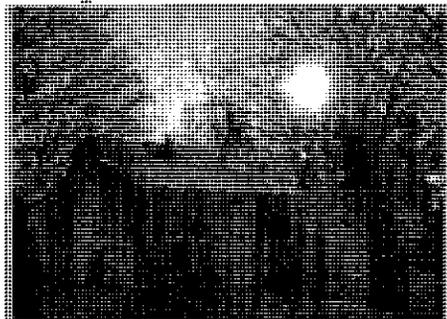
Physical Property Characteristics

2016 S.E.V.:	Tentative	2016 Taxable:	Tentative	Lot Dimensions:	
2015 S.E.V.:	0	2015 Taxable:	0	Acreage:	0.09
Zoning:	MED DEN	Land Value:	Tentative	Frontage:	60.0
PRE:	0.000	Land Impr. Value:	Tentative	Average Depth:	63.0

Improvement Data

None

Image



CITY OF DOWAGIAC

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: December 11, 2015

SUBJECT: Miniature/Pot Belly Pigs

At the last council meeting, a resident asked for Council to consider allowing miniature pigs (aka Asian Pigs or pot belly pigs) in residential neighborhoods. We are not the first community in Michigan to be asked to consider this change. Currently our zoning law classifies all pigs as livestock and livestock is prohibited in all residential all zoning districts.

A review of how this question has been addressed by other communities is helpful for our consideration. Their research has shown that many in the veterinary community have classified this type of a pig as a pet rather than livestock. Once the determination that the animal should be considered a pet, regulations centering on the following categories have been developed:

1. Maximum Size. A maximum weight of 120 pounds is common.
2. Allowed Zoning Districts. Residential properties, not commercial.
3. Indoor Pets. It is common to see language that says the pet must be kept indoors expect for periods of exercise and elimination of waste.
4. Leash. Like other pets, the miniature pig is not allowed to run at large and must be on a leash or in a fenced yard.
5. Number of pigs allowed. One per premise is a typical regulation.
6. Vaccinations. Documentation of vaccinations is expected.
7. Spayed or Neutered requirements are typical.
8. Licensing. Most, but not all communities, require some form of licensing. The goal of licensing is to document vaccinations.

An ordinance to allow miniature pigs is a zoning change. Zoning changes require a public hearing to be held by the Planning Commission and a Planning Commission recommendation prior to Council's action. Since it would be an ordinance change, two readings of the ordinance needs to be held by Council. This process could be completed by the end of January 2016.

Council can initiate a Planning Commission review and recommendation of this matter by resolution.

RECOMMENDATION

Approve a resolution that authorizes the drafting of an ordinance to classify miniature pigs as pets and send the ordinance to the Planning Commission for review and recommendation to Council.

Support Documents:

Cover Memo-City Mgr.
Resolution

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

WHEREAS, the City Council received a request from a concerned citizen to allow for
miniature pigs to be allowed within the city limits as a pet, and;

WHEREAS, research indicates that many municipalities in Michigan now allow miniature pigs
to be classified as pets rather than livestock, and;

WHEREAS, a change in classification would require a change to the Dowagiac Zoning Code.

NOW, THEREFORE BE IT RESOLVED that the City Council does hereby direct the City
Manager to draft an ordinance that would classify miniature pigs as pets allowed
in residential zoning districts and send said ordinance to the Dowagiac Planning
Commission for review and recommendation to Council.

ADOPTED/REJECTED

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 payrolls #5 & #6 for the periods ending 12/10/15:

Invoices	\$1,023,103.34
Payroll #5	\$193,722.09
Payroll #6	\$118,812.26
<hr/>	
Total	\$1,335,637.69

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>
\$1,023,103.34	\$312,534.35	\$1,335,637.69

Ayes:

Nays:

Absent:

Abstain:

