

-- AGENDA --

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL TO BE HELD IN THE COUNCIL CHAMBERS AT WEST BRANCH CITY HALL, 121 N. FOURTH ST. ON MONDAY, NOVEMBER 19, 2018, BEGINNING AT 6:00 P.M.

PLEASE NOTE: All guests and parties in attendance are asked to sign in if they will be making any comments during meetings, so that the City Clerk may properly record your name in the minutes. Public comments are limited to 3 minutes in length while matters from the floor are limited to 10 minutes, unless you have signed in and requested additional speaking time, and that the request is then approved by either the Mayor or a majority vote of Council. All in attendance are asked to please remove hats and/or sunglasses during meetings and to silence all cell phones and other electronic devices. Due to recent complaints from those in attendance trying to listen, audience members are kindly reminded to **please refrain from having private conversations while meetings are in progress—it is disruptive and NOT allowed.** Unless you are a scheduled speaker from the floor or in the process of giving public comment for the record, audience members should not converse in the Council Chambers during meetings--if you feel that you must converse during a meeting, you are kindly asked to please do so in the hallway, away from the doors. Accommodations are available upon request to those who require alternately formatted materials or auxiliary aids to ensure effective communication and access to City meetings or hearings. All request for accommodations should be made with as much advance notice as possible, typically at least 10 business days in advance by contacting City Clerk John Dantzer at (989) 345-0500 [DISCLAIMER: Views or opinions expressed by City Council Members or employees during meetings are those of the individuals speaking and do not represent the views or opinions of the City Council or the City as a whole.] [NOTICE: Audio and/or video may be recorded at public meetings of the West Branch City Council.]

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Public Hearing
- V. Additions to the agenda
- VI. Public Comment on Agenda Items Only (limited to 3 minutes)
- VII. Scheduled Matters from the Floor
 - A. Save A Lot water bill adjustment
 - B. Cindy Scott of Stephenson & Co – Audit presentation
- VIII. Bids
- IX. Unfinished Business
- X. New Business
 - A. Bills payable.

- B. Public Participation Plan
- C. Form Based Code Zoning
- D. First Reading (introduction) of Ordinance 18-03 – Section 32.032 of the Planning Commission ordinance
- E. Adoption of new Planning Bylaws
- F. DDA maintenance agreement
- G. Resolution 18-21 General Fund and DDA budget amendments
- H. Sole Source Vendor Exception Request – Computer Tech for PD Bldg.
- XI. Approval of the minutes and summary from the Meeting held November 5, 2018
- XII. Consent Agenda (These items are considered routine and can be enacted in one motion)
 - A. Treasurer's report and Investment Summary
 - B. October Police Report
- XIII. Communications
 - A. Upcoming MML trainings
 - B. MML Top 13 Legal Cases Consequential to Michigan Municipalities-
 - C. Council open house
 - D. Chamber upcoming events
 - E. Michigan PFAS FAQ
- XIV. Reports and/or comments
 - A. Mayor
 - B. Council Members
 - C. City Manager
 - 1. Fellowship announcement

XV. Public Comment on any item (limited to 3 minutes)

XVI. Adjournment

CITY MANAGER NOTES

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Public Hearing

NONE

- V. Additions to the agenda
- VI. Public Comment on Agenda Items Only (limited to 3 minutes)
- VII. Scheduled Matters from the Floor

A. Save A Lot water bill adjustment

This request is for an amount that is higher than is allowed to be granted administratively. However, regardless of the amount involved, if this request was to be reviewed administratively, it would not be approved as it does not meet the current standards necessary for administrative approval (which typically include leaks of water that do not get processed at the wastewater treatment plant, breaks due to events other than normal wear and tear, etc.).

B. Cindy Scott of Stephenson & Co – Audit presentation

Overall audit results are excellent. The very minor areas suggested for improvement have already been addressed (including switching the taxable percentages for doctor visit reimbursements, cell phone reimbursements, and company vehicle use, as well as improving accountability for receipts by having staff turn in hand-written receipts to document expenses that do not generally produce receipts, such as use of the local drive-

through car wash, etc.). Cindy Scott will provide an overview of the audit as a whole during a brief PowerPoint presentation during the meeting, and she will also be able to answer questions at that time (or I can refer questions on to her in advance of the meeting—just call or email me, or contact Cindy directly at (989) 345-0850).

VIII. Bids

NONE

IX. Unfinished Business

X. New Business

A. Bills payable.

B. Public Participation Plan

This Public Participation Plan was created by Denise Cline of NEMCOG to satisfy one of our RRC (Redevelopment Ready Communities) requirements. If approved, it would provide guidance for how the City Council and Planning Commission should try to contact stakeholders when seeking input for the creation and approval of important City documents, such as the Master Plan, etc.

C. Form Based Code Zoning

Another of our RRC requirements is that the City Council and Planning Commission both “discuss” “form based code” and “whether it would be a good fit for downtown.” Information on form-based zoning is included in the packet, but the main gist is that it regulates the exterior looks of a building more so than the “uses” going on inside the building. The Planning Commission discussed this issue and the consensus was that form-based zoning would be a good fit for certain portions of the City, including downtown and residential areas, but that the City should consider using a “hybrid” system

where both form-based zoning concepts and traditional “use-based zoning” concepts were combined to try to get the maximum benefit from both forms of zoning.

To satisfy our RRC requirements for this subject, the Council just needs to discuss the issue, especially as it pertains to downtown, and then see if there is a consensus of opinion or not [a vote on the subject would be preferred, but is not strictly required].

D. First Reading (introduction) of Ordinance 18-03 – Section 32.032 of the Planning Commission ordinance

The Planning Commission voted at a previous meeting to request that the Council approve reducing the total number of members on the Planning Commission board down from nine (9) members to seven (7). In order to effectuate the change, the current Planning Commission ordinance would require a small amendment, as would the Planning Commission’s Bylaws. Amended versions of both are included in the packets.

E. Adoption of new Planning Bylaws

See above.

F. DDA maintenance agreement

Due to an inadvertent error, the wrong draft of the DDA maintenance agreement was approved by the Council at the last meeting. The correct version is included and has already been approved in form by both City Manager Grace and DDA Chairperson Samantha Fabbri. The only real difference between the two is the last couple of paragraphs that provide guidance for when and how the invoices related to the agreement will be processed and receipted by both parties.

G. Resolution 18-21 General Fund and DDA budget amendments

This is the budget amendment that corresponds with the approval of the DDA Maintenance agreement and once approved enables the new agreement to take full effect.

H. Sole Source Vendor Exception Request – Computer Tech for PD

Bldg.

Recent Cyber-security concerns, as well as inadequate digital backup mechanisms, coupled with outdated equipment at the Police Department building have led to a request for a sole source vendor exception to enable our contracted tech services provider Tom Spencer to purchase and install computer technology equipment necessary to make updates.

- XI. Approval of the minutes and summary from the Meeting held November 5, 2018
- XII. Consent Agenda (These items are considered routine and can be enacted in one motion)
 - A. Treasurer's report and Investment Summary
 - B. October Police Report
- XIII. Communications
 - A. Upcoming MML trainings
 - B. MML Top 13 Legal Cases Consequential to Michigan Municipalities-

C. Council open house

December 17, 2018 is the date tentatively scheduled for the Council Open House. Manager Grace would also kindly request approval to award one day of vacation to the winner of the annual "City Staff Ugly Christmas Sweater Contest", as is tradition.

- D. Chamber upcoming events

E. Michigan PFAS FAQ

Testing for PFAS has already occurred in West Branch, with results anticipated within the next six weeks or so.

XIV. Reports and/or comments

A. Mayor

B. Council Members

C. City Manager

1. Fellowship announcement

Exciting details to be announced during meeting! 😊

XV. Public Comment on any item (limited to 3 minutes)

XVI. Adjournment

Call to Order

Roll Call

**Pledge of
Allegiance**

Public Hearings

Additions to the Agenda

Public Comment -Agenda Items

Scheduled Matters from the Floor



City of West Branch

121 North Fourth Street • West Branch, Michigan 48661
(989) 345-0500 • Fax (989) 345-4390 • e-mail: cityhall@westbranch.com

WATER/SEWER BILL ADMINISTRATIVE ADJUSTMENT REQUEST FORM

Name and contact information of individual requesting the administrative adjustment:

Freeman Family Enterprises, LLC (Save-A-Lot)

Name and property address for individual/entity responsible for water/sewer bill in question:

417 W. Houghton Ave.
West Branch, MI 48661

Relationship/interest of party requesting the adjustment (example: property owner, tenant, office manager, etc.):

Property owner and Business owner

Are you requesting an administrative adjustment of the:

☐ Water portion of the bill only ☐ Sewer portion of the bill only ☒ Both the water & sewer portions

What period of time are you requesting an administrative adjustment of your bill be applied to:

(6/27 - 9/27 2017) March thru July? DPW came and looked at.
(Problem was going on for a while) not sure exactly how long

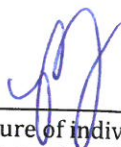
Has the Department of Public Works (DPW) performed an inspection of the property in question to look for possible problems/leaks, etc.? ☒ Yes ☐ No If yes, please indicate when, and describe results of the inspection:

DPW did come to inspect and found toilet
in bathroom running 24/7. Please check with
DPW on when they came.

Please use the following two pages [attach additional pages if needed] to explain in as much detail as possible any information that you believe would assist administrators attempting to determine whether an administrative adjustment is warranted in this instance. Also, please note that due to the fact that administrative adjustment requests are investigated by the administration and the DPW, responses to requests typically take about 14-21 business days, depending upon the complexity of the issues raised in the request. However, all bills disputed via a request for administrative adjustment are held in abeyance, meaning that they are not due and owing during this period of administrative review, nor are penalties or interest accumulated during this time.

Lined area for handwritten notes or details.

NOTE—Only ONE (1) water and/or sewer bill adjustment per water customer for the life of the water customer. This rule applies to landlords who own multiple properties as well as individual homeowners. Landlords (as well as individual homeowners) are advised to do regular inspections of their property and perform maintenance as needed to avoid unnecessary plumbing leaks, etc. Water customers are also advised to regularly inspect toilets, sinks, etc. for leaks, as proper maintenance of all internal plumbing and fixtures is the responsibility of the property owner NOT the City of West Branch.



Signature of individual requesting
administrative adjustment
10-25-18

Date

If this form was mailed or faxed to you it must be returned to the City of West Branch, 121 N. Fourth St., West Branch, MI 48661 or faxed to (989) 345-4390 or scanned and emailed to cityhall@westbranch.com within three (3) business days of receipt in order to maintain status of any verbal indication that a bill would be held in abeyance during an administrative review period.

Failure to return this form with the required information within three (3) business days will cause your water/sewer bill to become immediately due and owing at the originally billed amount.



Freeman Family Enterprises, LLC - 829 W. Main St. - Suite C – Gaylord, MI 49735
Phone: (989) 705-7711 - Fax: (989) 705-7091

October 25, 2018

Mr. John Dantzer
City of West Branch
121 North Fourth Street
West Branch, MI 48661

Mr. Dantzer,

Thank you for taking the time to review our claim. I apologize for just catching this now, but we have 26 locations and we have had two different office administrators come and go in the last four months and this was not caught until today when I was going through third quarter results and noticed our utilities bill for our West Branch store seemed about \$30,000 high.

If you look at our last couple years of payments, you can see where we have averaged \$2,722.24 on our first 8 payments. We have not altered or added any bathrooms or water use from when we first opened our store, so our water usage should be somewhat consistent from month to month.

If you look at the last 4 payments made of:

- \$5,545.87
- \$3,376.08
- \$7,830.63
- \$25,930.17

- Total = \$42,591.75

and now take out the average of our last 8 payments it shows an excess of \$31,702.79 that was paid out.

Serving these communities throughout Michigan: Alpena, Cadillac, Tawas, Gaylord, Grayling, Cheboygan, Gladwin, Sault Ste. Marie, Midland, Benzonia, Harrison, Kalkaska, Caro, East Jordan, Corunna, Allegan, Dowagiac, Paw Paw, West Branch, Bay City, Rogers City, Kalamazoo, Clare, and Manistee.

We are also asking that you look at the last few months of usage that we haven't been billed to see if our usage has come back down to make sure that the problem was fixed. Apparently, we had a toilet running 24/7 which the DPW caught but would that alone be enough to create such a huge usage bill?

Again, thank you for taking the time to evaluate this. My two brothers and I were excited to come to West Branch and bring Save-A-Lot to the area. The grocery industry is a tough business with very small margins and in this market, we are still fighting to make money in this store. This is a huge hit for us and we are hoping that the council would consider making this right and credit us back the adjusted amount.

Please let me know if you have any questions,

Thanks,

A handwritten signature in black ink, appearing to be 'Paul Freeman', written in a cursive style.

Paul Freeman

Freeman Family Enterprises, LLC

ACCOUNT QUICKREPORT

January 1, 2014 - October 24, 2018

DATE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	CLASS	AMOUNT
Utilities						
01/01/2014	1774	City of West Branch		Utilities	West Branch	69.63
01/01/2014	1776	City of West Branch		Utilities	West Branch	68.62
04/01/2014	2030	City of West Branch		Utilities	West Branch	77.19
04/01/2014	2020	City of West Branch		Utilities	West Branch	63.78
04/01/2014	2025	City of West Branch		Utilities	West Branch	62.67
07/01/2014	3/28 6/16 14 WB2	City of West Branch		Utilities	West Branch	79.86
07/01/2014	3/25 6/16 14 WB1	City of West Branch		Utilities	West Branch	79.75
07/01/2014	3/25 6/16 14 WB3	City of West Branch		Utilities	West Branch	78.41
10/01/2014	SEPT 2014 3	City of West Branch		Utilities	West Branch	-7.26
10/01/2014	SEPT 2014 2	City of West Branch		Utilities	West Branch	-7.25
10/01/2014	SEPT 2014 1	City of West Branch		Utilities	West Branch	1,532.70
01/01/2015	DEC 2014 2	City of West Branch		Utilities	West Branch	-7.25
01/01/2015	DEC 2014 1	City of West Branch		Utilities	West Branch	-7.26
01/01/2015	DEC 2014	City of West Branch		Utilities	West Branch	2,808.33
01/12/2016	9/29 12/29 15	City of West Branch		Utilities	West Branch	2,178.46
04/01/2016	12/29 3/23 16 WB	City of West Branch		Utilities	West Branch	2,583.49
07/06/2016	3/24 6/29 16 WB	City of West Branch		Utilities	West Branch	2,954.77
10/10/2016	6/29 10/5 16 WB	City of West Branch		Utilities	West Branch	3,125.55
01/01/2017	10/5 1/11 17	City of West Branch		Utilities	West Branch	2,721.25
03/31/2017	1/12 3/28 17	City of West Branch		Utilities	West Branch	2,285.85
08/01/2017	3/28 6/27 17	City of West Branch		Utilities	West Branch	3,125.55
11/01/2017	6/27 9/27 17	City of West Branch		Utilities	West Branch	5,454.87
01/01/2018	9/27 12/28 17	City of West Branch		Utilities	West Branch	3,376.08
03/31/2018	12/28 3/29 18	City of West Branch		Utilities	West Branch	7,830.63
06/29/2018	JUL 2018	City of West Branch		Utilities	West Branch	25,930.17
Total for Utilities						\$66,458.59
TOTAL						\$66,458.59

Last 4 payments

8 payment Average = 2,722.

Total = 42,591.25

- 2,722.24 Avg.