Vendor		Description	Amount
1ST CHOICE AUTOMOTIVE	0009169	FREON/REFRIG OIL (#104)	124.16
1ST SOURCE BANK	12/8/15	PURCHASE OF CD	300,000.00
ABSOPURE WATER COMPANY	55453813	H & C COOLER RENTAL - CH	8.00
ABSOPURE WATER COMPANY	83844140	BOTTLED WATER - 26461 NUBOUR	64.50
ABSOPURE WATER COMPANY	83844141	BOTTLED WATER/DEPOSIT - 26688 NUBOUR	71.25
ABSOPURE WATER COMPANY	55459871	C & C COOLER RENTAL - 26688 NUBOUR	6.00
ABSOPURE WATER COMPANY	83844126	BTL WATER/DEPOSITS	51.75
ACCOUNTING CONSULTANTS, PC	1491	CONSULTING SVC THROUGH 11/15/15	222.00
ACD.NET	88889-110	MONTHLY PHONE SERVICE - CH	716.04
ALICE M ROBBINS	12/10/15	AWARD AMOUNT	50.00
AMERICAN ELECTRIC POWER	CDOW_201511_01	NOV 2015 ENERGY	327,000.76
AMERICAN ELECTRIC POWER	048-197-857-0-2	ST LIGHTS - MARCELLUS HWY	10.09
AMERIGAS - HARTFORD 5254	3046196684	PROPANE (PARKS SHOP)	134.43
ANIXTER POWER SOLUTIONS, LLC	2958919-00	AMERIWOOD METER REPLACEMENT	1,164.95
APRIL'S SQUEEKIE CLEAN	12/9/15	POST CONSTRUCTION CLEANING - ADV DERM	286.75
BEHNKE, MATT	188095349108	CELL PHONE REIMBURSEMENT 10/14 -	60.00
BILL GRANT	12/03/15	MUSEUM CLEANING NOV 2015	204.00
BRADFORD, JARRID	287248950627	CELL PHONE REIMBURSEMENT 10/7 - 11/6/15	60.00
BRANDON OTTINGER	12/10/15	AWARD AMOUNT	200.00
BRIGADE FIRE PROTECTION INC	153011	INSTALL FIRE SUPPRESSION SYSTEM - ADV	3,946.00
CAROL FERREL	12/10/15	AWARD AMOUNT	75.00
CAROL FERREL	12/10/15	AWARD AMOUNT	200.00
CASS CNTY TRANSPORTATION AUTHORITY	1888	DISPATCHING SERVICES-NOV 2015	13,538.00
CASS OUTDOOR POWER EQUIPMENT, INC	113159	REWIND SPRING/START	51.96
CHEM NICHOLS, INC	632722	TRANS FILTER (#2-80)	13.07
CHRISTOPHER TENEYCK	12/3/15	PE 15-068 & PP 15-030 CANCELLED	215.00
CINTAS LOCATION #336	336-01904	MATS & UNIFORMS	787.42
CINTAS LOCATION #336	336-01904	MATS	85.69
CINTAS LOCATION #336	336-01904	MATS & UNIFORMS	517.88
CITY OF DOWAGIAC	11/23/15	PURCHASE WESTRATE BLDG - 204 COMMERCIAL	105,555.22
COMCAST	8771402380021236	INTERNET SERVICE - CH	129.41
COMCAST	8771402380126332	INTERNET SERVICE-FD	82.90
COMMUNITY ANSWERING SERVICE	2628120715	DISPATCHING SERVICES	120.00
COMPASS MINERALS	71410606	ROAD SALT - EARLY FILL	6,372.91
CREATIVE VINYL SIGNS, INC.	30663	EXHIBIT SIGNS & PARADE SIGNS	336.27
CROSS EXCAVATING & DEMOLITION	2015-5342	DEMO HOUSE AT 110 ASHLAND ST.	5,015.00
DARLENE SERRATOS	12/7/15	FRAMING - ATTY OFFICE (JES BLDG)	4,500.00
DAVIS, DAVID	12/8/15	TRAINING - HASTINGS, MI	18.31
DAVIS, DAVID	287243883201	CELL PHONE REIMBURSEMENT 9/18 - 10/17/15	45.00
DIVISION TIRE AND BATTERY, INC	720131	#103 TIRE REPAIR	165.00
DOUBLEDAY OFFICE PRODUCTS, INC	170445I	CLIPBOARDS	36.24
DOUBLEDAY OFFICE PRODUCTS, INC	169756I	OFFICE SUPPLIES	136.12
DOUBLEDAY OFFICE PRODUCTS, INC	169902I	CALENDAR	12.68
DOUBLEDAY OFFICE PRODUCTS, INC	169794I	EYEGLOSS TISSUES	11.60
DOUBLEDAY OFFICE PRODUCTS, INC	169785I	OFFICE SUPPLIES & CALENDARS	259.22
DOWAGIAC UNION SCHOOLS	201516-93	FUEL EXPENSES-NOV 2015	5,070.57
EDDIE WAINWRIGHT	11/30/15	PLUMB/MECH INSPECTIONS NOV 2015	318.80
ELM TRAINING, LLC	1204-15	BI-MONTHLY SAFETY TRAINING	180.00
ELMER'S LOCKSMITH	7282	SWITCH LOCKS FOR 302 S FRONT ST.	91.90

Vendor		Description	Amount
ETNA SUPPLY	S101672027.001	CCWS - WATER LIDS	88.12
FLEETMATICS USA, LLC	IN863455	VEHICLE TRACKING SERVICE	40.00
FLEIS & VANDENBRINK ENGINEERING INC	41818	BIDDING & CONSTRUCTION SERVICES - WWTP	18,446.14
FRONTIER	23118907970401035	FRONTIER PHONE SERVICE CREDIT	(8,090.02)
FRONTIER	23118907970401035	NOV 20TH PHONE BILL	976.69
FRONTIER	26978201001022145	SNOW BLDG - NOV PHONE SERVICE	189.25
FRYMAN'S CONSTRUCTION, INC	2385	JES BLDG - CONSTRUCTION ADVANCED DERM	4,715.00
GALLS, INC	004418301	UNIFORM/ACCESSORIES	82.33
GHD SERVICES INC	723904	OMM ACTIVITIES	4,654.75
GHD SERVICES INC	723907	RESIDENTIAL SAMPLING	2,907.32
GHD SERVICES INC	708649	REVIEW OF HUNT PROPERTY	1,376.50
GHD SERVICES INC	570119	REVIEW OF HUNT PROPERTY	1,389.25
GHD SERVICES INC	50864	REVIEW OF HUNT PROPERTY	1,267.50
GHD SERVICES INC	715361	RESIDENTIAL PROPERTY SAMPLING	1,098.88
GHD SERVICES INC	715359	OMM ACTIVITIES	3,024.75
GHD SERVICES INC	570118	OMM ACTIVITIES	1,606.00
GHD SERVICES INC	570121	RESIDENTIAL PROPERTY SAMPLING	4,942.12
GLOBAL TELEMATIC SOLUTIONS, LLC	21755	VEHICLE TRACKING SERVICE	220.00
GRAMES TIRE & BATTERY, INC	4871	BATTERY (PD VEH #53)	98.00
GRAMES TIRE & BATTERY, INC	4884	TIRE REPAIR (FD 2101)	18.95
GREENWAY, REGINA	12/10/2015	UB refund for account: 07-1103-3	89.40
HAGGIN WIMBERLY CHEVY OLDS GEO INC	188309	PD VEH #131	209.89
HALE'S HARDWARE, INC	C142130	FASTENERS	6.00
HALE'S HARDWARE, INC	D98608	CONNECTORS/TIES/MOUNTS	57.37
HALE'S HARDWARE, INC	C140885	ICICLE SET/MIN LGT SET (CHRISTMAS PARADE	(59.32)
HALE'S HARDWARE, INC	C140883	ICICLE SET/MIN LGT SET/EXT CORD	99.85
HALE'S HARDWARE, INC	C140833	MIN LIGHT SET (CHRISTMAS PARADE TRUCKS)	58.18
HALE'S HARDWARE, INC	C141072	FURNACE FILTERS (PARKS SHOP)	10.03
HALE'S HARDWARE, INC	C141360	DESKLAMP - CHRISTMAS PARADE	11.63
HALE'S HARDWARE, INC	D97609	SANDER/SAND PAPER/BRUSH	73.39
HALE'S HARDWARE, INC	D98130	IPHONE REPAIR - SHIPPING	17.18
HALE'S HARDWARE, INC	C139633	ALUM SCREEN - SCREEN TO BLACK RADIATOR	10.66
HALE'S HARDWARE, INC	D96691	PRIVATE PROPERTY SIGNS	7.23
HALE'S HARDWARE, INC	D97045	MOUSE TRAP/CHEESE BAIT/COW GLOVES	17.04
HALE'S HARDWARE, INC	D96888	ANGLE IRON (#132LT)	12.60
HALE'S HARDWARE, INC	C139373	ELECTRIC COVER & RECEIPT (TREE OF LOVE)	9.18
HALE'S HARDWARE, INC	A18219	COVER & RECEIPT (CHRISTMAS TREE)	26.74
HALE'S HARDWARE, INC	D97742	PLUG & VALVE - TRANSFORMER REPAIR	10.95
HALE'S HARDWARE, INC	C140078	HEATER/UTILITY HEATER (VILLAMERE BOOSTER	54.30
HANSON BEVERAGE SERVICE	445444	DISTILLED WATER	31.00
HARDIN, R. WAYNE	11/30/15	BUILDING INSP NOV 2015	1,462.80
HARDING'S MARKET, INC	1204	DRINKING WATER - FD	8.97
HEIDI BEHNKE	12/04/15	AWARD AMOUNT	400.00
IBEX INSURANCE AGENCY	00392248151	HEALTH INSURANCE PREMIUM-DEC 2015	61,091.98
INTERNATIONAL CODE COUNCIL, INC	1000632142	PLAN REVIEW COMBO 2015	230.80
INTERNET BUSINESS SOLUTIONS, INC.	16465	MONTHLY WEBSITE MTCE	39.95
JACKSON, ALICIA	12/10/2015	UB refund for account: 17-2071-1	69.25
JEREMY L WEINRICK	12/10/15	AWARD AMOUNT	300.00
JERRY ZACHARY	11/17/15	REIMBURSE SEWER RODDING	225.00