- 2,722.24

- 2,722.24

- 2,722.24

= 31,702.79 credit

Account #	Service Address	Customer Name	Balance Due
Posted	Trx Info	Meter Read	Balance
Created	Item Name	Usage	
Billing Item	Rate Name	Transaction Type	Amount
02-SEWER	SW1-SEWER	0.00	02/28/18
03-SEWER	SWC-SEWER	0.00	02/28/18
06-SEWER	R&I-SEWER	0.00	02/28/18
07-WATER DEBT	WDEB-WATER	0.00	02/28/18
08-SEWER DEBT	SDEB-SEWER	0.00	02/28/18
01/10/18	01/10/18 11:26	Bill Calculated 10/01/17-12/31/17	0 0 \$3376.08 \$3,376.08
01-WATER	WA1-WATER	216.00	02/28/18
02-SEWER	SW1-SEWER	216.00	02/28/18
03-SEWER	SWC-SEWER	216.00	02/28/18
06-SEWER	R&I-SEWER	216.00	02/28/18
07-WATER DEBT	WDEB-WATER	216.00	02/28/18
08-SEWER DEBT	SDEB-SEWER	216.00	02/28/18
12/28/17	12/29/17 09:41	Meter Read Water	2659 216 \$0.00 \$0.00
11/20/17	11/20/17 03:19	Payment Posted R17-006612	0 0 \$5454.87 \$0.00
01-WATER	WA1-WATER	0.00	11/30/17
02-SEWER	SW1-SEWER	0.00	11/30/17
03-SEWER	SWC-SEWER	0.00	11/30/17
06-SEWER	R&I-SEWER	0.00	11/30/17
07-WATER DEBT	WDEB-WATER	0.00	11/30/17
08-SEWER DEBT	SDEB-SEWER	0.00	11/30/17
10/10/17	10/10/17 12:04	Bill Calculated 07/01/17-09/30/17	0 0 \$5454.87 \$5,454.87
01-WATER	WA1-WATER	349.00	11/30/17
02-SEWER	SW1-SEWER	349.00	11/30/17
03-SEWER	SWC-SEWER	349.00	11/30/17
06-SEWER	R&I-SEWER	349.00	11/30/17
07-WATER DEBT	WDEB-WATER	349.00	11/30/17
08-SEWER DEBT	SDEB-SEWER	349.00	11/30/17
09/27/17	10/03/17 09:31	Meter Read Water	2443 349 \$0.00 \$0.00
08/28/17	08/28/17 01:01	Payment Posted R17-005564	0 0 \$3125.55 \$0.00
01-WATER	WA1-WATER	0.00	08/31/17
02-SEWER	SW1-SEWER	0.00	08/31/17
03-SEWER	SWC-SEWER	0.00	08/31/17
06-SEWER	R&I-SEWER	0.00	08/31/17
07-WATER DEBT	WDEB-WATER	0.00	08/31/17
08-SEWER DEBT	SDEB-SEWER	0.00	08/31/17
07/06/17	07/06/17 09:39	Bill Calculated 04/01/17-06/30/17	0 0 \$3125.55 \$3,125.55
01-WATER	WA1-WATER	201.00	08/31/17
02-SEWER	SW1-SEWER	201.00	08/31/17
03-SEWER	SWC-SEWER	201.00	08/31/17
06-SEWER	R&I-SEWER	201.00	08/31/17
07-WATER DEBT	WDEB-WATER	201.00	08/31/17
08-SEWER DEBT	SDEB-SEWER	201.00	08/31/17
06/27/17	06/28/17 03:19	Meter Read Water	2094 201 \$0.00 \$0.00
04/24/17	04/24/17 03:14	Payment Posted R17-003756	0 0 \$2285.85 \$0.00
01-WATER	WA1-WATER	0.00	05/31/17

Account #	Service Address	Customer Name	Balance Due		
Posted	Trx Info	Meter Read	Usage	Amount	Balance
Created	Item Name	Transaction	Type		
Billing Item	Rate Name	Billed	Usg Due Date		
02-SEWER	SW1-SEWER	0.00	05/31/17	Billing	\$724.71
03-SEWER	SWC-SEWER	0.00	05/31/17	Billing	\$113.19
06-SEWER	R&I-SEWER	0.00	05/31/17	Billing	\$11.76
07-WATER DEBT	WDEB-WATER	0.00	05/31/17	Billing	\$191.10
08-SEWER DEBT	SDEB-SEWER	0.00	05/31/17	Billing	\$920.22
04/06/17 04/06/17 02:52 Bill Calculated 01/01/17-03/31/17					\$2285.85
				0	0
01-WATER	WA1-WATER	147.00	05/31/17	Billing	\$324.87
02-SEWER	SW1-SEWER	147.00	05/31/17	Billing	\$724.71
03-SEWER	SWC-SEWER	147.00	05/31/17	Billing	\$113.19
06-SEWER	R&I-SEWER	147.00	05/31/17	Billing	\$11.76
07-WATER DEBT	WDEB-WATER	147.00	05/31/17	Billing	\$191.10
08-SEWER DEBT	SDEB-SEWER	147.00	05/31/17	Billing	\$920.22
03/28/17 04/03/17 11:17 Meter Read Water					\$0.00
				1893	147
01/30/17 01/30/17 12:31 Payment Posted R17-002542					\$2721.25
				0	0
01-WATER	WA1-WATER	0.00	02/28/17	Billing	\$386.75
02-SEWER	SW1-SEWER	0.00	02/28/17	Billing	\$862.75
03-SEWER	SWC-SEWER	0.00	02/28/17	Billing	\$134.75
06-SEWER	R&I-SEWER	0.00	02/28/17	Billing	\$14.00
07-WATER DEBT	WDEB-WATER	0.00	02/28/17	Billing	\$227.50
08-SEWER DEBT	SDEB-SEWER	0.00	02/28/17	Billing	\$1095.50
01/17/17 01/17/17 03:32 Bill Calculated 10/01/16-12/31/16					\$2721.25
				0	0
01-WATER	WA1-WATER	175.00	02/28/17	Billing	\$386.75
02-SEWER	SW1-SEWER	175.00	02/28/17	Billing	\$862.75
03-SEWER	SWC-SEWER	175.00	02/28/17	Billing	\$134.75
06-SEWER	R&I-SEWER	175.00	02/28/17	Billing	\$14.00
07-WATER DEBT	WDEB-WATER	175.00	02/28/17	Billing	\$227.50
08-SEWER DEBT	SDEB-SEWER	175.00	02/28/17	Billing	\$1095.50
01/11/17 01/13/17 12:30 Meter Read Water					\$0.00
				1746	175

History Register

Monday, October 29, 2018

1/5

Account #	Service Address	Customer Name	Balance Due
Posted Created	Trx Info Item Name	Meter Read Usage	Amount Balance
Billing Item	Rate Name Billed Usg Due Date	Transaction Type	
001728	417 W HOUGHTON AVE #1	FREEMAN FAMILY ENT	\$11597.46
10/05/18 10/05/18 03:15	Bill Calculated 07/01/18-10/04/18	0 0	\$11597.46 \$11,597.46
01-WATER	WA1-WATER 742.00 11/30/18	Billing	\$1654.66
02-SEWER	SW1-SEWER 742.00 11/30/18	Billing	\$3695.16
03-SEWER	SWC-SEWER 742.00 11/30/18	Billing	\$578.76
06-SEWER	R&I-SEWER 742.00 11/30/18	Billing	\$59.36
07-WATER DEBT	WDEB-WATER 742.00 11/30/18	Billing	\$964.60
08-SEWER DEBT	SDEB-SEWER 742.00 11/30/18	Billing	\$4644.92
09/27/18 10/04/18 03:12	Meter Read Water	5561 742	\$0.00 \$0.00
07/30/18 07/30/18 11:22	Payment Posted R18-009633	0 0	\$25930.17 \$0.00
01-WATER	WA1-WATER 0.00 08/31/18	Billing	\$3699.57
02-SEWER	SW1-SEWER 0.00 08/31/18	Billing	\$8261.82
03-SEWER	SWC-SEWER 0.00 08/31/18	Billing	\$1294.02
06-SEWER	R&I-SEWER 0.00 08/31/18	Billing	\$132.72
07-WATER DEBT	WDEB-WATER 0.00 08/31/18	Billing	\$2156.70
08-SEWER DEBT	SDEB-SEWER 0.00 08/31/18	Billing	\$10385.34
07/16/18 07/16/18 03:01	Bill Calculated 04/01/18-06/29/18	0 0	\$25930.17 \$25,930.17
01-WATER	WA1-WATER 1,659.0 08/31/18	Billing	\$3699.57
02-SEWER	SW1-SEWER 1,659.0 08/31/18	Billing	\$8261.82
03-SEWER	SWC-SEWER 1,659.0 08/31/18	Billing	\$1294.02
06-SEWER	R&I-SEWER 1,659.0 08/31/18	Billing	\$132.72
07-WATER DEBT	WDEB-WATER 1,659.0 08/31/18	Billing	\$2156.70
08-SEWER DEBT	SDEB-SEWER 1,659.0 08/31/18	Billing	\$10385.34
06/28/18 07/02/18 04:44	Meter Read Water	4819 1659	\$0.00 \$0.00
04/23/18 04/23/18 12:09	Payment Posted R18-008533	0 0	\$7830.63 \$0.00
01-WATER	WA1-WATER 0.00 05/31/18	Billing	\$1117.23
02-SEWER	SW1-SEWER 0.00 05/31/18	Billing	\$2494.98
03-SEWER	SWC-SEWER 0.00 05/31/18	Billing	\$390.78
06-SEWER	R&I-SEWER 0.00 05/31/18	Billing	\$40.08
07-WATER DEBT	WDEB-WATER 0.00 05/31/18	Billing	\$651.30
08-SEWER DEBT	SDEB-SEWER 0.00 05/31/18	Billing	\$3136.26
04/04/18 04/04/18 02:36	Bill Calculated 01/01/18-03/31/18	0 0	\$7830.63 \$7,830.63
01-WATER	WA1-WATER 501.00 05/31/18	Billing	\$1117.23
02-SEWER	SW1-SEWER 501.00 05/31/18	Billing	\$2494.98
03-SEWER	SWC-SEWER 501.00 05/31/18	Billing	\$390.78
06-SEWER	R&I-SEWER 501.00 05/31/18	Billing	\$40.08
07-WATER DEBT	WDEB-WATER 501.00 05/31/18	Billing	\$651.30
08-SEWER DEBT	SDEB-SEWER 501.00 05/31/18	Billing	\$3136.26
03/29/18 04/02/18 10:52	Meter Read Water	3160 501	\$0.00 \$0.00
01/22/18 01/22/18 11:40	Payment Posted R18-007194	0 0	\$3376.08 \$0.00
01-WATER	WA1-WATER 0.00 02/28/18	Billing	\$481.68

We have installed a new meter on their business on 10/30/ so they can monitor the usage more closely moving forward.

[illegible]

In review of the account for the Save A Lot store, it is my opinion that it does appear that there was a leak or something that caused the water usage to go up during the quarter of January 1-March 31 2018. The previous 11 quarters of this account were all in the \$2,000-\$3,000 range with the exception of the June – Aug. 2017 quarter which was \$5,454.87. It is not uncommon for that quarter to be a highest for most people/businesses since that is typically the hottest quarter and more outside water is used at that time. However, I do not believe they have an outside watering system as most of their property is asphalt and I do not see that as a typical occurrence based on previous years. I do not believe that quarters increase in usage is due to this same current issue because the following quarter of Sept. – Dec. 2017 was back to normal usage. The leak based on looking at the gallons of usage seems to have started sometime during Jan.-March 2018 based on the following usages.

Average of previous 10 quarters - 197,000 gallons of usage - \$3,087.00

Jan-Mar 2 - 501,000 gallons of usage - \$7,830.63 - paid

Apr-June - 1,659,000 gallons of usage - \$25,930.17 – paid

July-Sept - 742,000 gallons of usage - \$11,597.46 – unpaid

The store was notified after the reading and billing came out in early July and DPW was able to get there and do a walkthrough and examination of the building. DPW Superintendent Killackey did notify me that they did find a toiler that was running basically wide open. A toilet running like that 24 hours a day, seven days a week could use a substantial amount of water. By the time we notified them and were able to do the inspection and they were able to get it fixed, it was into the next quarter and I believe why that quarter is still high but lower than before.

We did install one of the new meters that can be monitored for them on 10/30 so they will be able to monitor their usage going forward and, hopefully, avoid this type of issue moving forward.

The amount of the request to award a refund or adjustment back to normal usage is much more than we are allowed to approve administratively so that is why it would have to be appealed to Council.

If you should have any further questions, please feel free to reach out to me.

Thank you,

John Dantzer,

West Branch City Clerk/Treasurer

**CITY OF WEST BRANCH ADMINISTRATIVE POLICY REGARDING REQUESTS FOR
ADMINISTRATIVE ADJUSTMENTS TO WATER/SEWER BILLS:**

NOTE—Only ONE (1) water and/or sewer bill adjustment per water customer for the life of the water customer. This rule applies to landlords who own multiple properties as well as individual homeowners. Landlords (as well as individual homeowners) are advised to do regular inspections of their property and perform maintenance as needed to avoid unnecessary plumbing leaks, etc. Water customers are also advised to regularly inspect toilets, sinks, etc. for leaks, as proper maintenance of all internal plumbing and fixtures is the responsibility of the property owner NOT the City of West Branch.

- (1) For a request for an administrative adjustment to a water-sewer bill to be considered, the party responsible for the bill **MUST** fully complete and submit the proper paperwork [“Water/Sewer Bill Administrative Adjustment Request Form” which is available at West Branch City Hall and can be mailed to parties upon request by calling (989) 345-0500].
- (2) If a Water/Sewer Bill Administrative Adjustment Request Form is properly completed and turned in to West Branch City Hall before the due date of the bill in dispute, the bill that is being dispute will be held in abeyance until a decision is made regarding the request for an administrative adjustment (meaning that the amount due is put on hold and penalties and interest will not be assessed during the period in which the request is being reviewed by City Hall Administration). However, once a decision is rendered regarding a request for an administrative adjustment, said decision will be mailed to the party making the request and the amount originally due (or the new adjusted amount, if an adjustment is approved) will be immediately due and owing within seven (7) business days of the date of mailing, and penalties and interest will again begin to be assessed if the full amount is not immediately paid.
- (3) When making a determination as to whether to grant a request for an administrative adjustment to a water/sewer bill, the original assessment will be made by the City of West Branch Deputy Clerk/Treasurer, with oversight of the process provided by the City Clerk/Treasurer—Unless the amount of adjustment recommended is greater than \$700, in which case the determination must also then be approved by the City Council.
- (4) Once a decision regarding a request for an administrative adjustment is mailed, the requesting party has seven (7) days to appeal the decision in writing to the City Manager by fully completing and submitting the proper paperwork [“Appeal of Decision Regarding Request for Administrative Adjustment to Water/Sewer Bill” which is available at West Branch City Hall and can be mailed to parties upon request by calling (989) 345-0500].
- (5) If an Appeal of Decision Regarding Request for Administrative Adjustment to Water/Sewer Bill is properly completed and turned in to West Branch City Hall within seven (7) days of the mailing date of the original decision letter, the bill that is being dispute will be held in abeyance until a decision is made regarding the request for an administrative adjustment (meaning that the amount due is put on hold and penalties and interest will not be assessed during the period in which the request is being reviewed by City Hall Administration). However, once a decision is rendered by the City Manager regarding a request for an administrative adjustment, said decision will be mailed to the party making the request and the amount originally due (or the new adjusted amount, if an adjustment is approved) will be immediately due and owing within three (3) business days of the date of mailing, and penalties and interest will again begin to be assessed if the full amount is not immediately paid.

(6) Appeals of the City Manager's final decision regarding appeals may also be appealed to the City Council by either requesting in writing to appear on the agenda of a Council meeting at least three business days in advance of the Council meeting, or by appearing during the "Public Comments" section of any open meeting of the West Branch City Council. However, amounts due on disputed bills are NOT held in abeyance pending appeals to Council and penalties and interest continue to be assessed during such appeals and will only be removed if such an appeal to Council is successful and the West Branch City Council votes to direct City Hall Administration to remove said fees and interest.

(7) When making a determination as to whether a request for an administrative adjustment to a water/sewer bill should be granted, City Hall Administration should consider the following factors:

- Does there appear to have been a malfunction of City-owned equipment?
- Did the property owner exercise due care regarding their duties to properly maintain their property, including plumbing fixtures?
- Could there have been a leak, such as a leaking toilet, that caused the high water bill (which is the responsibility of the property owner)?
- If the property owner is requesting an adjustment to the sewer portion of their bill and claiming that their bill was especially high due to a leaking pipe and that the water did not go into the sewer (as opposed to a leaking toilet, where the water did go into the sewer), does the property owner have proof to validate this claim, such as a receipt from a licensed plumber evidencing a repair to a leaking water pipe?

(8) The following guidelines should apply to City Hall administration when making determinations:

- If there is evidence that there was a likely malfunction of City-owned equipment, an administrative adjustment should be granted. However, some evidence must be provided, not just claims of a malfunction.
- If the high water/sewer bill is attributable to a failure on the part of the property owner to exercise due care in their duties to properly maintain their property, including plumbing fixtures (such as ensuring against toilet leaks), administrative adjustments should not be granted.
- If the high water/sewer bill is attributable to a failure to utilize a sprinkler meter, or other similar situation, then an administrative adjustment should not be granted.
- If the high water/sewer bill is attributable to a landlord/tenant dispute, or dispute between third parties regarding authorized vs/ unauthorized use of water/sewer, an administrative adjustment should not be granted, as that is a civil matter to be worked out amongst the parties involved.
- If the high water/sewer bill is claimed to be attributable to a leaking water pipe, an administrative adjustment should not be granted UNLESS verifiable proof is presented evidencing that the excess amount of water used likely did not enter the sewer system (as opposed to the possibility that the high water/sewer bill could have actually been caused by something such as a leaking toilet, in which case the water did in fact enter the sewer system). Examples of verifiable proof that would evidence that the excess amount of water used likely did not enter the sewer system would include a receipt from a licensed plumber, along with a description of the work performed, that describes repairs made during the billing cycle in question to a water pipe that had burst whereby the leaking water did not in fact enter the sewer system.

REMEMBER—Just ONE silently leaking toilet can use as much as 21,000 gallons of water per quarter!!!

Cindy Scott of Stephenson and Company will be in attendance to go over the audit.

Copies of the audit are available at City Hall for viewing before the meeting if anyone would like a copy.

Bids

Unfinished Business

New Business

Because Michelle was off this week, the bill summary page has not been completed as of yet. Michelle will be working on it Monday when she comes in and then the totals will either be sent to everyone or we will have a total page at your desk depending on time of completion.

PUBLIC PARTICIPATION PLAN FOR RRC REQUIREMENT 1.2:

In order to secure designation as a “Redevelopment Ready Community,” which allows us to apply for MEDC grants, the City of West Branch needs to complete all “RRC” requirements that are assigned to us by the MEDC as part of the RRC process. RRC requirement # 1.2 requires us to do the following:

“Develop a formal public participation strategy that meets RRC best practice 1.2 and post the finished document online.”

That being the case, Denise Cline of NEMCOG who has been assisting the Planning Commission with our new Master Plan and Zoning Code projects has prepared a “Public Participation Plan” (see attached) that will satisfy our RRC requirements. So now we just need both the City Council and Planning Commission to please have on the agenda for their upcoming November meetings “Public Participation Plan” and then have a vote recorded in the minutes as to whether each board approves of the Public Participation Plan that has been developed.

The full requirements of RRC Best Practice # 1.2 are listed in the document attached to this section.