Vendor		Description	Amount
JOHN & CURT'S BRAKE & ALIGNMENT	11/13/15	BRAKES PD #131	148.00
JOHNSTONE SUPPLY	220312	GAS PRESSURE KIT (B1 GENERATOR)	44.67
JONES & BARTLETT LEARNING, LLC	3299304	FIRE DEPT MANUALS	134.36
JUDD LUMBER COMPANY, INC	1511-665558	CONCRETE MIX - SEWER MANHOLE REPAIR PENN	38.20
JUDD LUMBER COMPANY, INC	1511-665652	FOAM CAULK SAVER - MAIN & PENN PARKING	4.99
JUDD LUMBER COMPANY, INC	1511-665588	CONCRETE MIX - SEWER MANHOLE PENN ST	(38.20)
JUDD LUMBER COMPANY, INC	1511-664109	RETURN SPRAY PAINT	(12.00)
JUDD LUMBER COMPANY, INC	1511-665810	SLAB CONCRETE REPAIR - JES BLDG ATTORNEY	7.49
JUDD LUMBER COMPANY, INC	1511-663659	FIRE BARRIER SEALANT - ADV DERM JES BLDG	81.45
JUDD LUMBER COMPANY, INC	1512-666685	NUTS/BOLTS/SCREWS - PLAQUES ON BENCH AT	0.94
KEN SIMPSON	151210	NOVEMBER ELECTRIC INSPECTIONS 2015	1,544.40
KLUG, PATRICIA	12/03/15	LEIN VALIDATIONS	9.20
KRYSTIN RHINEHART	12/10/15	AWARD AMOUNT	150.00
KURT WESTRATE	0096924	CHRISTMAS TREE - CITY HALL	85.00
KYLE WILSON	11/16/15	REIMBURSE SEWER RODDING	225.00
L & A GUTTERS	11/20/15	GUTTERS FOR 2ND FLOOR EGRESS	300.00
LAWSON PRODUCTS, INC	9303722129	GRND WHEEL/FUSES/NUTS/WASHERS/PRIMARY	537.18
LEADER PUBLICATIONS, INC	107694	MISC PUBLICATIONS	35.00
MCDONALD UNDERGROUND	471	WO 15-1027 DIRECTIONAL BORE & CONDUIT	11,445.50
MI COMMUNITY ACTION AGENCY ASSOC	12/7/15	EU-MONTHLY PYMT ALLOCATION-12/15	11,521.84
MI MUNICIPAL RISK MANAGEMENT	M0001210	AUTO/LIABILITY INS 7/1/15 - 7/1/16	36,085.75
MI MUNICIPAL RISK MANAGEMENT	R0001210	MMRMA RETENTION FUND	5,000.00
MIDWEST ENERGY	3503301	CCWS-WELL HOUSES	996.18
MIKE & ROBIN COFFEY	12/10/15	AWARD AMOUNT	250.00
MISS DIG SYSTEM, INC	20160258	2016 ANNUAL MEMBERSHIP FEE	1,259.33
NORMAN PERRY TROPHIES & ENGRAVING	044940	BENCH PLAQUES - MUSEUM & DEPOT	228.00
PETERSON, MICHAEL J	11/12/15	ELECTION SERVICE 11/3/15	110.00
PETTY CASH	11/25/15	OPERATING SUPPLIES	23.08
PETTY CASH	12/08/15	COPS OPERATING SUPPLIES	200.34
PNC BANK, N.A.	12/01/15	302 S FRONT ST LOAN	13,930.93
POWER LINE SUPPLY, INC	5977895	WO 15-1027 DEADBREAK CAPS	422.94
POWER LINE SUPPLY, INC	5977896	SURGE ARRESTERS - STOCK	510.38
POWER LINE SUPPLY, INC	5977897	150A FUSELINKS - STOCK	437.86
POWER LINE SUPPLY, INC	5977894	MAST ARMS - STOCK	841.70
POWER LINE SUPPLY, INC	5977899	DEAD END GRIPS - STOCK	330.25
POWER LINE SUPPLY, INC	5977898	LIGHTNING ARRESTOR CONNECTORS - STOCK	232.30
POWER LINE SUPPLY, INC	5975840	SUSPENSION GRIP - STOCK	229.97
POWER LINE SUPPLY, INC	5975839	CLEVIS PINS - STOCK	276.00
POWER LINE SUPPLY, INC	5975841	150A FUSELINKS - STOCK	46.09
PRECISION DATA PRODUCTS, INC.	I0000449669	FIRE DEPT PRINTER INK	116.00
PREFERRED PRINTING, INC	28906	LETTER HEAD ENVELOPES	57.35
PRIORITY COMPUTER SERVICES, INC	203880	SERVER BACKUP SOFTWARE RENEWAL	179.00
PRIORITY COMPUTER SERVICES, INC	203947	SERVER BACKUP SOFTWARE RENEWAL	358.00
PRIORITY COMPUTER SERVICES, INC	203942	FIREWALL - REPLACE FAILED UNIT	960.00
PRIORITY COMPUTER SERVICES, INC	203952	MONTHLY SERVER/EMAIL MAINT	330.00
PROFESSIONAL HOLIDAY DECORATORS	11/17/15	REPAIR LIGHTS AT DEPOT	300.00
QUILL CORPORATION	225168	CREDIT FOR UNRECEIVED PRODUCT	(59.99)
QUILL CORPORATION	9434564	OFFICE SUPPLIES	73.43
RAD SYSTEMS	16RCT 479	RAD - BRADFORD	75.00

Vendor		Description	Amount
RAD SYSTEMS	16RCT 3804	RAD - ROMAN	75.00
REAL PRO SOLUTIONS, LLC	SP290	CCWS - SNOW PLOW VANDALIA TOWER	60.00
REAL PRO SOLUTIONS, LLC	SP291	CCWS - SNOW PLOW PENN PUMP HOUSES	70.00
REAL PRO SOLUTIONS, LLC	HB1397	EMERGENCY BOARD UP	70.00
REAL PRO SOLUTIONS, LLC	PC1699	BLIGHT CLEANUP	680.00
REAL PRO SOLUTIONS, LLC	PC1700	BLIGHT CLEANUP CITY PROPERTY	280.00
RHOADES MCKEE	258956	ENVIRONMENTAL-LANDFILL	1,539.27
RHOADES MCKEE	258955	ENVIRONMENTAL-LANDFILL	485.80
RICHARD CURTIS	12/10/15	AWARD AMOUNT	225.00
ROY PAYNE	12/10/15	AWARD AMOUNT	200.00
SEMCO ENERGY GAS COMPANY	0161871.500	GAS SVC 10/13 - 11/10/15	16.32
SHARE CORPORATION	933023	SHOP TOWELS/PAPER TOWELING	274.04
SIMMONS TREE & LAWN	11/19/15	REG GRDS. MAINT.	1,150.00
SLC METER LLC	244373	ERTS - 100WP	3,409.20
SOUTH BEND UNIFORM	28545	UNIFORM-MURRAY	119.90
SOUTH BEND UNIFORM	29232	UNIFORM-GRINNEWALD	75.95
SOUTH BEND UNIFORM	28674	UNIFORM-HOLTZ	229.70
SPARKLE AND SHINE CAR WASH	1105-40	CAR WASH	35.00
SPARTAN STORES LLC	526915	ELECTION SUPPLIES	20.97
STAPLES BUSINESS ADVANTAGE	8036795456	MEMBERSHIP FEE	299.05
STARKS FAMILY FUNERAL HOMES	12/10/2015	UB refund for account: 09-0223-7	101.10
STATE OF MICHIGAN	ME-0200312	SALES & TAX-NOV 2015	12,711.90
THE AMERICAN ROAD MACHINERY COMPANY	50319	FAN ASSEMBLY	617.69
THE AMERICAN ROAD MACHINERY COMPANY	50472	LINERS (#132LT)	304.42
THE RIDGE COMPANY	646897	#7 CORE DEPOSIT REFUND	(18.00)
THE RIDGE COMPANY	647911	WIPER BLADES (#127)	38.66
THE RIDGE COMPANY	647843	ALUM BRIGHT/SIMPLE GREEN CLEANERS (#104)	26.07
THE RIDGE COMPANY	646891	GROUND LGTS (2-40)	150.48
THE RIDGE COMPANY	646248	FLOOR DRY	24.57
THE RIDGE COMPANY	646669	BATTERY/CORE DEPOSIT #7	122.31
THE RIDGE COMPANY	646020	AIR/FUEL/OIL FILTERS (#105)	96.15
THE RIDGE COMPANY	645510	TRANS FILTER KIT (#3)	25.93
THE RIDGE COMPANY	646077	HYD HOSE/FITTINGS (#103 SALT BOX)	39.39
THE RIDGE COMPANY	644705	TRANS PAN/TRANS RTV/TIE ROD END (#2-80)	130.29
THE RIDGE COMPANY	644708	STEERING DAMPER (#2-80)	43.88
THE RIDGE COMPANY	645081	HYD HOSE/ADAPTERS/FITTINGS (#132LT)	245.15
THE RIDGE COMPANY	645003	SWITCH (#132LT)	23.74
THE RIDGE COMPANY	645182	SPARK PLUG/GAUGE/TESTER	15.46
THE RIDGE COMPANY	645697	DIFF/WHEEL/ALTERNATOR BEARINGS (#132LT)	140.03
THE RIDGE COMPANY	645522	TRANS FILTER (#3)	6.80
THE RIDGE COMPANY	645472	OIL FILTERS (STOCK)	22.30
THE RIDGE COMPANY	646223	AIR FILTER (#104)	66.93
THE RIDGE COMPANY	646180	AIR/FUEL/OIL FILTERS (#145)	88.53
THE RIDGE COMPANY	645972	FLOOR DRY - 25 LB BAG	32.76
THE RIDGE COMPANY	646268	FILTER KIT (#3) - RETURN	(11.90)
THE RIDGE COMPANY	646779	TANK HEATER - CITY HALL GEN SET	51.14
THE RIDGE COMPANY	646760	SERP BELT/AIR, FUEL & OIL FILTERS (#2-	174.99
THE RIDGE COMPANY	647042	HYD FILTER/AIR & FILTER/BATTERY CABLES	129.63
THE RIDGE COMPANY	647047	ANTI-FREEZE	62.94