Best Practice One: Community plans and public outreach

1.2—PUBLIC PARTICIPATION

Best Practice 1.2 assesses how well a community identifies its stakeholders and engages them, not only during the master planning process, but on a continual basis. A public participation strategy is essential to formalize those efforts and outline how the public will be engaged throughout planning and development processes.

Public participation is the process by which a community consults with interested or affected stakeholders before making a decision. It is two-way communication and collaborative problem solving with the objective of being intentionally inclusive, and the goal

of achieving better and more acceptable decisions. Public participation aims to prevent or minimize disputes by creating a process for resolving issues before they become an obstacle.

The best plans and proposals have the support of many stakeholders from businesses, residents, community groups and elected and appointed community officials. Public engagement should be more frequent and interactive than only soliciting input during the master plan update and public hearings.

EVALUATION CRITERIA 1.2.1

The community has a documented

for engaging a diverse set of community stakeholders.

EXPECTATIONS

- ☐ The strategy identifies key stakeholders, including those not normally at the visioning table.
- ☐ The strategy describes public participation methods and the appropriate venue to use each method.
- ☐ If a third party is consulted, they adhere to the public participation strategy.
- ☐ The community assists the developer in soliciting input on a proposal early in the site plan approval process as detailed in the public participation strategy.

EVALUATION CRITERIA 1.2.2

The community demonstrates that public participation efforts go beyond the basic methods.

EXPECTATIONS

- ☐ Basic practices:
 - Open Meetings Act
 - Website posting
 - Postcard mailings
 - Local cable notification
 - Newspaper posting
 - Flier posting on community hall door
 - Attachments to water bills
 - Announcements at governing body meetings
- ☐ Proactive practices:
 - Individual mailings
 - Community workshops
 - Social media platforms
 - One-on-one interviews
 - Charrettes
 - Canvassing
 - Focus groups
 - Crowd-sourcing

EVALUATION CRITERIA 1.2.3

The community shares outcomes of public participation processes.

EXPECTATIONS

- ☐ The community tracks success of various outreach methods.
- ☐ The community participation results are communicated in a consistent and transparent manner.



WEST BRANCH PUBLIC PARTICIPATION PLAN

For Planning and Development Projects

Introduction

The City of West Branch has developed a Public Participation Plan for Planning and Development Projects that contains the policies and procedures used for public involvement and outreach in the City's approval process. This plan contains the following:

- 1. Public Participation Goals and Objectives**
- 2. Key Stakeholders in the Planning and Development Process**
- 3. State and Local Regulations**
- 4. Public Involvement Strategies**
- 5. Opportunities for Public Participation**

The City of West Branch is required by State law, the City's Code of Ordinances, City's Zoning Ordinance and the bylaws of the various Boards and Commissions it appoints to pursue public participation in planning and development projects. The City follows a public involvement process that provides information in a timely public notice and encourages early and continuing involvement of stakeholders in the planning and review process.

Third Party Consultants

This plan does not preclude additional public involvement and, if the circumstances arise, the City may retain a third party consultant that shall adhere to the provisions of this plan, if applicable.

Goals & Objectives

The City of West Branch has developed the following Public Participation Goals and Objectives:

1. The City of West Branch shall conduct all aspects of citizen participation in an open manner, making the participation process accessible for all interested persons.
2. The City of West Branch shall engage a diverse set of community stakeholders in planning, land use, and development decisions.
3. The City of West Branch shall seek to identify and involve a broad and representative cross-section of community's residents.
4. The City of West Branch evaluates each project on an individual basis to determine project scope, stakeholders, project limitations, approving body, points of community impact during the decision making process, internal and external resources, and level of appropriate community involvement.
5. The City of West Branch shall encourage the involvement of residents most affected by the proposed planning, land use, or development project.
6. The City of West Branch shall solicit public participation in each phase of the master planning process.
7. The City of West Branch shall make reasonable efforts to ensure continuity of involvement of citizens throughout all stages of the planning and review process.
8. The City of West Branch shall utilize effective and equitable avenues for distributing information and receiving comments that includes the City Website and City's Facebook Page.
9. The City of West Branch shall support and encourage effective participation. Information shall be made available in a timely manner, so as to enable citizens to be involved in important decisions at various stages of the review and approval process.
10. The City of West Branch shall record the results of public participation to the extent feasible and provide summaries back to the public.
11. Along with the desire to engage a diversified public in its planning processes, the City of West Branch relies on state statutes to help guide its participation activities.

Stakeholder List

The following group of stakeholders represents a diverse set of individuals, groups and organizations that are interest or affected by the Planning and Land Use Process. Different groups may be engaged in each of the review process depending on the nature of the project, the plan, level of interest and the City's financial involvement in the project.

- City Council
- City Planning Commission
- City Recreation Commission
- Downtown Development Authority
- City Residents
- West Branch Public Schools
- Ogemaw County Chamber of Commerce
- Northeast Michigan Council of Governments
- East Michigan Council of Governments
- Ogemaw County Economic Development Corporation
- Commercial Brokers and Real Estate Professionals
- Senior Citizens
- Public Employees
- Major Local Employers
- Civic and Social Organizations
- Environmental Groups
- Ogemaw County Transit Authority
- Relevant State Agencies
- Neighborhood Groups
- Religious Groups
- Investors/Developers
- West Branch Tourism Bureau
- Ogemaw County
- Utility Service Providers
- Michigan Department of Transportation
- Emergency personnel
- Medical Personnel/Groups
- Kirtland Community College
- Railroad
- Airport Personnel

The City, through the work of City Council and individual boards and commissions, follows the local and state regulations listed below. These regulations include provisions for the public review process, public participation, and public hearings.

- Home Rule City Act (PA 279 of 1909)
- City Charter
- City Code of Ordinances
- City Zoning Ordinance
- The Michigan Open Meetings Act (PA 267 of 1976)
- The Michigan Planning Enabling Act (PA 33 of 2008)
- The Michigan Zoning Enabling Act (PA 110 of 2006)
- Brownfield Redevelopment Financing Act (PA 381 of 1996)
- Downtown Development Authority Act (PA 197 of 1975)
- Local Historic Districts Act (PA 169 of 1970)
- The Plant Rehabilitation and Industrial Development Districts Act (known as the Industrial Facilities Exemption) (PA 198 of 1974)
- The New Personal Property Exemption Act (PA 328 of 1998)
- Other relevant local and State legislation

The following methods may be used to gather the community's input on specific development proposals or the community vision for the Master Plan and other planning and zoning issues. The City may use these various activities to provide additional opportunities for citizens, public interest groups, or other stakeholders to directly participate in the development review process or the creation/amendment of plans and strategies.

The City shall communicate the results of the public participation methods in a consistent and transparent manner. More than one method of communication may be used in order to reach a broader audience and the affected persons. The results of any of the methods of engagement and outreach will be included in the report or plan generated based on the information collected during these meetings, and support the development review process.

Inform

Provide information, assist public understanding, and communicate results

Website. The City's website, www.westbranch.com, announces meetings, posts packets and agendas, minutes, and sometimes will contain pages or links for topics of major interest.

Newspaper. The Ogemaw County Herald is the City of West Branch's newspaper. New editions are available weekly on Thursdays.

Printed postings. Available for viewing at City Hall.

Announcements. Announcements are made during meetings of the City Council, Planning Commission and other boards and commissions.

Press releases and Articles. At various times, the City will issue press releases and information for articles to the Ogemaw County Herald and radio stations.

Email or postal mail. Interested parties may request to the City Clerk that they be notified personally of meetings/topics for discussion. The City also issues postal mailings to neighbors within 300 feet, according to statute.

Water Bill Notices. The City will provide information on how to obtain information or how to communicate opinion in the city water bills.

Social Media. The City uses a Facebook page (www.facebook.com/cityofwestbranch) to make announcements on City activities and to encourage public feedback.

Newsletters. The City produces a quarterly newsletter which will be used to provide information and announcements.

Consult

Obtain public feedback

Social Media. The City currently uses Facebook to notify the community of public input meetings and of other methods of providing input.

Surveys. The City utilizes online and paper surveys for the collection of large amounts of data and opinions from the public.

Public Hearings. Public attendance at meetings is strongly supported and allows for an appropriate venue for public input.

Involve

Work directly with public throughout the process

Open Houses. In order to create two-way communication, the City may hold open house events for projects and initiatives as needed.

Steering/Advisory Committees. The City may organize steering/advisory committees consisting of residents, business owners, board and commission members, and other identified stakeholders. Members may be selected based on their expertise, interest, and background as they relate to the focus of the individual steering committee. This structure will allow for focused discussions related to a specific topic. Meetings will be open to the public, and a synopsis of the meeting may be posted online. The results of the meetings and discussions of the steering committees will be incorporated into the plan generated based on the information collected during these meetings.

Community Workshops, Visioning Sessions or Focus Groups. The City may conduct focus groups, visioning sessions or community workshops for gathering the community's opinion on specific issues, development proposals, development sites of major importance, or the community vision, as needed. A variety of groups may be invited to attend the focus groups depending on the location and nature of the development site or project. The results of these meetings will be included in any report or plan generated based on the community feedback collected during these meetings.

Charrettes/Design Workshop. The City may engage the community through charrettes or design workshops. This tool may most often be used for specific development projects that involve significant changes to the urban form and require public input on the design layout. The City may encourage developers to hold charrettes for specific proposed projects with significant community interest.

One-on-One Interviews. The City may hold interviews with various stakeholders to get specific information on a topic. In general, the information collected during interviews will be kept confidential unless requested otherwise. The information may be compiled and analyzed together with other information collected from stakeholders on a specific topic.

Feedback on effectiveness of participation methods

External Satisfaction Survey. In order to evaluate the effectiveness of the public participation method, *participants* may be asked to complete a survey to evaluate the following:

- How the attendee heard about the event.
- Whether the event was held at a convenient location and time.
- If the attendee was satisfied with the event.
- Suggestions for improvement.

Internal Satisfaction Survey. In order to evaluate the effectiveness of the public participation method, *facilitators* may be asked to complete a survey to evaluate the following:

- The number of attendees.
- Whether any groups were under-represented.
- Suggestions for improvements.

The City provides West Branch residents, and stakeholders in general, with numerous opportunities to get involved in the planning, review, and approval process for planning and zoning processes, community visioning, and development projects.

Development Review Bodies

The City encourages citizen participation in local government planning and policy decisions. All residents are invited to apply for appointments to City boards and commissions. Vacant positions are advertised on the City's website at www.westbranch.com.

City Council

The City Council is the governing body for the City of West Branch. The Council consists of seven members who serve two-year terms.

The Mayor is the City's chief executive official and presides over meetings of the Council.

The City Council is the legislative authority and governing body for the city. It is responsible for hiring and overseeing the City Manager, setting policy and adopting ordinances and resolutions. One of the most important policies is budgetary which is carried out through reviewing and adopting the annual budget which funds the city's operations, capital projects and council's priorities for each fiscal year which begins in July.

Planning Commission

The Planning Commission prepares and adopts physical plans for the City and reviews development proposals, both private and public as set forth in the Michigan Zoning Enabling Act, 2006 PA 110 and the Michigan Planning Enabling Act, 2008 PA 33 and acts in an advisory capacity for matters referred by the City Council. The Planning Commission has the authority to approve site plans and Special Land Uses. In addition, the Planning Commission makes recommendations to the City Council for Zoning Ordinance text and map amendments.

Zoning Board of Appeals

The Zoning Board of Appeals has the power to authorize, upon an appeal, specific variances from requirements such as lot area and width regulations, building height regulations, yard and depth regulations and off-street parking and loading space requirements. The ZBA hears appeals related to the administration of the zoning ordinance including the interpretation of text and the zoning map.

Downtown Development Authority (DDA)

The West Branch DDA is designed to promote commerce in the Downtown District through beautification and economic development while preserving the historic aesthetics of the downtown community. Some of the responsibilities and duties of the DDA are operation & maintenance of the downtown street lighting including the decorating of the light poles during the holidays and the addition of flags through the summer season. The Authority provides the Christmas lights for all of the trees in the downtown area, the snow removal of the downtown walks, as well as the purchase, planting and maintenance of the summer flowers that adorn the streets throughout the district.

There are other boards and committees throughout the City. Agendas and dates/times of the meetings can be found on the front page of the City's website at: www.westbranch.com. Minutes for these meetings can be found under the "Government" tab on the website.

Public Meetings

Open Meetings. All meetings of the City Council and its various boards and commissions shall be open to the public in accordance with the "Open Meetings Act," 1976 PA 267, as amended, except closed session meetings as provided for in the Act. Public notices for these meetings are printed in the paper and hung at City Hall (as required by the Act).

Universal Access. All meetings shall be held in a facility accessible to persons with disabilities and the City shall provide reasonable accommodations, such as interpreters for the hearing impaired and audiotapes of printed materials being considered at this meeting, upon notice to the City of West Branch prior to the meeting. Individuals with disabilities requiring reasonable accommodations or services should contact either the City Manager's or City Clerk's office.

Meeting Schedule. The public will be notified within 10 days of the first meeting of a public body in each calendar or fiscal year; the body will publically post a list stating the dates, times and places of all its regular meetings at City Hall.

If there is a change in schedule, within three days of the meeting in which the change is made, the public body will post a notice stating the new dates, times and places of regular meetings.

For special meetings, public bodies will post a notice indicating the date, time and place at least 18 hours before the meetings.

Public bodies will hold emergency sessions without a written notice or time constraints if the public health, safety or welfare is severely threatened and if two-thirds of the body's members vote to hold the emergency meeting.

Public Access to Information

Individual boards and commission will hold public meetings pursuant to the boards' and commissions' bylaws and State regulations. As required by law, the City of West Branch will provide the public reasonable and timely access to information and records relating to the Community Master Plan, Public Participation Plan, Zoning Ordinance, DDA Plan, other plans and ordinances, and amendments to any of the plans and ordinances.

Meeting Postings. Interested persons are encouraged to check the event calendar on the City's website at www.westbranch.com, the City's Facebook page at www.facebook.com/cityofwestbranch, or at City Hall in order to be kept informed of any meeting/hearing changes or cancellations.

Meeting Location. Meetings/hearings take place in the West Branch City Hall Council Chambers which is barrier-free and accessible to the entire community. At specific times, meetings may be held at neighborhood locations to better accommodate residents. All meetings are held in a facility accessible to persons with disabilities, and The City provides and will provide reasonable accommodations. Individuals with disabilities requiring reasonable accommodations or services should contact the City Manager's Office.

Agendas and Public Hearing Notices. Meeting and public hearing agendas and packets are available ahead of time either on the City's website or through City Clerk's Office. Meeting agendas relating to a specific application are mailed to applicants. Public hearing notices are sent to applicants and stakeholders. The following processes require that neighbors within 300 feet of a property are personally notified:

- Rezoning of property
- Special Land Use
- Variance requests

Statutes require these processes be noticed in the Ogemaw County Herald as well as mailed to neighbors within 300 feet at least 15 days prior to the meeting.

Minutes. The City Council's meetings are recorded. Draft meeting/hearing minutes are, by law, available 8 business days after the meeting to which they refer. Approved meeting/hearing minutes are posted on the City's website (under the Government tab) following approval.

Hard Copies of Documents. Copies of all documents will be available at the following locations:

- West Branch City Hall – 121 N 4th Street, West Branch, MI 48661
- On The City's website - www.westbranch.com

Public Comments

Opportunities for public comment shall be available at any meeting of the City Council or City boards and commissions in accordance with the provisions in the boards and commission's bylaws and other operating policies. The meeting agenda allows for public comments under the 'Public Comment' section. The participation of interested persons and their input shall be recorded in the meeting minutes.

Approved meeting minutes, which include the outcome of the public participation, are made available to the public through various methods, including being posted on the City's website.

Public Hearings

The City Council and its various boards and commissions shall hold public hearings when called for in their local and State enabling legislation, or when otherwise prudent, to provide the opportunity for public comment on specific topics.

Planning Commission

The Planning Commission holds public hearings in response to requests for Special Use Permits, Planned Unit Developments, and Zoning Amendment Requests. The Zoning Administrator shall schedule and publish the notification of a public hearing before the Planning Commission in the Ogemaw County Herald not less than 15 days prior to the hearing. Land use and development application notifications shall be sent by mail to the applicant, the owner of the subject property, and, if the case of a Special Land Use or rezoning, to the owners of property within 300 feet of the subject property. The Planning Commission meeting agenda and meeting packet shall be made available on the City's website in advance of the meeting. The applicant shall receive written notification of the Planning Commission's determination.

City Council

The City Council shall hold a public hearing when called for in their enabling legislation and as required for the review of business tax or financial assistance applications, following the notice requirements set in the local and state legislation.

Other Boards and Commissions

Other relevant boards and commissions will hold public hearings as needed and as required by the individual boards and commissions bylaws. The public hearings will be noticed as required in advance of the meeting. All meeting agendas and packets shall be made available before the meeting on the City's website.

Development Review Opportunities

Master Plan Adoption or Amendment

The City of West Branch will follow, at a minimum, the provisions of 2008 PA 33, as amended (the Michigan Planning Enabling Act, M.C.L. 125.3801 et. seq.) for the adoption of a new Master Plan or of an update to the existing Master Plan.

The Planning Commission will send a notice to all stakeholders as listed in the State enabling legislation; the notice will explain that the Planning Commission intends to prepare a plan and request cooperation and comment on the plan now and when the plan is drafted.

The Planning Commission and the City will then begin work on drafting or updating the plan. They shall involve the public through many of the methods listed in the section Public Involvement Strategies. The City shall encourage the involvement and participation of all stakeholders, including any marginalized groups that may be typically less involved in the planning process. Stakeholder involvement is encouraged

from the beginning and the results of such public participation are made available to the community and participants and incorporated as much as is reasonably possible in the drafted plan or plan amendment.

In preparation, studies of existing conditions and probable growth should be done for the basis of the plan. The Planning Commission may make use of expert advice and information from Federal, State, County, and Municipal officials, departments, and agencies having information, maps, and data pertinent to the City. The City may consult with representatives of adjacent local units of government with respect to their planning so that conflicts in master plans and zoning may be avoided. The City may cooperate with all departments of the State and Federal governments, public transportation agencies, and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.

The City shall encourage and track the public participation through a variety of means, including minutes, public recording of meetings, comment cards, sign-up sheets, and input received verbally, through written correspondence or through website comments, and other means as appropriate.

The Planning Commission will act to submit the proposed plan to the City Council for review and comment. The process of adopting the Master Plan shall not proceed further unless the City Council approves the distribution of the proposed plan.

The City Council shall act on the proposed plan during a public meeting held in accordance with the Open Meetings Act. The City Council shall decide on the approval of the distribution of the proposed plan to local governments and agencies for review and comments.

If the City Council approves the distribution of the proposed plan, the City shall transmit, in the manner provided by the State enabling law, a copy of the proposed plan, for review and comment, to all of the units listed in the State enabling law. These entities may submit comments on the proposed plan to the Planning Commission within 63 days after the proposed plan was submitted to that entity.

Before approving the proposed Master Plan, the Planning Commission shall hold not less than one public hearing on the proposed plan. The hearing shall be held after the expiration of the deadline for comment. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in the Ogemaw County Herald. The Planning Commission shall also submit notice of the public hearing to the entities that received initial communication.

The proposed plan must be approved by resolution of the Planning Commission. A statement recording the Planning Commission's approval of the plan, signed by the chairperson or secretary of the Planning Commission, shall be included on the inside of the front or back cover of the Master Plan. Following approval of the proposed Master Plan, the secretary of the Planning Commission shall submit a copy of the plan to the City Council.

Approval of the proposed plan by the Planning Commission is the final step for adoption of the plan, unless the City Council by resolution has asserted the right to approve or reject the plan. In that case, after approval of the proposed plan by the Planning Commission, the City Council shall approve or reject the proposed plan. A statement recording the City Council's approval of the Master Plan, signed by the City Clerk, shall be included on the inside of the front or back cover of the Master Plan if the City Council takes action on the Plan. After the adoption of the Master Plan, the City of West Branch shall publish and

distribute copies of the Master Plan to stakeholders required by State law. In addition, the City will use public participation methods listed in Section 4 to inform the public of the availability of the Master Plan.

Zoning Ordinance Adoption or Amendment

The Planning Commission may of its own motion, or shall upon petition for a Zoning Amendment, prepare an ordinance amending or changing the district boundaries or district regulations. In most cases, applications for amendment are due 45 days before the next meeting of the Planning Commission in order to meet the public hearing notice requirements. The ordinance will be noticed in the Ogemaw County Herald at least 15 days prior to the hearing.

Prior to submitting its recommendation to the City Council, the Planning Commission will hold a public hearing. After the public hearing, the Planning Commission shall forward its recommendation to City Council. The City Council shall act to adopt or reject the amendment.

Following adoption of the ordinance to amend, supplement or change the district boundaries or the district regulations, the ordinance will be filed with the City Clerk, and a notice of the ordinance adoption will be published in the Ogemaw County Herald within 15 days after adoption. The ordinance or amendment will take effect on the eighth day after its publication.

Site Plan Review/Special Use Review/Zoning Board of Appeals Request

The public is given the opportunity to voice their opinion, support or concerns during the site plan review, special land use, or Zoning Board of Appeals process. Site plan review is conducted during a regular (or special) meeting of the Planning Commission without a public hearing. Special Use review or Zoning Board of Appeals review is conducted during a public hearing which is noticed according to the Public Hearings section above. Flowcharts depicting review processes are contained within the Appendix.

DDA Plan and Projects

The public is given the opportunity to review projects that are the responsibility of the DDA. The DDA uses a variety of the methods discussed in Chapter 4 to inform the public and gather comments.

Updating the Public Participation Plan

Like all documents, the City of West Branch understands that the Public Participation Plan will need to be reviewed and updated on a routine basis. This plan will be updated as needed, at a minimum of every 5 years, in conjunction with the City's Master Plan. Updates to this plan will be drafted by staff, reviewed and recommended by Planning Commission, and approved through City Council. At least one public hearing will be held during the process to gather community input and to generate new ideas.

FORM-BASED CODE CONVERSATION FOR RRC REQUIREMENT 2.1:

In order to secure designation as a “Redevelopment Ready Community,” which allows us to apply for MEDC grants, the City of West Branch needs to complete all “RRC” requirements that are assigned to us by the MEDC as part of the RRC process. RRC requirement # 2.1 requires us to do the following:

“Discuss form-based code with the planning commission/city council and determine if it would be a good fit for downtown.”

So if both the City Council and Planning Commission could please have on the agenda for their upcoming November meetings “Form-Based Code Conversation” and then have a vote recorded in the minutes as to whether each board thinks that form-based code would be a good fit for our downtown.

To help aid in this conversation, general information about “form-based code” is listed below:

Put simply, a form-based code (FBC) is a way to regulate development that **controls building form first and building use second**, with the purpose of achieving a particular type of “place” or built environment based on a community vision.

A form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. A form-based code is a regulation, not a mere guideline, adopted into city, town, or county law. A form-based code offers a powerful alternative to conventional zoning regulation.

Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in form-based codes are presented in both words and clearly drawn diagrams and other visuals. They are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development, rather than only distinctions in land-use types.

This approach contrasts with conventional zoning’s focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., FAR, dwellings per acre, setbacks, parking ratios, traffic LOS), to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory. They are drafted to implement a community plan. They try to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes depends on the quality and objectives of the community plan that a code implements.

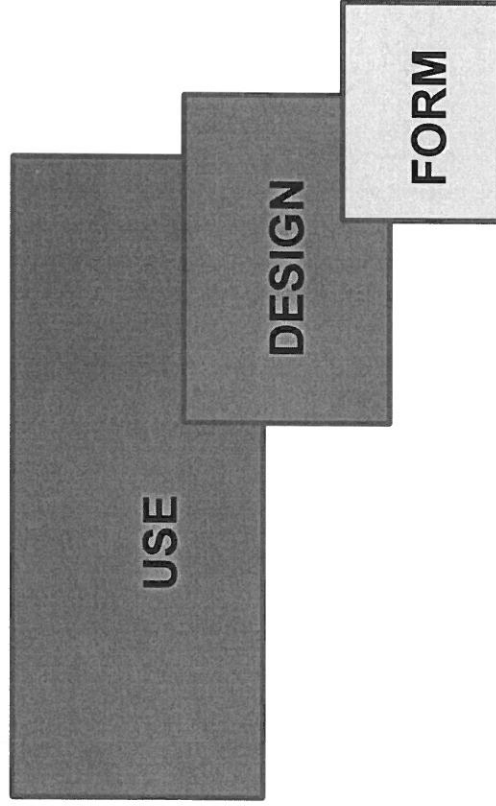
Form-Based Code vs Traditional Code

DEFINITIONS

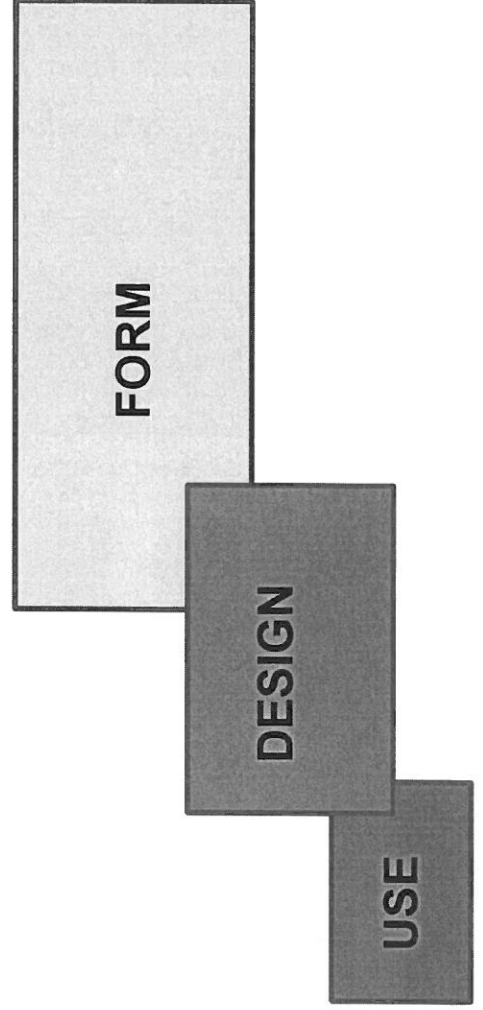
Traditional or Euclidean Zoning-Focuses on the type of use allowed on the land. Based on the notion that each space should have one, singular use.

Form-Based Zoning- Focuses on building form as it relates to streetscape and adjacent uses. Encourages mixed use. Relies on design concepts and patterns intended to preserve the assets and character of a community.

Traditional Zoning



Form-Based Code

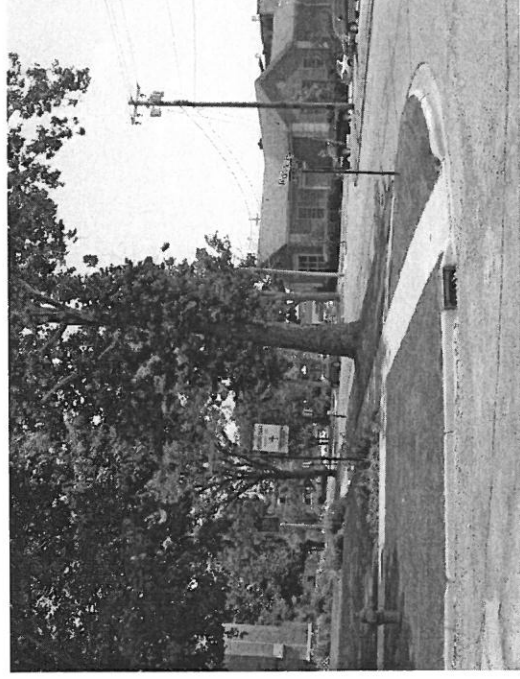


Traditional Zoning

Focuses on uses.
Attempts to segregate a community according to its different uses.

Form-Based Code

Focuses on building form. *Preserves community character through design requirements.*

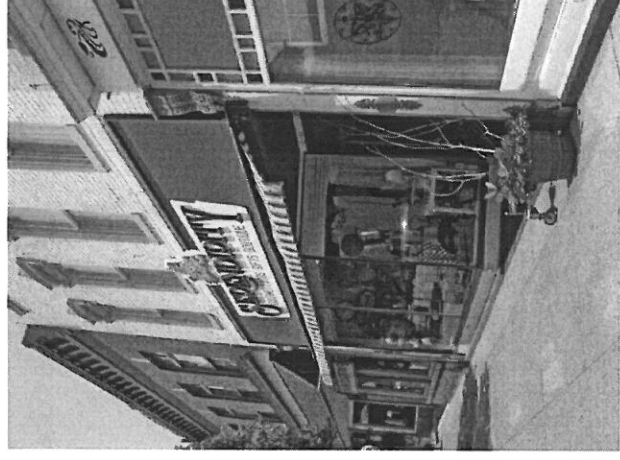


Traditional Zoning

Form-Based Code

Discourages mixed uses and may prevent development in certain areas.

Encourages mixed uses and promotes walkable communities.

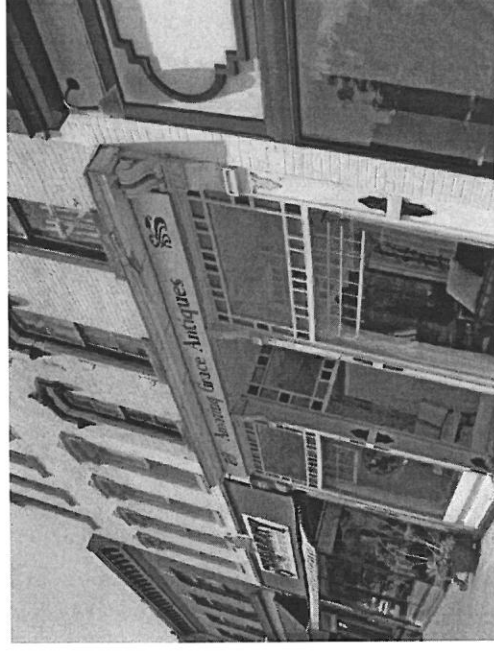


Traditional Zoning

Attempts to create uniformity by applying parameters like setbacks, heights, density, and floor area ratios.

Form-Based Code

Focuses on the role that individual buildings serve in shaping the public streetscapes.



The process

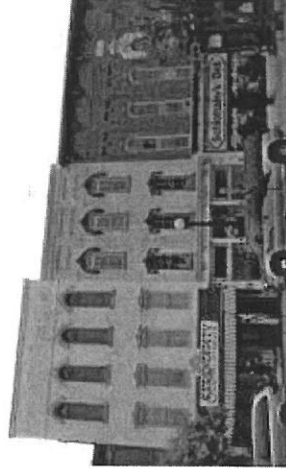
- *Traditional zoning uses minimum setbacks but the ultimate location and form of the building within the building envelope is unpredictable! Because of this unpredictability, every site plan for new development must go to the Planning Commission.*
- Form-based code is prescriptive and predictable, therefore, if a developer follows the code, the development can be approved administratively. If the developer wants to deviate, recourses are the Planning Commission and the Zoning Board of Appeals.

Example Situation

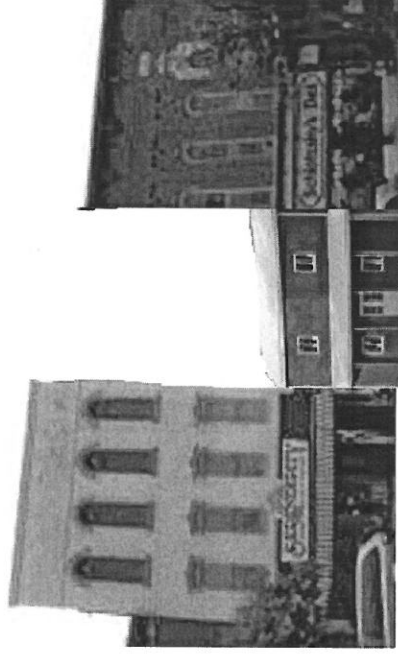
A store downtown is leveled due to fire. Code dictates the following regarding infill:

§156.182 (n) New or infill buildings in the B-3 District shall be set back from any public street right-of-way a maximum of ten feet. In no case shall new or infill buildings in this district be setback further than the established building line of adjacent buildings in the district, as determined by planning commission.

Our existing code protects the building line
downtown. This is what it does not protect
against:



Maximum
height = 3.5
stories



Meets the
building line!

Maximum Lot
Coverage:
100%

In summary:

- Form-based codes emphasize the physical character of development (site design) and de-emphasize the regulation of land use.
- Form-based codes are the result of a public design process, which creates a clear vision for a district or neighborhood.
- Form-based codes use illustrations to explain design elements rather than using numeric standards and text.
- Form-based codes encourage mixed uses to reduce the need to travel.

City of West Branch Planning Commission Minutes for

July 10, 2018

Held at West Branch City Hall, 121 N. Fourth St

I. Called to order 6:05pm

II. Roll Call - Present- Denise Lawrence, Dan Weiler, Kara Fachting, Lisa Jensen, Bob David, Evelyn Schenk, Jan Hasty. Absent – Mike Jackson Also Present – ~~Corey~~ Cori Lucynski

III. Pledge of Allegiance

IV. Public Hearings – none

V. Additions to Agenda * Motion by David, second by Jensen to excuse Mike Jackson from the Meeting(added due to illness as correction). All in favor, none opposed. Motion carried.

VI. Public Comment - none

VII. Site Plan Review - none

VIII. Sign Permit - none

IX. Unfinished Business - none

X. Other New Business - Discussion of size of Planning Board. ***Motion by Fachting, second by Weiler to reduce the size of the planning board from nine members to seven members. All in favor, none opposed.**

Motion carried. Chair David will send to Council. Mayor Lawrence will bring to City Council on July 17, 2008-16, 2018. (Added as correction: went over section 3.33 signs of proposed zoning at length)

XI. Approval of Minutes - *Motion by Schenk, second by David to approve the minutes of Planning Commission meeting held on June 26, 2018. All in favor, none opposed. Motion Carried.

XII. Communications - none

XIII. Reports and/or Comments – chair David shared that his son Chris is battling cancer, and thanked members for their support. The members welcomed Corey Lucynski to the Planning board, pending approval by Council. No other reports.

XIV. Public comment - none

XV. Adjournment 7:14 pm.

Next Planning Commission meeting to be held on July 24, 2018 at 6:00 pm. Will be meeting with Denise Kline from NEMCOG to work on Master Plan

Minutes taken and typed by Lisa Jensen, Planning Secretary 2018

The Planning commission approved the recommendation to have City Council approve a change to the Planning Ordinance to allow the total number of members for their board to change from 9 to 7. The Planning and Enabling Act does allow either a 5, 7, or 9 person board. I have highlighted the changes and have an X through the old wording with the new wording next to it so you can see the changes right next to each other. If you have any questions on the changes please let me know.

Thank you,

John

ORDINANCE 18-03

AN ORDINANCE TO AMEND CHAPTER 32 OF THE CITY OF WEST BRANCH CODE OF ORDINANCES ENTITLED: "DEPARTMENTS, COMMISSIONS AND BOARDS."