Vendor		Description	Amount
TIME EMERGENCY EQUIPMENT	113095	3" X 50' SUPPLY HOSE	1,193.70
TOXOPEUS, DAVID	287248782175	CELL PHONE REIMBURSEMENT 10/19 -	60.00
TRUE'S SERVICE, INC	128015	EXHAUST PIPE ELBOWS/CLAMPS/MUFFLER/FLEX	661.90
USA BLUEBOOK	816308	LAB SUPPLIES	1,249.07
VERIZON WIRELESS	9755960853	VERIZON WIRELESS MONTHLY INVOICE (CELL	812.78
VERIZON WIRELESS	9756136248	VERIZON TABLET - MONTHLY FEE	144.78
VERIZON WIRELESS	9756144148	CCWS-ITRON FIXED NETWORK	100.04
VERIZON WIRELESS	9756125731	MIFI CARD - MONTHLY SUBSCRIPTION	240.08
VTI, INC	PPVS2015341	PREPLANVIEW SOFTWARE	585.00
WASTE MANAGEMENT OF MICHIGAN, INC.	7436319-2529-9	20 YD DUMPSTER - INACTIVITY CHG.	80.00
WASTE MANAGEMENT OF MICHIGAN, INC.	8376990-1710-4	DUMPSTERS/TRASH CART 12/15	397.85
WASTE MANAGEMENT OF MICHIGAN, INC.	7430302-2529-1	20 YD DUMPSTER INACTIVITY CHARGE	80.00
WASTE MANAGEMENT OF MICHIGAN, INC.	7436286-2529-0	SLUDGE DISPOSAL	2,525.00
WESTERN MI ASSOC. OF FIRE CHIEFS	157	2016 MEMBERSHIP DUES	40.00
WIGHTMAN & ASSOCIATES, INC	51190	2015 BRIDGE INSPECTIONS	485.00
WIGHTMAN & ASSOCIATES, INC	51201	ASSET MGMT PLAN/NPDES PERMIT SCHEDULE	270.00
WIGHTMAN & ASSOCIATES, INC	51147	DEMO OF BIG GREY	360.00
WIGHTMAN & ASSOCIATES, INC	51276	ENG SVCS - E RAILROAD RESURFACING	5,411.26
WISSCO IRRIGATION, INC.	WO65468	WINTERIZATION ZONE #12/LOCATE VALVE	110.00
YEO & YEO PC	368869	PROF SERVICES THROUGH 11/30/15	11,500.00
Total:			1,023,103.34

CITY OF DOWAGIAC

MEMO TO: Mayor Lyons and City Council Members

FROM: Kevin P. Anderson, City Manager

DATE: December 11, 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 exposure through drinking water sources. This ordinance was drafted by the City's attorney and has been reviewed by the MDEQ and EPA. Council previously held a first reading on November 9, 2015 and we have been awaiting legal counsel's recommendation to proceed with final action. I have received word from legal counsel that the ordinance is now ready for council action.

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

RECOMMENDATION

Second reading of the Groundwater Ordinance to take effect ten (10) days after being published in the Dowagiac Daily News.

Support Documents:
Cover Memo-City Mgr.
Ordinance

CITY OF DOWAGIAC, MICHIGAN

Ordinance #1
11-09-15 - 1st Reading
12-14-15 - 2nd Reading

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 ~~hazardous substances~~ ~~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 ~~P~~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 ~~P~~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 one hundred eighty (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 [plugged](#)

~~and abandoned~~~~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 ~~plug~~~~remove or~~ and 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 ~~or~~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 ~~or~~ 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 ~~the~~ plugging ~~and~~ 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) Water Service Unavailable. If water service is unavailable to a premise in the proposed New Restricted Zone, any well on that premises shall be tested annually by a laboratory that is acceptable to and for the parameters specified by the MDEQ. The results of that test shall be promptly submitted to the MDEQ or The Van Buren/Cass County Public Health Department for review. If the MDEQ or the Van Buren/Cass County Public Health Department determines that the well is safe for use, and proof of that determination is provided to the City, that well may be used. No split or conveyance of property shall be effective to render City water service unavailable. For purposes of this provision, City water service is unavailable only if it is impractical from an engineering perspective, to serve the premises with City water. This provision shall apply only to wells existing on the effective date of this Ordinance.

~~(5)~~ After USEPA ~~or~~ and MDEQ approves 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~~ or legal description (for releases regulated under Part 213) 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 ~~or~~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 ~~plug~~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 ~~or~~and MDEQ concerning the proposed Restricted Zone, along with a written statement from an USEPA ~~or~~and MDEQ representative with approval authority stating that the proposed Restricted Zone and use regulations have received USEPA ~~or~~and MDEQ approval as part of the response actions for the groundwater contamination. The USEPA ~~or~~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 thirty (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.

- (65) 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.
- (76) 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.
- (87) 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 no less than fifteen (15) 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 no less than fifteen (15) at least seven days before the hearing. The notice shall also be mailed to the USEPA orand MDEQ representative who gave the approval of the proposed Restricted Zone and use regulations and the USEPA orand MDEQ district supervisor for

the USEPA ~~or~~ 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.

- (98) 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 ~~plug~~ 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 Dowagiac shall promptly notify the USEPA ~~or~~ MDEQ upon the occurrence of any event described in this section.

K. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

L. EFFECTIVE DATE. This Ordinance shall be in full force and effect ten (10) days after its publication as provided by law.

Adopted and signed this _____ day of _____, 2015.

ATTEST:

EXHIBIT A

[Drawing]