THE CITY OF WEST BRANCH ORDAINS:

§ 32.032 COMPOSITION/MEMBERSHIP.

(A) Membership of the planning commission shall be as set forth in the City Charter, and as required pursuant to the Michigan Planning Enabling Act 33 of 2008- with the caveat that the provision in § 4.20 of the City Charter indicating that the City Manager shall serve as a member of the City Planning Commission is hereby found to be invalid by operation of law, due to the interpretation that the City Manager ' s simultaneous service as the both a City Planning Commissioner and the City's Zoning Administrator is prohibited by the Incompatible Public Offices Act, 1978 PA 566, MCL 15.181, et seq.

(B) The Commission shall consist of a total of ~~nine~~ seven members, each of whom must be individually appointed by the Mayor and subject to approval by a majority vote of the members of the City Council.

(C) The membership of the Commission shall consist of qualified electors of the City of West Branch, except that no greater than two Commission members may be individuals who are not qualified electors of the City of West Branch but are qualified electors of another local unit of government

(D) Commission members shall not hold any elected office or employment with the City of West Branch, unless such member is an ex-officio member as contemplated in section (E) below.

(E) ~~The Commission may have up to three ex-officio members, consisting of the following individuals: at least one, but up to two, representative members of the West Branch City Council; the Mayor of the City of West Branch, if the Mayor so desires (note that the Mayor may choose to serve on the Commission either in addition to, or in place of, one of the two representative members of the West Branch City Council provided that the total number of ex-officio members never exceeds 1/3 of the total membership of the Commission).~~ The Mayor or a Council Member appointed by the Mayor to serve on their behalf shall serve as an ex-officio member

(F) Ex-Officio members shall have the same rights, duties, powers, and responsibilities as non-ex-officio members- with the only difference being that the term of service for ex-officio members shall be the length of their corresponding term of office, as opposed to the three-year terms of office that shall generally apply to all other non-ex-officio Commission members.

(G) After an individual's appointment and before reappointment, each Commission member shall attend training for Commission members, pursuant to Section 32.034 of this Ordinance.

(H) Members shall be appointed for three-year terms. However, when first appointed a number of

members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of 1/3 of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of 1/3 of all commission members continue to expire each year.

(I) The membership of this Commission shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of West Branch, in accordance with the major interests as they exist in the City of West Branch, as follows:

- I. one member representing the "Recreation" segment of the community;
2. one member representing the "Education" segment of the community;
3. one members representing the "Public Health" segment of the community;
4. ~~two~~ **one** members representing the "Government" segment of the community;
5. one member representing the "Transportation" segment of the community;
6. ~~one member representing the "Industry" segment of the community;~~
7. one member representing the "Commerce" segment of the community; and
8. one member representing the "Residential" segment of the community; for a total of nine members in all.

(J) When appointing members to this Commission, the Mayor and City Council shall attempt, whenever possible, to make the membership of this Commission proportionally representative of the important geographic and interest segments of the City of West Branch, which may consist of, for example, the various different types of zoned districts in the community.

(K) The membership of this Commission shall also be, to the extent practicable, representative of the entire geography of the City of West Branch, as a secondary consideration to the representation considerations set forth in sections 32.032(1) and (K) of this Ordinance.

(L) Commission members are required to meet the conditions provided for each individual member throughout Section 32.032 of this Ordinance, except that the geographical location considerations described in § 32.032(K) of this Ordinance may be considered optional. As such, the representation requirements and considerations set forth in this Ordinance shall be considered by Council in the following order of priority: first, § 32.032(1); second, § 32.032(J), and third, § 32.032(K).

(M) Neither the Mayor nor a representative member from the City Council shall serve as the chair of the Commission

BYLAWS OF PLANNING COMMISSION

Article I: Authority

- 1.1 Adoption. These Bylaws are adopted by the City of West Branch and the West Branch Planning Commission (the Commission) pursuant to Public Act 33 of 2008 and the Open Meetings Act.

Article II: Purpose

- 2.1 Purpose. These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et seq*).

Article III: Members

- 3.1 Appointment. Members of the Commission are appointed by the Mayor and subject to approval by a majority vote of the members of the City Council, and hold office for a three year term, pursuant to the Planning Commission Ordinance 17-04, as amended.
- 3.1.1.1 First priority, each member shall represent and advocate what is best for the City of West Branch as a whole, putting aside personal or special interests.
- 3.1.1.2 Second Priority, each member shall represent a separate important segment of the community, as appointed by the City Council:
- 3.1.1.3 One member representing Recreation interests: attend and/or be familiar with the desires and needs of the recreation associations, civil and social organizations, the arts, snowmobile and other recreation clubs, Michigan Department of Natural Resources Parks Division, Recreations Division and Waterways Division.
- 3.1.1.4 One member representing Education interests: attend and/or be familiar with the desires and needs of the local school districts, intermediate school district, College, University and other educations institutions.
- 3.1.1.5 One member representing Public Health interests: attend and/or be familiar with the desires and needs of public utility providers, water/sewer providers, County Health Department, councils on aging, and human services collaborative bodies.
- 3.1.1.6 ~~Two~~ One member representing Government interests: attend and/or be familiar with the desires and needs of the county chapter of the Michigan Townships Associations, cities and villages, and county government.
- ~~3.1.1.7 One member representing Transportation interests: attend and/or be familiar with the desires and needs of the County Road Commission, and village and city road agencies.~~

- 3.1.1.8 One member representing Industry interests: attend and/or be familiar with the desires and needs of the industrial associations.
- 3.1.1.9 One member representing Commerce interests: attend and/or be familiar with the desires and needs of the tourist division of the Chamber of Commerce, visitor/convention bureau, hotel/motel tourist business owners, economic development corporations, and labor and trade associations.
- 3.1.1.10 One member representing Residential interests: attend and/or be familiar with the desires and needs of the residential associations, interest groups or bodies.

3.2 Liaisons. The purpose of liaisons is to provide certain West Branch officials and quasi-officials the ability to participate in discussions with the Commission, in addition to speaking in public participation, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary actions, be counted for a quorum or be expected to comply with attendance requirements pursuant to these Bylaws.

3.2.1 At a minimum, the Liaisons shall include:

- 3.2.1.1 City of West Branch staff involved in the planning and zoning process, including the City Zoning Administrator, as well as all Deputy Zoning Administrators.
- 3.2.1.2 The City Manager.
- 3.2.1.3 The City Attorney

3.2.2 Liaisons may also include:

- 3.2.2.1 A representative from the City of West Branch Downtown Development Authority
- 3.2.2.2 A representative from the City of West Branch Zoning Board of Appeals.

3.3 Attendance. In order to be excused from a meeting, members of the commission must have an adequate reason. More than three (3) consecutive, unexcused absences, or absences at twenty-five (25%) percent of all meetings in any one (1) fiscal year shall be considered nonperformance of duty and cause for removal.

3.4 Adequate Reason for Excused Absence. Adequate Reason for Excused Absence. The term Adequate Reason for an Excused Absence here defined as one of the following reasons:

- 3.4.1.1 Illness (whether or not a doctor's note is required shall be within the discretion of the Board Chair)



Annual maintenance
program for the
City of West Branch DDA
2018-2019

The following agreement between the City of West Branch ("City") and the City of West Branch Downtown Development Authority ("DDA") shall be valid starting on the date that an authorized representative from both parties signs this document, following a vote from each respective party's governing board (City Council for the City and the DDA Board for the DDA) authorizing the relevant parties to sign this document and enter into the following agreement regarding general maintenance and other specified projects relating to areas located within the DDA District:

1. SIDEWALK WINTER MAINTENANCE PROCEDURES AND POLICIES

A. Department of Public Works ("DPW") personnel for the City of West Branch will monitor the condition of public sidewalks located within the DDA district for possible actions or applications needed to insure safe pedestrian travel. There are a number of elements that must be taken into consideration before a reasonable and responsible course of action can be taken. The DPW Superintendent will be the final say in what course of action is to be taken in relation to snow removal in the DDA District. In addition, all such considerations will be made in the sole discretion of the DPW Superintendent based on his/her assessment of conditions.

B. Depth of Snowfall

- The course of action will typically be determined by the amount and duration of snowfall.
- City staff will typically remove snow from the sidewalks upon 2" of snowfall, but overall weather conditions, including the presence of ice, snow melt, etc., will all be taken into consideration by the DPW Superintendent, who has the final say to make decisions regarding when to remove snow, in his sole discretion. Other factors relevant to snow removal will also be considered by the DPW Superintendent, in his or her sole discretion, when making such decisions.
- Additional salting and snow plowing will be at the sole discretion of the DPW Superintendent.
- Business owners and other property owners within the DDA District will still be responsible for the upkeep of the sidewalks in front of their business/property until City crews are on site.

C. Sidewalk Winter Maintenance Locations

The following sidewalks will be maintained with a priority falling on the sidewalks on Houghton Ave between First and Fifth St.

- North and South side of Houghton Ave from First St to M-30.
- East and West side of North Second from Houghton to the river.
- East and West side of North Third from Houghton to the river.
- East and West side of North Fourth from Houghton to the river.
- West side of South Second from Houghton to Wright.
- East and West side of South Third from Houghton to Wright.
- East and West side of South Fourth from Houghton to Wright.
- North and South side of Wright from Second to Third.

D. PENALTY FOR ADDITIONAL SIDEWALK WORK

- If City crews are used to correct problems resulting from actions taken by property owners, the responsible property owners will be billed for time and materials.
- In some cases, deliberate actions may constitute illegal activity (including the piling of snow in such a manner as to impede the visibility of pedestrians and motorists, etc.).

2. ADDITIONAL ITEMS OF MAINTENANCE

A. Pocket Park

- The City DPW will be responsible for the maintaining of the water at the Pocket Park water fountain including the filling and draining of the fountain as well as the monitoring of water quality and levels.
- If any mechanical parts or repairs are needed, those issues will be brought before the DDA Board for approval of repairs.
- The dates/times for when the Pocket Park water fountain will be winterized and un-winterized will be decided by the DPW Superintendent, in his/her sole discretion, with a goal of trying to keep the fountain operational for as long as possible each year while simultaneously trying to also ensure that the fountain is winterized early enough to avoid freezing temperatures which could cause permanent damage to the fountain and its related mechanisms.
- The City DPW will also be responsible for the maintenance and cleaning of the public bathrooms located within the Pocket Park. All

procedures and policies related to such cleaning and maintenance will be decided in the sole discretion of the DPW Superintendent, including dates and hours for when the pocket park is to remain open to the public, heat settings, security camera related issues, etc.

B. Downtown Lights

- City crews will be responsible for replacing light bulbs in the downtown light poles as well as the decorating of the poles for Christmas. The dates/times for the placement and subsequent removal of decorations will be in the sole discretion of the DPW Superintendent.

C. Downtown Flowers

- City crews will be responsible for the placement of flower pots in the spring and removal of flower pots in the fall.
- The DDA Chair will be responsible for notifying the DPW Superintendent via email (publicworks@westbranch.com) of the dates the flowers are requested to be planted so that the DPW Superintendent may schedule the placement. As such, at least two-weeks prior notice from the DDA Chair is requested. The removal of the pots will be at the sole discretion of the DPW Superintendent.

D. Flags

- The placement of flags downtown will be handled by the City DPW, with the exact dates/times for the placement and subsequent removal of flags being within the sole discretion of the DPW Superintendent. The flags themselves shall be provided by the DDA.

E. Additional Work

- Any additional work requested will be provided upon approval of the DPW Superintendent with time and material being based on current labor rates and State of Michigan approved rental rates.

3. INTERGOVERNMENTAL AGREEMENT

- The City of West Branch and the West Branch DDA agree to the above maintenance agreement on a per fiscal year basis.
- The amount payable by the DDA to the City of West Branch as consideration for the covenants contained in this agreement shall be re-assessed each year during the DDA's typical budget-review

process, with recommended pricing being determined upon review of costs on a year by year basis. Once the DDA finds a recommended figure, said figure must be agreed to by both the DDA Board and the West Branch City Council prior to a continuation of the covenants set forth in this agreement.

- The total amount agreed upon for the fiscal year of July 1, 2018- June 30, 2019 is **\$15,000** (fifteen thousand dollars and zero cents).
- The total amount authorized by this agreement shall be paid by the DDA to the City on a bi-annual basis, with the first half of the total payment due on or before January 1st of the current fiscal year, and the second half of the total payment being due on or before May 1st of the current fiscal year.
- Since this present agreement was entered into part-way through the City's 2018/2019 fiscal year, after both boards have approved this agreement, corresponding budget amendments shall be drafted for both the City budget and the DDA budget to effectuate the terms of this agreement. Said budget amendments will need to be approved by the relevant boards (i.e., the DDA Board will have to approve any proposed amendments to their budget, and the City Board will subsequently have to approve any amendments to the City Budget, as well as also approve the amendments to the DDA Budget once the DDA has approved them).

Approved by a majority vote of the City Council for the City of West Branch on the following date:

Approved by a majority vote of the DDA Board for the City of West Branch DDA on the following date:

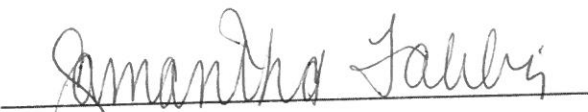
10/23/18



Heather Grace, City Manager

11/14/18

Date



Samantha Fabbri, DDA Chair

11/14/18

Date

RESOLUTION #18-21

WHEREAS, The City of West Branch has had a long standing policy to provide and bill the West Branch Downtown Development Authority for maintenance and work done to property in the Downtown Development area including the snow and ice removal on sidewalks, the maintenance of the Pocket Park fountain, the putting out and removal of planters, as well as other requests made by the DDA based on actual hours worked and equipment used, and,

WHEREAS, the DDA seeks better ways for the budgeting for projects because of the unknown amount of money that would be required for this work on a year to year basis, and,

WHEREAS, the City of West Branch and the DDA would like to work together to make budgeting easier for the DDA and allow them more money to be used for downtown projects, and,

WHEREAS, the City of West Branch, has presented a yearly maintenance agreement to provide these services based on an agreed amount that would be voted upon for each fiscal year, and,

WHEREAS, the agreement was presented to the DDA at their regular meeting held October 15, 2018, and,

WHEREAS, a motion for approval of the agreement was presented by Member Ken Walters, seconded by Member Autumn Hunter, and approved unanimously by the DDA Board, and,

NOW, THEREFORE, BE IT RESOLVED, that the West Branch City Council hereby approves the 2018-2019 DDA intergovernmental maintenance agreement and approves Manager Grace to sign on the City's behalf, and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the West Branch City Council adopts the following budget amendment

FUND 101 – GENERAL FUND

Department 441 PUBLIC WORKS DEPARTMENT

REVENUES	BUDGET	AMENDED
673.400 TRANSFER FROM DDA	\$0	\$15,000
695.400 MISCELLANEOUS	\$100	\$200
695.410 MDOT REVENUE	\$35,000	\$35,000
695.415 OTHER GOVERNMENTAL UNITS	\$4,000	\$4,000
TOTAL REVENUES	\$39,100	\$54,200

EXPENSES		
702.700 PROMOTION/BONUS	\$0	\$0
703.700 SALARIES AND WAGES	\$59,725	\$67,525
708.700 SICK LEAVE PAYOUT	\$100	\$100
710.700 OVERTIME	\$1,680	\$3,280
713.700 EMP. HEALTH OPTION	\$1,800	\$1,800
713.701 OTHER HEALTH BENEFITS	\$650	\$650
714.700 MANDATORY MEDICARE	\$987	\$1,142
715.700 SOCIAL SECURITY (EMPLOYER)	\$4,983	\$5,593
716.700 BC/BS HEALTH INSURANCE PREMIUM	\$41,120	\$42,020
717.700 LIFE INSURANCE PREMIUM	\$1,000	\$1,000
718.700 MERS RETIREMENT (EMPLOYER)	\$26,714	\$26,864
718.701 EMPLOYER DEPRED COMP.	\$1,000	\$1,000
719.700 LONG TERM DISABILITY	\$2,345	\$2,345
720.700 WORKERS COMPENSATION PREMIUM	\$1,640	\$1,765
724.700 UNEMPLOYEMENT INS BENEFIT	\$215	\$290
727.700 OPERATING SUPPLIES	\$3,000	\$3,000
774.700 SIGNING	\$1,200	\$1,200
801.700 CONTRACUAL SERVICES	\$2,500	\$2,500
801.701 INFRASTRUCTURE PROJECT	\$0	\$0
817.700 UNIFORMS	\$4,500	\$4,500
853.700 TELEPHONE/RADIO COMMUNICATIONS	\$2,560	\$2,560
865.700 PROFESSIONAL DEVELOPMENT	\$1,800	\$1,800
941.700 EQUIPMENT RENTAL	\$7,020	\$19,120
956.700 EXPENSES	\$586	\$1,036
TOTAL EXPENSES	\$167,125	\$191,090
390.000 CARRYOVER (ANTICIPATED)	\$890,296	\$881,431

FUND 248 – DDA

REVENUE	BUDGET	AMENDED
400.400 Tax increment financing	\$42,000	\$42,000
403.400 Current property tax gen. op.	\$13,000	\$13,000
634.400 Grant	\$0	\$0
664.400 Interest income	\$50	\$50
695.400 Miscellaneous	\$100	\$0
TOTAL REVENUE	\$55,150	\$55,050

EXPENDITURES		
703.700 SALARIES AND WAGES	\$7,500	\$0
703.702 WAGES SHOWMOBILE	\$300	\$0
710.700 OVERTIME	\$1,500	\$0
710.702 SHOWMOBILE OT	\$100	\$0
714.700 MANDATORY MEDICARE	\$150	\$0
714.702 MADN MED SHOWMOBILE	\$5	\$0
715.700 SOCIAL SECURITY (EMPLOYER)	\$600	\$0

715.702 SOCIAL SECURITY SHOWMOBILE	\$10	\$0
716.700 BC/BS HEALTH INSURANCE PREMIUM	\$900	\$0
718.700 MERS RETIREMENT (EMPLOYER)	\$150	\$0
720.700 WORKERS COMPENSATION PREMIUM	\$125	\$0
724.700 UNEMPLOYEMENT INS BENEFIT	\$75	\$0
729.700 FLOWER PROJECT	\$5,000	\$5,000
750.700 RETAIL MERCHANTS/PROMOTIONS	\$7,500	\$7,500
782.700 ADMINISTRATION	\$9,000	\$6,000
801.700 CONTRACUAL SERVICES	\$5,000	\$17,965
922.700 PUBLIC UTILITIES	\$0	\$0
935.700 IMPROVEMENTS	\$500	\$0
935.702 POCKET PARK	\$500	\$0
935.703 SHOWMOBILE EXPENSES	\$100	\$0
938.700 GENERAL IMPROVEMENTS	\$0	\$0
940.700 GEN MAINTENANCE/REPAIRS	\$350	\$0
941.700 EQUIPMENT RENTAL	\$12,000	\$0
941.703 SHOWMOBILE EQUIPMENT RENTAL	\$100	\$0
948.700 TRANFER TO GENERAL FUND	\$0	\$15,000
956.700 EXPENSES	\$3,000	\$3,100
956.701 FOOD EXPENSE	\$100	\$0
956.802 BAD DEBT EXPENSE	\$0	\$0
TOTAL EXPENDITURES	54,565	54,565
ANTICIPATED CARRY OVER	\$21,366	\$21,851

Sole Source Vendor Exception Request

for

Police Department Computer Technology Updates

by

Great Lakes Technology Consulting LLC

11/19/2018

Pursuant to City Ordinance § 33.09 **SOLE SOURCE VENDORS**, “Supplies, materials, equipment and services may be purchased without formal bidding when the City Manager demonstrates in writing to the City Council that there is only one practical source for the supply, material, equipment or service.”