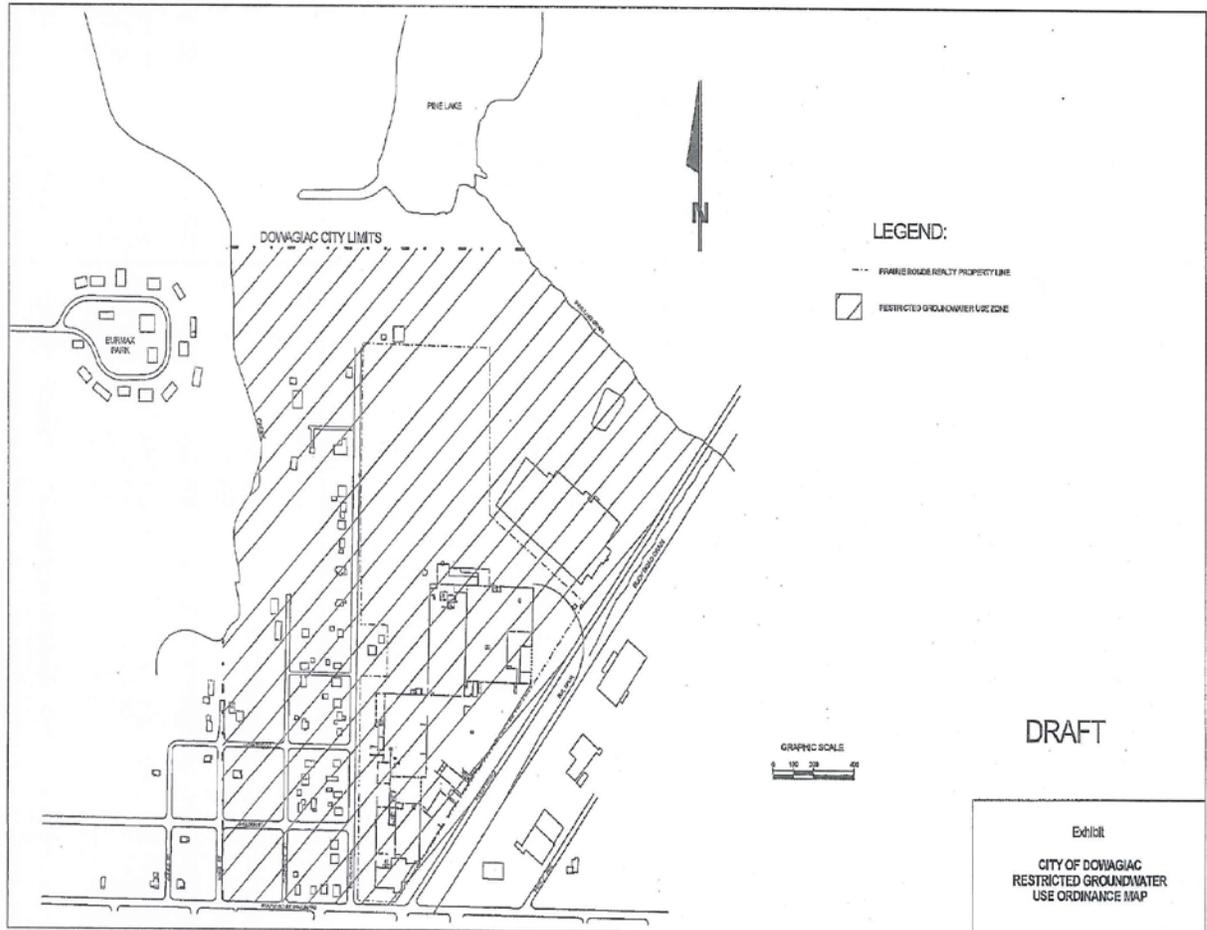


EXHIBIT B

[*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)	14-160-200-699-00	305 LOUISE AVE
14-160-200-126-15	504 LOUISE AVE	14-160-200-700-00	FLORENCE ST (VACANT)
14-160-200-126-25	601 LOUISE AVE	14-160-200-701-00	FLORENCE ST (VACANT)
14-160-200-126-31	413 LOUISE AVE	14-160-200-702-00	KING ST (VACANT)
14-160-200-126-35	FLORENCE ST (VACANT)	14-160-200-703-00	KING ST
14-160-200-126-40	404 LOUISE AVE	14-160-200-704-00	FLORENCE ST (VACANT)
14-160-200-656-00	301 E PRAIRIE RONDE ST	14-160-200-705-00	306 FLORENCE ST
14-160-200-657-00	303 E PRAIRIE RONDE ST	14-160-200-706-00	307 LOUISE AVE
14-160-200-658-00	305 E PRAIRIE RONDE ST	14-160-200-709-00	309 LOUISE AVE
14-160-200-659-00	307 E PRAIRIE RONDE ST	14-160-200-710-01	308 FLORENCE ST
14-160-200-660-00	401 E PRAIRIE RONDE ST	14-160-200-711-01	309 FLORENCE ST
14-160-200-661-00	403 E PRAIRIE RONDE ST	14-160-200-713-01	315 FLORENCE ST
14-160-200-662-00	405 E PRAIRIE RONDE ST	14-160-200-715-00	313 FLORENCE ST
14-160-200-663-00	407 E PRAIRIE RONDE ST	14-160-200-717-00	LOUISE AVE
14-160-200-664-00	415 E PRAIRIE RONDE ST	14-160-200-718-00	312 LOUISE AVE
14-160-200-665-00	105 LOUISE AVE	14-160-200-719-00	LOUISE AVE
14-160-200-667-01	106 FLORENCE ST	14-160-200-720-00	313 LOUISE AVE
14-160-200-668-00	105 FLORENCE ST	14-160-200-721-03	312 FLORENCE ST
14-160-200-669-00	106 KING ST	14-160-200-723-02	317 LOUISE AVE
14-160-200-670-00	108 KING ST	14-160-200-726-00	LOUISE AVE
14-160-200-671-00	107 FLORENCE ST	14-160-200-728-51	LOUISE AVE
14-160-200-672-01	404 SHELDON ST	14-160-205-020-00	55210 RUDY RD
14-160-200-674-00	107 LOUISE AVE	14-160-205-021-00	RUDY RD
14-160-200-675-00	203 LOUISE AVE	14-160-300-972-00	415 LOUISE AVE
14-160-200-676-00	201 LOUISE AVE	14-160-300-973-00	409 LOUISE AVE
14-160-200-677-00	403 SHELDON ST	14-160-300-974-00	407 LOUISE AVE
14-160-200-678-00	204 FLORENCE ST	14-160-300-975-00	405 LOUISE AVE
14-160-200-679-00	401 SHELDON ST	14-160-300-976-00	403 LOUISE AVE
14-160-200-680-00	307 SHELDON ST	14-160-300-977-00	401 LOUISE AVE
14-160-200-681-00	305 SHELDON ST	14-160-300-978-00	LOUISE AVE (VACANT)
14-160-200-682-00	303 SHELDON ST	14-160-200-694-00	FLORENCE ST (VACANT)
14-160-200-683-00	301 SHELDON ST	14-160-200-695-00	301 FLORENCE ST
14-160-200-684-00	206 KING ST	14-160-200-696-00	301 MCMASTER ST
14-160-200-685-00	205 FLORENCE ST	14-160-200-697-00	303 LOUISE AVE
14-160-200-686-00	206 FLORENCE ST (VACANT)	14-160-200-698-00	301 LOUISE AVE
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)		