As such, City Manager Heather Grace is requesting that the City Council forego formal bidding and approve the purchase of select computer technology items needed to make necessary updates at the City of West Branch Police Department building. City Manager Grace is requesting a Sole Source Vendor Exception to forego formal bidding for this particular project because:

- There is only one practical source for the provision of these services since we have already bid out the provision of tech support services and the contract was awarded to Tom Spencer of Great Lakes Technology Consulting LLC, who researched tech needs and pricing to make the recommendations to purchase the pieces of equipment listed below. In addition, time is of the essence in approving the project as a whole, as recent vulnerabilities related to cyber security and less than ideal backup protocols have been identified and need remedied sooner rather than later.
- The exact pieces of computer technology equipment intended to be purchased total \$19,083.93 and are detailed in the attached estimate.

Thank you.

-----City Manager Heather Grace



Great Lakes Technology Consulting LLC

1875 Henry
Alger, MI 48610
(989) 329-7094

Estimate

Date	Estimate #
9/26/2018	E-11232018

Name / Address
City of West Branch 121 North 4th Street West Branch, MI 48661

Description	Qty	Rate	Total
HPE PROLIANT ML350 GEN10 BASE - TOWER - XEON SILVER 4110 2.1 GHZ - 16 GB - 0 GB	1	2,374.05	2,374.05
HPE SMARTMEMORY - DDR4 - 16 GB - DIMM 288-PIN	3	350.38	1,051.14
HPE storage fan cage kit (4 fan modules)	1	132.24	132.24
HPE Foundation Care 24x7 Service - extended service agreement - 3 years - on site	1	1,227.78	1,227.78
Microsoft Windows Server 2016 Standard - license	8	112.09	896.72
Microsoft Windows Server 2016 - user license	6	37.99	227.94
HPE Enterprise - hard drive - 1.2 TB - SAS 12Gb/s	6	345.79	2,074.74
Dell Sonicwall TZ300 WIRELESS-AC Firewall	1	1,035.00	1,035.00
Dell Sonicwall TZ300 Ethernet Firewall	1	535.00	535.00
Ubiquiti Networks US-24 24-Port UniFi Managed Gigabit Switch with SFP	1	229.50	229.50
Setup and Install	24	65.00	1,560.00
Dell Optiplex 5050 Computer	6	879.99	5,279.94
Microsoft Office Home and Business 2016 - Download - 1PC	6	229.99	1,379.94
VIEWSONIC - LED MONITOR - FULL HD (1080P) - 27"	6	179.99	1,079.94
		Subtotal	\$19,083.93
Estimate valid for 7 days		Sales Tax (6.0%)	\$0.00
		Total	\$19,083.93

Signature of Acceptance _____

Approval of Council Minutes & Summary

REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 121 NORTH FOURTH STREET ON MONDAY, NOVEMBER 5, 2018.

Mayor Denise Lawrence called the meeting to order at 6:00 p.m.

Present: Mayor Denise Lawrence and Council Members Joanne Bennett, Mike Jackson, Tim Schaiberger, Rusty Showalter, Aaron Tuttle, and Dan Weiler.

Absent: None

Other officers present: City Manager Heather Grace, Clerk/Treasurer John Dantzer, DPW Superintendent Mike Killackey, and Police Chief Ken Walters.

All stood for the Pledge of Allegiance.

* * * * *

Bids were reviewed for the sale of a 2008 Dodge police car. Two bids were received with one being from Wayne Wolverton in the amount of \$1,001 and the other being from Daniel Haggard Sr. in the amount of \$651.76.

Chief Walters noted that he believed that the bid from Wolverton was fair for that vehicle based on past sales and because of the shape that it was in and gave a recommendation to accept the bid.

MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO AWARD THE BID FOR THE SALE OF THE POLICE CAR TO WAYNE WOLVERTON IN THE AMOUNT OF \$1,001.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No — None

Absent — None

Motion carried

* * * * *

MOTION BY SHOWALTER, SECOND BY TUTTLE, TO PAY BILLS IN THE AMOUNT OF \$170,495.68.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No — None

Absent — None

Motion carried

* * * * *

MOTION BY BENNETT, SECOND BY SCHAIBERGER, TO APPROVE RESOLUTION 18-19

Resolution 18-19

CITY OF WEST BRANCH MASTER PLAN RESOLUTION FOR FINAL APPROVAL

WHEREAS, The City of West Branch has undertaken development of a Master Plan to guide development; promote the public health, safety, and welfare of the City; to encourage the proper use of resources; to facilitate public improvements; and to consider the character of the City and suitability of particular land uses, and

WHEREAS, Section 43(3) of Public Act 33 of 2008, commonly known as the Michigan Planning Enabling Act, gives the City Council the authority to assert the right to make final approval or rejection of said Master Plan, and

WHEREAS, The West Branch City Council has a responsibility to the citizens of the City of West Branch to provide for and promote the public health, safety and general welfare of the City, and,

NOW, THEREFORE BE IT RESOLVED, that the West Branch City Council hereby asserts the authority to make the final approval or rejection of the City of West Branch Master Plan as a guideline for improving the overall quality of life for the residents of the City of West Branch.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

A DDA maintenance program agreement was presented to Council which would allow for an annual fee for work performed by City staff in the DDA district. It was noted that the agreement was approved by the DDA at their last meeting.

MOTION BY LAWRENCE, SECOND BY JACKSON, TO APPROVE THE ANNUAL MAINTENANCE PROGRAM FOR THE CITY OF WEST BRANCH DDA FOR 2018-2019

Annual maintenance program for the City of West Branch DDA 2018-2019

1. SIDEWALK WINTER MAINTENANCE PROCEDURES AND POLICIES

A. During regular work day hours, the Public Works Department personnel will monitor the condition of DDA sidewalks for possible actions or applications needed to insure safe pedestrian travel. There are a number of elements that must be taken into consideration before a reasonable and responsible course of action can be taken. The DPW Superintendent will be the final say in what course of action is to be taken.

B. Depth of Snowfall

- The course of action will be determined by the amount and duration of snowfall.
- City staff will typically remove snow from the sidewalks upon 2" of snowfall.

- Additional salting and snow plowing will be at the discretion of the DPW Superintendent.
- Business owners will still be responsible for the upkeep of the sidewalks in front of their business until City crews are on site.

C. Sidewalk Winter Maintenance Locations

The following sidewalks will be maintained with a priority falling on the sidewalks on Houghton Ave between First and Fifth St.

- North and South side of Houghton Ave from First St to M-30.
- East and West side of North Second from Houghton to the river.
- East and West side of North Third from Houghton to the river.
- East and West side of North Fourth from Houghton to the river.
- West side of South Second from Houghton to Wright.
- East and West side of South Third from Houghton to Wright.
- East and West side of South Fourth from Houghton to Wright.
 - North and South side of Wright from Second to Third.

D. PENALTY FOR ADDITIONAL SIDEWALK WORK

- If City crews are used to correct problems, property owners will be billed for time and materials.
- In some cases, deliberate actions may constitute illegal activity.

2. ADDITIONAL ITEMS OF MAINTENANCE

A. Pocket Park

- City crews will be responsible for the maintaining of the water at the Pocket Park water fountain including the filling and draining of the fountain as well as the monitoring of water quality and levels.
- If any mechanical parts or repairs are needed, those issues will be brought before the DDA Board for approval of repairs.

B. Downtown Lights

- City crews will be responsible for replacing light bulbs in the downtown light poles as well as the decorating of the poles for Christmas.

C. Downtown Flowers

- City crews will be responsible for the placement of flower pots in the spring and removal of flower pots in the fall.
- DDA will be responsible for notifying the DPW Superintendent of the dates the flowers will be planted in order to schedule the placement. The removal of the pots will be at the discretion of the DPW Superintendent.

D. Additional Work

- Any additional work requested will be provided upon approval of the DPW Superintendent with time and material be based on current labor rates and State of Michigan approved rental rates.

3. INTERGOVERNMENTAL AGREEMENT

- The City of West Branch and the West Branch DDA agree to the above maintenance agreement on a per fiscal year basis.
- The amount of the agreement will be determined upon review of costs on a year by year basis
- The amount agreed upon for the fiscal year of July 1, 2018- June 30, 2019 is in the amount of \$15,000

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

MOTION BY SCHAIBERGER, SECOND BY SHOWALTER, TO APPROVE RESOLUTION 18-20

RESOLUTION #18-20

WHEREAS, on December 4, 2017 a motion was made by City of West Branch Council Member Rusty Showalter and seconded by Council Member Aaron Tuttle and unanimously approved to adopt Resolution 17-20, which committed a total of \$44,543.01 from the General fund to be spent as matching funds for a wayfinding signage grant, and

WHEREAS, the City was notified that it was not awarded the grant and; therefore, the money no longer needed to be committed, and

NOW, THEREFORE, BE IT RESOLVED, that the West Branch City Council hereby formally uncommits the total amount of \$44,543.01 to be spent on wayfinding signage and returns the funds to the General Fund to be spent as needed during the 2018-2019 fiscal year.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

**MOTION BY SCHAIBERGER, SECOND BY SHOWALTER, TO APPROVE THE FOLOWING CEDAM
MEMORANDUM OF UNDERSTANDING.**

The Community Economic Development Association of Michigan (CEDAM)

AGREEMENT FOR PROFESSIONAL SERVICES

For Hosting a Project Rising Tide Fellow

Memorandum of Understanding

THIS AGREEMENT, made and entered into as of the 5th day of October, 2018, by and between CEDAM (Client), represented by Jamie Schrinier; and Community Point Person (hereinafter referred to as the "Community.")

WITNESSETH THAT

The aforementioned parties mutually agree as follows:

1. That the Community shall, in a satisfactory and proper manner as determined by CEDAM, perform any of the duties enumerated on the attached **Exhibit I**, with specific duties to be mutually determined on a monthly basis between the Client and the Community.

2. This Agreement shall cover work performed by the Community during the approximately fifteen month period: **October 1, 2018 – December 31, 2019.**

3. The Client, as represented by Jamie Schrinier, shall supervise the Community during the performance of this contract with respect to the managerial responsibilities, services and deliverables as defined herein and has authority to execute this contract and/or its written modifications or additions with pre-approval from all parties.

4. Contract Price and Payment.

a. The total amount to be paid by CEDAM to the Community under this Agreement shall not exceed \$2,000. The Community shall bill once upon execution of the MOU.*

b. All incidental expenses shall be the responsibility of the Community, including mileage reimbursement, parking, conference calling and other expenses related to performance of contract duties.

*Note: These are budget amounts only and they may be changed by mutual agreement of the Client and the Community but these changes will not affect the total amount of the contract unless

amended by mutual agreement of the Client and the Community.

c. Payment will be made in one installment(s) upon presentation of invoice submitted upon execution of MOU.

- (1) Time period the invoice covers.
- (2) Specific services performed within the billing period.
- (3) Number and amount of current invoice.
- (4) Balance remaining on contract.
- (5) Community's address and contact information.

d. CEDAM will render payments within 30 business days of receipt of invoice.

5. The Community shall maintain such records as are deemed necessary by CEDAM to assure proper account for all engagement costs. These records will be made available for audit purposes to CEDAM and the Auditor General of the State of Michigan, or any authorized representative, and will be retained for three years after the expiration of the Agreement unless permission to destroy them is granted by both CEDAM and the State of Michigan.

6. Nondiscrimination. In connection to this agreement, Community shall comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Acts, 1976 PA 220, MCL 37.1101 *et seq.*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment with respect to his or her hire, tenure, terms, conditions, privileges of employment, or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, gender, height, weight, marital status, or physical or mental disability unrelated to the individual's ability to perform the duties of a particular job or position. Community further agrees that every subcontract entered into in connection with this Agreement will contain a provision requiring nondiscrimination in employment, as required in this Agreement, binding upon each subcontractor.

Pursuant to 1980 PA 278 (the "Act"), MCL 423.321 *et seq.*, the Client shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled by the United States National Labor Relations Board. Community, in relation to this Agreement, shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears on this register. Pursuant to section 4 of the Act, Client may void this Agreement if, after the Starting Date, the name of the Community as an employer or the name of the subcontractor, manufacturer or supplier of the Community appears on the register.

A breach of this Paragraph constitutes a material breach of this Agreement.

7. In the event the Community fails to perform services pursuant to this agreement to the satisfaction of the Client, the Client shall notify the Community of specific concerns to be remedied by the Community within 10 business days from the date of notification. After the 10 days have expired, the Client may terminate the contract with written notification to the Community if the Community does not remedy the outlined concerns to the satisfaction of the Client, or the Client shall provide the Community with a letter stating that the items have been remedied to the

satisfaction of the Client. Termination of this agreement is the only remedy that may be pursued if the Client is not fully satisfied with the work of the Community.

8. The Community hereby represents that the personnel it will assign to perform the services under this contract will be only Host Community Point Person and that she or he possesses the requisite education, competence and experience to perform such services. The Community further acknowledges and agrees that such personnel may be subject to the evaluation and approval of CEDAM, which shall retain the right to determine the sufficiency of the education, competence and experience of the personnel assigned to perform the services identified in the attached exhibit of this contract. The Community is acting as an independent agent and is not an employee of the Client. The Community is responsible for the payment of income taxes and for carrying insurance.

9. Confidential Information. Each party hereto shall hold in trust for the other party hereto, and shall not disclose to any non-party to the Agreement, any confidential information of such other party. Confidential information is information which relates to Such Other Party's research, development, trade secrets or business affairs, but does not include information which is generally known or easily ascertainable by non-parties of ordinary skill in computer systems design and programming.

Community hereby acknowledges that during the performance of this contract, the Community may learn or receive confidential Client information and therefore Community hereby confirms that all such information relating to the client's business, or the business of CEDAM members, will be kept confidential by the Community, except to the extent that such information is required to be divulged to the Community's clerical or support staff or associates in order to enable Community to perform Community's contract obligation.

10. Complete Agreement. This agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Community by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Client acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein.

11. Assignment. This Agreement may not be assigned by either party without prior written consent of the other party.

12. The work product of the Community belongs to CEDAM.

13. This Agreement may be terminated with 30 day written notice at any time either by the Client, as represented by Jamie Schriener or the Community, as represented by Host Community Point Person. However, the Community shall be compensated hereunder for services satisfactorily performed prior to the date of termination.

14. The Community is required to show evidence of insurability and/or carrying coverage including general liability, business liability, worker's compensation, unemployment, and/or auto, as applicable.

IN WITNESS WHEREOF, CEDAM and the Community have executed this Agreement as of the date first above written.

COMMUNITY ECONOMIC DEVELOPMENT ASSOCIATION OF MICHIGAN

Jamie Schrinier, Executive Director

Date

COMMUNITY

Host Community Point Person

Date

Primary Community Contact Information

Name: _____

Company: _____

Address: _____

City: _____ State: _____

Telephone: _____

Email: _____

EXHIBIT I

Scope of Work

1. The Community Economic Development Association of Michigan will:
 - a. Work collaboratively with Rising Tide communities to:
 - i. Develop fellow recruitment materials and applications
 - ii. Ensure that appropriate and qualified candidates are placed in communities
 - iii. Oversee development of fellowship training materials
 - iv. Provide guidance and support to fellows, as well as address issues that may arise with fellow's own individual participation in the program
 - v. Implement an evaluation plan congruent with the objectives outlined in grant
 - vi. Monitor systems for tracking outcomes and impacts of Rising Tide fellow activities and ensure contract compliance
 - vii. Coordinate feedback process for both Rising Tide communities and fellows
 - b. Develop public relation strategies for highlighting Rising Tide Fellowship success
 - c. Monitor program and grant budgets and ensure that fellows are meeting program goals
 - d. Administer fellow compensation, including funding for travel and professional

development required by CEDAM.

2. The PRT host community will:

- a. Identify a point person who will serve as a local supervisor and mentor for the fellow and as a liaison for CEDAM.
- b. Recruit, screen and interview fellow candidates October 1 – November 9, 2018. Submit final selection to CEDAM by November 9, 2018. CEDAM will assist with candidate recruitment, participate in final in-person interviews and approve final selection.
- c. Introduce the fellow to community stakeholders critical to advancing the goals of the community Action Strategies and fellow work plan.
- d. If available, provide adequate working space in a local office.
- e. Schedule bi-weekly meetings with the fellow to discuss progress towards work plan goals and offer guidance on advancing the community Action Strategies.
- f. Document any performance or behavior issues and immediately report them to CEDAM.

3. Joint Responsibilities

Both parties to the Memorandum of Understanding shall:

- a. Make every reasonable effort to ensure that the health and safety of the PRT fellows are protected during the performance of their assigned duties. Neither the host community nor the CEDAM shall assign or require fellows to perform duties which would jeopardize their safety or cause them to sustain injuries.
- b. Ensure that persons selected as PRT fellows are not related by blood or marriage to host community staff, CEDAM staff, officers or members of CEDAM's board.
- c. Contribute to a positive fellowship experience.
- d. Utilize mediation for conflicts, if necessary.

4. Non-Discrimination & Sexual Harassment

- a. No person with responsibilities in the operation of the project shall discriminate against any PRT fellow, member of the staff of or beneficiary of the project with respect to any aspect of the project on the basis of race, religion, color, national origin, sex, sexual orientation, age, gender, height, weight, political affiliation, marital or parental status, military service, physical or mental disability unrelated to the individual's ability to perform the duties of a particular job or position.
- b. Sexual harassment is a form of discrimination based on sex, which is prohibited as addressed directly above. CEDAM and the host community are responsible for violations of the prohibition against sexual harassment and for taking corrective action and/or disciplinary action if violations occur. Such sexual harassment violations include:
 - i. Acts of "quid pro quo," sexual harassment where a supervisor demands sexual favors for service benefits, regardless of whether CEDAM or the host community, their agents or supervisory employees should have known of the acts.
 - ii. Unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature which have the purpose or effect of creating an intimidating, hostile or offensive work environment.
 - iii. Acts of sexual harassment toward fellow PRT fellows or non-employees, where

CEDAM or host community, their agents, or supervisory employees knew or should have known of the conduct, unless they took immediate and appropriate corrective action.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

A sole source vendor exception request was submitted to use Mercantile Bank for the financing of a water infrastructure project on Fairview Rd. Manager Grace noted that the reason for the request not to go out for a formal request for financing was due to the accelerated nature of needing approval for the financing and that Mercantile is already working with the City's Bond Counsel and, therefore, would be the quickest way to get the financing approved.. She noted that due to recent leaks in that area, they would like to combine the water infrastructure repairs to the road project that is being paid for with Federal grant money and is scheduled for the spring of 2019.

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO AWARD APPROVE THE SOLE SOURCE VENDOR REQUEST AND TO ALLOW THE USE OF MERCANTILE BANK FOR FINANCING OF THE INFRASTRUCSTURE PROJECT ON FAIRVIEW RD.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

MOTION BY SCHAIBERGER, SECOND BY BENNETT, TO APPROVE THE MINUTES AND SUMMARY OF MINUTES FROM THE MEETING HELD OCTOBER 15, 2018; AS WELL AS THE MINUTES FROM THE CLOSED SESSION DURING THE OCTOBER 15, 2018 MEETING.

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

MOTION BY SHOWALTER, SECOND BY SCHAIBERGER, TO RECEIVE AND FILE THE TREASURER'S REPORT AND INVESTMENT SUMMARY; ADMINISTRATIVE BUDGET AMENDMENTS; THE MINUTES FROM THE ELECTION BOARD MEETING HELD OCTOBER 19, 2018; THE MINUTES FROM THE DDA BOARD MEETING HELD OCTOBER 3, 2018; THE MINUTES FROM THE PLANNING COMMISSION MEETING HELD SEPTEMBER 25, 2018; THE MINUTES FROM THE FIRE BOARD MEETING HELD JULY 17, 2018; THE MINUTES FROM THE RETAIL MERCHANTS MEETING HELD SEPTEMBER 4, 2018 AND THE MINUTES FROM THE AIRPORT BOARD MEETING HELD SEPTEMBER 19, 2018

Yes — Bennett, Jackson, Lawrence, Schaiberger, Showalter, Tuttle, Weiler

No – None

Absent – None

Motion carried

* * * * *

A Charter cable lineup communication was shared

A MML training brochure was shared.

The 18th annual City of Lights flyer was shared.

Information for the MML Capital Conference for 2018 was shared.

* * * * *

Member Showalter wished everyone luck in the upcoming November election.

Member Jackson commended DPW Superintendent Killackey and his staff for their leaf cleanup. He also gave an update on the Planning Commission's work on the Masterplan and Zoning rewrite.

Member Bennett wished luck to all the candidates running in the November election and noted how nice the wayfinding signs at both exits look.

Member Schaiberger encouraged everyone to vote and wished everyone running good luck.

Mayor Lawrence commented on some of the negative campaigning during this year's elections with libel and slander and wished everyone luck.

* * * * *

Mayor Lawrence adjourned the meeting at 6:25 pm.

Denise Lawrence, Mayor

John Dantzer, Clerk

SUMMARY OF THE REGULAR MEETING OF THE WEST BRANCH CITY COUNCIL HELD MONDAY,
NOVEMBER 5, 2018

Mayor Lawrence called the meeting to order at 6:00 p.m.

Present: Mayor Lawrence, Council Members Bennett, Jackson, Schaiberger, Showalter, Tuttle, and Weiler.

Absent: None

Other officers present: City Manager Grace, Clerk/Treasurer Dantzer, DPW Superintendent Killackey, and Chief Walters.

All stood for the pledge of allegiance.

Council awarded a bid for the sale of a police car to Wayne Wolverton for \$1,001.

Council approved bills in the amount of \$170,495.68.

Council approved Resolution 18-19 –Naming final approval of the Masterplan.

Council approved a DDA annual maintenance contract.

Council approved Resolution 18-20 – The uncommitment of funds.

Council approved the CEDAM Memorandum of Understanding.

Council approved a sole source vendor request and authorized the financing of an infrastructure project with Mercantile Bank.

Council approved the minutes and summary from the meeting held October 15, 2018 as well as the closed session minutes from the meeting held October 15, 2018.

Council received and filed the Treasurers Report and Investment Summary; administrative budget amendments, minutes from the Election Board meeting held October 19, 2018; minutes from the DDA Board meeting held October 3, 2018; minutes from the Planning Commission meeting held September 25, 2018, minutes from the Fire Board meeting held July 17, 2017; minutes from the Retail Merchants meeting held September 4, 2018; and minutes from the Airport Board meeting held September 19, 2018.

Communications were shared.

Council Members Showalter, Jackson, Bennett, Schaiberger; as well as Mayor Lawrence gave a report

Mayor Lawrence adjourned the meeting at 6:25 pm.

Consent Agenda

11/14/2018 11:37 AM
 User: JOHN
 DR: Westbranch City

CASH SUMMARY BY BANK FOR WEST BRANCH
 FROM 11/01/2018 TO 11/30/2018

Page: 1/1

Bank Code Fund	Description	Beginning Balance 11/01/2018	Total Debits	Total Credits	Ending Balance 11/30/2018
GEN1	GEN1 - GENERAL CHECKING				
101		1,123,035.64	62,583.40	75,368.31	1,110,250.73
150	CEMETERY PERPETUAL CARE	20,490.30	0.00	0.00	20,490.30
209	CEMETERY FUND	10,758.99	0.00	899.90	9,859.09
248	DDA OPERATING FUND	59,765.23	250.26	500.00	59,515.49
251	INDUSTRIAL PARK FUND	1,761.66	0.00	211.78	1,549.88
276	HOUSING RESOURCE FUND	194,405.47	956.21	0.00	195,361.68
318	SEWER DEBT FUND	129,954.80	4,946.49	87,978.54	46,922.75
319	WATER DEBT FUND	33,566.75	89,375.56	87,978.54	34,963.77
571	COLLECTION REPLACEMENT FUND	30,820.51	0.00	0.00	30,820.51
572	PLANT REPLACEMENT FUND (R&I)	5,499.45	91.33	0.00	5,590.78
590	SEWER FUND	205,963.07	5,638.38	34,438.70	177,162.75
591	WATER FUND	135,346.26	3,083.69	9,760.85	128,669.10
592	WATER REPLACEMENT FUND	281,453.90	0.00	0.00	281,453.90
593	SEWER COLLECTION	48,406.67	852.15	5,228.13	44,030.69
661	EQUIPMENT FUND	81,482.09	6,778.63	4,855.07	83,405.65
704	PAYROLL CLEARING	215.72	48,765.12	48,980.84	0.00
705	IRONS PARK ENTERTAINMENT FUND	1,885.57	0.00	0.00	1,885.57
707	YOUTH SAFETY PROGRAM	300.05	0.00	0.00	300.05
714	RECYCLING CENTER	6,192.47	401.00	619.20	5,974.27
	GEN1 - GENERAL CHECKING	2,371,304.60	223,722.22	356,819.86	2,238,206.96
M/LST	MAJOR/ LOCAL STREETS				
202	MAJOR STREET FUND	569,705.95	14,833.44	7,191.23	577,348.16
203	LOCAL STREET FUND	379,668.67	4,990.32	10,078.79	374,580.20
	MAJOR/ LOCAL STREETS	949,374.62	19,823.76	17,270.02	951,928.36
PAY	PAYROLL				
704	PAYROLL CLEARING	8,376.28	48,980.84	45,941.90	11,415.22
	PAYROLL	8,376.28	48,980.84	45,941.90	11,415.22
CHEM	SAVINGS				
101		435,456.49	0.00	0.00	435,456.49
150	CEMETERY PERPETUAL CARE	1,676.05	0.00	0.00	1,676.05
251	INDUSTRIAL PARK FUND	20,857.86	0.00	0.00	20,857.86
571	COLLECTION REPLACEMENT FUND	2,370.44	0.00	0.00	2,370.44
591	WATER FUND	26,136.33	0.00	0.00	26,136.33
592	WATER REPLACEMENT FUND	19,556.14	0.00	0.00	19,556.14
593	SEWER COLLECTION	781.56	0.00	0.00	781.56
661	EQUIPMENT FUND	103,319.57	0.00	0.00	103,319.57
714	RECYCLING CENTER	1,044.23	0.00	0.00	1,044.23
	SAVINGS	611,198.67	0.00	0.00	611,198.67
TAX	TAXES				
701	TAX AGENCY	1,311.89	21,648.17	21,648.17	1,311.89
	TAXES	1,311.89	21,648.17	21,648.17	1,311.89
	TOTAL - ALL FUNDS	3,941,566.06	314,174.99	441,679.95	3,814,061.10

11/14/2018 11:38 AM
User: JOHN
DP: Westbranch City

CASH SUMMARY BY ACCOUNT FOR WEST BRANCH
FROM 11/01/2018 TO 11/30/2018
FUND: ALL FUNDS
INVESTMENT ACCOUNTS

Page: 1/1

Fund Account	Description	Beginning Balance 11/01/2018	Total Debits	Total Credits	Ending Balance 11/30/2018
Fund 101					
004.300	CERTIFICATE OF DEPOSIT A	100,000.00	0.00	0.00	100,000.00
004.400	CERTIFICATE OF DEPOSIT B	150,000.00	0.00	0.00	150,000.00
		<hr/> 250,000.00	<hr/> 0.00	<hr/> 0.00	<hr/> 250,000.00
Fund 150 CEMETERY PERPETUAL CARE					
004.300	CERTIFICATE OF DEPOSIT C	114,701.74	0.00	0.00	114,701.74
004.400	CERTIFICATE OF DEPOSIT D	115,271.06	0.00	0.00	115,271.06
	CEMETERY PERPETUAL CARE	<hr/> 229,972.80	<hr/> 0.00	<hr/> 0.00	<hr/> 229,972.80
Fund 251 INDUSTRIAL PARK FUND					
004.300	CERTIFICATE OF DEPOSIT A	100,000.00	0.00	0.00	100,000.00
004.400	CERTIFICATE OF DEPOSIT B	100,000.00	0.00	0.00	100,000.00
	INDUSTRIAL PARK FUND	<hr/> 200,000.00	<hr/> 0.00	<hr/> 0.00	<hr/> 200,000.00
Fund 661 EQUIPMENT FUND					
004.300	CERTIFICATE OF DEPOSIT A	150,000.00	0.00	0.00	150,000.00
004.400	CERTIFICATE OF DEPOSIT B	100,000.00	0.00	0.00	100,000.00
	EQUIPMENT FUND	<hr/> 250,000.00	<hr/> 0.00	<hr/> 0.00	<hr/> 250,000.00
	TOTAL - ALL FUNDS	<hr/> 929,972.80	<hr/> 0.00	<hr/> 0.00	<hr/> 929,972.80



West Branch Police Department

Chief Kenneth W. Walters

130 Page St.

West Branch, Michigan 48661

Phone: 989-345-2627 Fax: 989-345-0083

E-mail: waltersk@westbranch.com

11/12/2018

Honorable Mayor and Council,

This is the October month end report. Officers handled 97 complaints and made 10 arrests. Two of these arrests were for Breaking and Entering, in which we were able to identify the suspect through DNA left at the scene.

The new patrol vehicle is currently having all equipment installed as of this date. I expect to have it complete and on the road in about a week. Finally! This vehicle will have some new and exciting technology. The new camera system is tied into the on-board computer and will display interior and exterior views. This in turn reduces department liability due to traffic stop and prisoner monitoring.

Sincerely,

A handwritten signature in dark ink, appearing to be "K. Walters", written over a horizontal line.

Chief Kenneth W. Walters

Offense Count Report

Page: 1

Report Criteria:

Start Offense	End Offense		
01000	99009		
OCTOBER 2018	CURRENT 2018	2017	2016
10/01/2018-10/31/2018	01/01/2018-10/31/2018	01/01/2017-12/31/2017	01/01/2016-12/31/2016

Offense	Description	OCTOBER 2018	CURRENT 2018	2017	2016
11001	SEXUAL PENETR'N PENIS/VAGINA CSC1	0	1	1	2
11003	SEXUAL PENETRATION ORAL/ANAL CSC1	0	0	0	1
11004	SEXUAL PENETRATION ORAL/ANAL CSC3	0	0	2	0
11007	SEXUAL CONTACT FORCIBLE CSC2	0	1	1	0
11008	SEXUAL CONTACT FORCIBLE CSC4	0	4	4	2
12000	ROBBERY	0	0	1	0
13001	NONAGGRAVATED ASSAULT	1	14	18	13
13002	AGGRAVATED/FELONIOUS ASSAULT	0	1	2	3
13003	INTIMIDATION/STALKING	0	2	2	5
22001	BURGLARY - FORCED ENTRY	1	4	3	6
22002	BURGLARY - ENTRY W/OUT FORCE(INTENT	0	1	0	0
22003	BURGLARY - UNLAWFUL ENTRY(NO INTENT	0	0	2	3
23003	LARCENY - THEFT FROM BUILDING	1	3	3	10
23005	LARCENY - THEFT FROM MOTOR VEHICLE	0	2	1	0
23007	LARCENY - OTHER	1	8	9	3
24001	MOTOR VEHICLE THEFT	0	1	0	3
25000	FORGERY/COUNTERFEITING	0	0	1	0
26001	FRAUD - FALSE PRETENSE/SWINDLE/CONF	0	0	1	5
26002	FRAUD - CREDIT CARD/ATM	0	0	0	2
26003	FRAUD - IMPERSONATION	0	0	0	1
26006	FRAUD - BAD CHECKS	1	2	1	2
27000	EMBEZZLEMENT	0	1	1	0
29000	DAMAGE TO PROPERTY	0	10	8	11
30002	RETAIL FRAUD - THEFT	1	7	12	12
35001	VIOLATION OF CONTROLLED SUBSTANCE	0	3	7	22
35002	NARCOTIC EQUIPMENT VIOLATIONS	0	0	0	1
36004	SEX OFFENSE - OTHER	0	4	0	3
37000	OBSCENITY	0	0	1	0
38001	FAMILY - ABUSE/NEGLECT NONVIOLENT	0	0	1	4
38002	FAMILY - NONSUPPORT	0	1	0	0
38003	FAMILY - OTHER	0	1	0	0
41002	LIQUOR VIOLATIONS - OTHER	0	0	1	0
42000	DRUNKENNESS	0	2	2	5
48000	OBSTRUCTING POLICE	0	1	0	1
50000	OBSTRUCTING JUSTICE	2	58	69	67
52001	WEAPONS OFFENSE - CONCEALED	0	0	0	1
52003	WEAPONS OFFENSE - OTHER	0	0	0	2
53001	DISORDERLY CONDUCT	0	0	3	8
53002	PUBLIC PEACE - OTHER	0	0	1	0
54001	HIT & RUN MOTOR VEHICLE ACCIDENT	1	8	10	13
54002	OUIL OR OUID	2	5	7	14
54003	DRIVING LAW VIOLATIONS	3	28	51	73
55000	HEALTH AND SAFETY	1	30	40	10
57001	TRESPASS	0	6	3	8
70000	JUVENILE RUNAWAY	0	1	2	9
70004	Juvenile Issues	0	1	1	1

Offense Count Report

Report Criteria:

Start Offense	End Offense		
01000	99009		
OCTOBER 2018	CURRENT 2018	2017	2016
10/01/2018-10/31/2018	01/01/2018-10/31/2018	01/01/2017-12/31/2017	01/01/2016-12/31/2016

Offense	Description	OCTOBER 2018	CURRENT 2018	2017	2016
73000	MISCELLANEOUS CRIMINAL OFFENSE	0	2	8	7
90001	Vehicle Lockouts	7	99	133	157
90002	Motorist Assists	0	24	21	32
90003	Assist E.M.S.	9	115	167	160
90005	City Ordinance Violations	3	32	16	40
90006	Prisoner Transports	0	0	1	0
90007	Parking Complaints	0	0	7	3
90008	ANIMAL COMPLAINTS	0	12	17	12
90009	Maplewood Manor Alarm / Criminal History Checks	0	1	0	2
91001	Delinquent Minors	1	7	15	4
91002	Runaway	0	0	2	0
91004	Abandoned Vehicle	0	0	5	5
92003	Walk Away (Ment. & Host.)	1	2	2	4
92004	Insanity	1	9	15	14
93001	PROPERTY DAMAGE ACCIDENT/PI	3	36	43	44
93002	Accident, Non-Traffic	1	16	14	20
93003	Civil Traffic Violations	0	0	0	1
93004	Parking Violations	0	1	0	4
93006	Traffic Policing	3	10	6	2
93007	Traffic Safety Public Relations	2	5	0	1
93008	Inspections/Investigations -Breathalyzer	0	3	2	1
94001	Valid Alarm Activations	0	2	2	1
94002	False Alarm Activations	7	50	74	63
95001	Accident, Fire	0	3	3	4
95003	Inspection, Fire	0	0	0	1
95004	Hazardous Condition	0	8	0	0
97001	Accident, Traffic	0	0	1	0
97003	Accident, Other Shooting	0	0	1	0
98000	Other Types Not Listed	0	0	0	3
98002	Inspections/Investigations -Motor Vehicles	0	0	0	1
98003	Inspections/Investigations -Property	0	5	9	8
98004	Inspections/Investigations -Other	0	1	1	3
98006	Civil Matters/Family Disputes	2	38	58	29
98007	Suspicious Situations/Subjects	13	142	182	215
98008	Lost/Found Property	5	13	17	14
98009	Inspections/Investigations -Drug Overdose	0	1	0	3
99001	Suicide	0	0	1	1
99002	Natural Death	0	1	4	4
99003	Missing Persons	0	0	2	3
99007	PR Activities	2	12	14	5
99008	General Assistance	20	243	234	321
99009	General Non-Criminal	2	14	28	24
Totals:		97	1118	1377	1542

Communications

COMMUNICATIONS – UPCOMING MML TRAININGS:

--Current Council members [and newly elected but not yet serving Council members] are asked to review the list of MML trainings presented below and let staff know if there are any trainings that would benefit you that you are interested in attending :

- An “Elected Officials Academy” event for both Core and Advanced Weekender training will be held in Frankenmuth
- A “Newly Elected Officials Training” called “You Won! Now What?” will be held either in West Branch on December 6th, Lansing on December 11th, Blissfield on January 16th, or Ann Arbor on January 24th.
- The MML Capital Conference will be held in Lansing from Tuesday, March 19, 2019 – Wednesday, March 20, 2019
- MML Annual Convention will be held in Detroit this year from September 25, 2019 – September 27, 2019.



michigan municipal league

1675 Green Road
Ann Arbor, MI 48105-2530

T 734.662.3246
800.653.2483
F 734.662.8083
mml.org

Ms. Heather Grace
Manager
West Branch
121 N. Fourth St.
West Branch, MI 48661-1217

Dear Ms. Heather Grace:

Many communities will soon be holding local elections and welcoming new officials to their team. To help these new officials get off to the best start, the League is offering a specialized training entitled "You Won! Now What?"

The course covers core topics that will help educate first-time elected officials, as well as seasoned officials, on basic functions such as:

- Overview of basic local government
- Roles and responsibilities of local elected officials
- Open Meetings Act (OMA)
- Freedom of Information Act (FOIA)
- Government Finance
- Panel discussion with seasoned elected officials
- League services

The course will be held in a variety of locations across the state:

- Nov. 28 – Saginaw
- Dec. 6 – West Branch
- Dec. 11 – Lansing
- Jan. 16 – Blissfield
- Jan. 24 – Ann Arbor

Please share this information with any newly elected officials in your community. To register, please visit www.mml.org or complete the registration form on the back of the enclosed flier.

We hope to see your newly elected officials at an upcoming training!

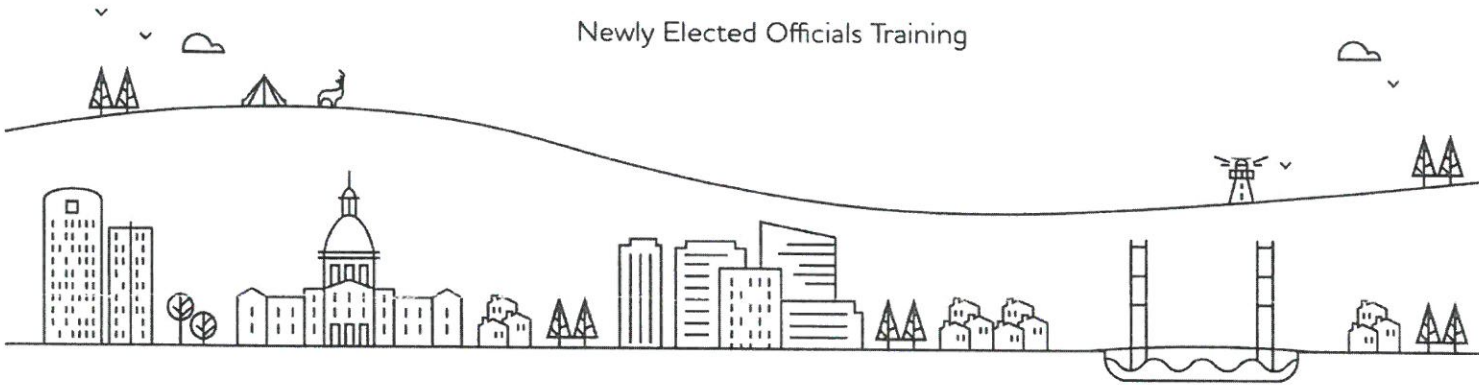
Sincerely,

Kelly Warren
Director, Membership & Affiliate Engagement



You Won! Now What?

Newly Elected Officials Training



This newly elected officials training consists of core topics that will help educate first-time elected officials, as well as seasoned officials, on the basic functions they will need to know in their roles as public leaders. Topics include: introduction to League services; an overview of basic local government; roles and responsibilities of elected officials; Open Meetings Act (OMA); Freedom of Information Act (FOIA); lobbying 101; and a panel discussion with seasoned elected officials.

NOV
28, 2018

SAGINAW, MI
SVRC Marketplace, 203 S. Washington Ave.

DEC
6, 2018

WEST BRANCH, MI
West Branch Police Dept., 130 Page St.

DEC
11, 2018

LANSING, MI
Capital Office, 208 N. Capitol Ave.

JAN
16, 2019

BLISSFIELD, MI
Schultz-Holmes Memorial Library, 407 S. Lane St.

JAN
24, 2019

ANN ARBOR, MI
MML Headquarters, 1675 Green Rd.

COST PER PERSON
League Member, \$95

League Nonmember
Government, \$155

ABOUT THE SPEAKERS
League Staff & Experienced
Elected Officials

AGENDA
Check-in & light dinner 5:30 pm
Begin 6:00 pm
Adjourn 9:15 pm

EDUCATION CREDITS
APPROVED FOR THIS
PROGRAM
3 EOA

You Won! Now What? Elected Officials Training

Cost: League Member: \$95; League Nonmember Government: \$155

Name of Municipality or Firm _____

Billing Address/State/Zip: _____

Phone #: _____

Fax #: _____

Please choose training location

☐ Saginaw

☐ West Branch

☐ Lansing

☐ Blissfield

☐ Ann Arbor

Name	Title	Email
1		
2		
3		
4		

Payment Info:

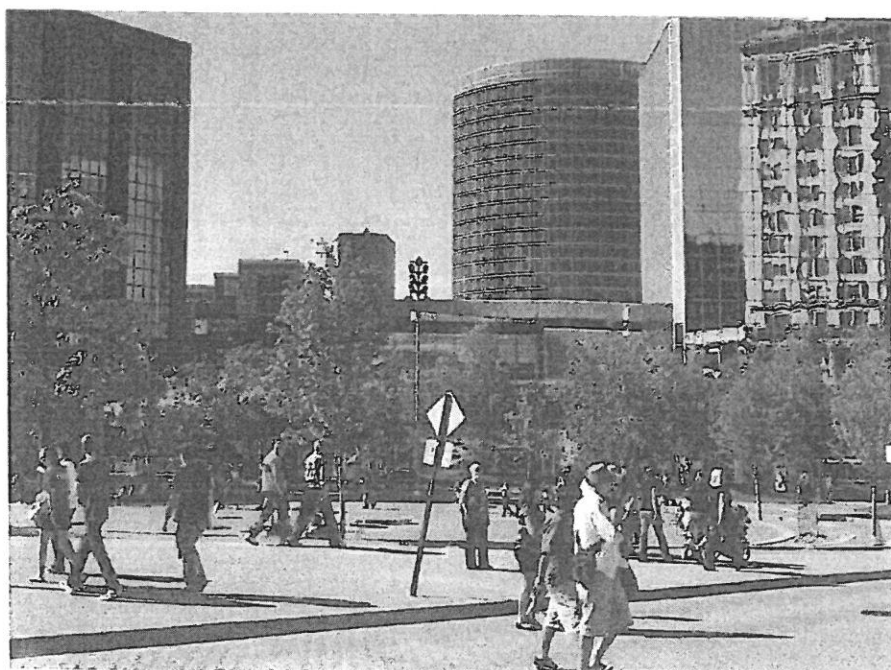
Cost: \$ _____ x Quantity: _____ = Total Due: \$ _____

Cancellation Policy

All cancellations must be submitted in writing either by fax, 734.669.4223 or email, registration@mml.org. No refunds will be given for cancellation requests received after (4 business days before event). For a full list of registration policies, please visit www.mml.org, then click on training/events.

To Register

1. If paying by credit card, register online by visiting www.mml.org. On the home page located on the right hand side under "My League," click on "View and Register for Events."
2. If paying by check, please mail this form along with a check payable to the Michigan Municipal League, P.O. Box 7409, Ann Arbor, MI 48107-7409.



[Sign Out](#) [Ms. Heather Grace](#) [Cart](#)[EVENTS](#) [SHOP](#) [DIRECTORY](#) [MML.ORG HOM](#)[Share this page](#)

You Won! Now What? Newly Elected Officials Training

This newly elected officials training consists of core topics that will help educate first-time elected officials, as well as seasoned officials, on the basic functions they will need to know in their roles as public leaders. Topics include: introduction to League services; an overview of basic local government; roles and responsibilities of elected officials; Open Meetings Act (OMA); Freedom of Information Act (FOIA); and a panel discussion with seasoned elected officials.

Cost Per Person

League Member, \$95

League Nonmember Government, \$155

About the Speakers

League Staff & Experienced Elected Officials

Agenda

Check-in & light dinner 5:30 pm; Begin 6:00 pm;

Adjourn 9:00 pm

Location Information

West Branch Police Department

130 Page Street

West Branch, MI 48661

[Click here](#) for a faxable form.**Price:** 95.00**When:** 12/6/2018 - 12/6/2018**Where:** West Branch Police Department
130 Page Street
West Branch, MI 48661[Register Myself](#)[Register Someone Else](#)**My Registration Status:** Not Registered[Events](#)
[Directory](#)
[mml.org Home](#)[Shop](#)
[Community List](#)[Connect With Us](#)[Contact Us](#)
info@mml.org



Michigan Municipal League
1675 Green Rd
Ann Arbor, MI 48105

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ANN ARBOR, MI

We hope to see you in Lansing!

2019 is almost here!

Our calendar is busy as we plan a great Capital Conference chock-full of the latest updates on state and federal happenings. We want YOU to be there, so save a spot in your calendar and budget for this eye-opening event.

Date

March 19-20, 2019

Location

Lansing Center, Lansing

Registration

- Registration opens Jan. 7, 2019
- Members: \$250
- Late registration for members: \$325

Radisson Hotel

- League room block available beginning Jan. 7, 2019
- Nightly rate: \$130.95

Ms. Heather Grace
Manager

West Branch

121 N. Fourth St.

West Branch, MI 48661-1217

48661\$1217 C001



We hope to see you in Lansing!

SAVE THE DATE

2019 CAPITAL CONFERENCE

MARCH 19-20, 2019

**REGISTRATION & ROOM
BLOCKS OPEN JANUARY 7**



michigan municipal league

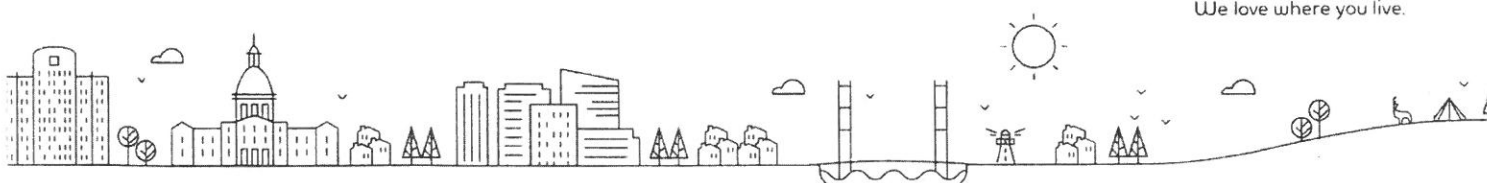
Top 13 Legal Cases Consequential to Michigan Municipalities

Ms. Heather Grace
Manager
West Branch
121 N. Fourth St.
West Branch, MI 48661-1217

Nearly 85 percent of League members are also members of the Michigan Municipal League Legal Defense Fund (LDF). This booklet is intended to help your council/commission make a connection between the dues it pays to the LDF and the work the LDF performs. It highlights the 13 most consequential cases the LDF has been involved with since 2011.

The LDF provides support and assistance to member municipalities and their attorneys, in cases where the issues have a broad impact on both the municipality involved in the case and on other municipalities in the state.

Please share this publication with your council.



We love where you live.



michigan municipal league

The Legal Defense Fund

Top 13 Legal Cases Consequential to Michigan Municipalities



The Legal Defense Fund was formed in 1983 through the efforts of the Board of Directors of the Michigan Association of Municipal Attorneys, including John J. Rae, former city attorney of Midland, working with the former MML general counsel William L. Steude, and the Michigan Municipal League Board of Trustees.

LEGAL DEFENSE FUND BOARD 2018-2019

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Daniel P. Gilmartin,
Executive Director and CEO,
Michigan Municipal League

Catherine Bostick-Tullius,
Commissioner, Lapeer; President,
Michigan Municipal League

Welcome to the second sequel of the Michigan Municipal League's Legal Defense Fund (LDF) publication on the most significant cases recently addressed by the Fund.

The Top 25 Cases /25 Years of Excellence! was published in 2008 in celebration of the 25th anniversary of the League's LDF. The LDF was formed in 1983 as an advocacy program for Michigan's municipalities in the state and federal appellate courts. The LDF provides support and assistance to member municipalities and their attorneys in cases in which the issues have a broad impact on both the municipality involved and on other municipalities throughout the state.

The form of assistance is generally through the preparation and filing of an amicus curiae brief. The amicus briefs are filed on behalf of the Michigan Municipal League in the appellate courts, financed in whole or in part by the LDF. On occasion, the LDF also supports municipalities in administrative agencies. Most cases stem from requests from LDF member communities. And most cases in recent years have been joint efforts—with co-amicus participation by several groups, including: the Michigan Townships Association, the Government Law Section (formerly Public Corporation Law Section) of the State Bar of Michigan, the Michigan Association of Counties, the MML Liability and Property Pool, and the Michigan Association of School Boards. Correspondingly, the LDF often joins amicus briefs of these associations, especially the Michigan Townships Association.

The Top 25 Cases were selected as the most significant cases in which the LDF had participated from 1983 through 2008. Our second publication, *A Summary of 13 Recent Cases*, prepared by Sue A. Jeffers, the League's former Associate General Counsel, highlighted significant cases from 2008-2011. This third installment picks up from where we left off. Thirteen new cases have been selected for this sequel.

These cases represent a broad range of issues—from campaign financing to the regulation of billboards; from "dark store" undervaluation issues to home rule authority related to blighted properties and municipal ordinance authority. The involvement of the LDF in each of the cases has provided a means by which the municipal voice is heard in the courts. Kim Cekola, Research Specialist and Editor, prepared this document. Amicus counsel for the cases assisted in editing our summaries. Additionally, Carter Fisher, during his legal internship, assisted with the write up of *Taxpayers for Michigan Constitutional Government v State of Michigan*. Member communities of the LDF are located throughout Michigan and are of a broad range of population. Exemplifying this, please see the map on page _ of the communities and populations.

Again, we are proud to provide this booklet. The Michigan Municipal League's Legal Defense Fund continues to be a significant benefit for member municipalities by advocating their interests in the state and federal judicial systems.

William C. Mathewson
General Counsel
Michigan Municipal League
July 2018

We love
where you live.



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HOME RULE

Municipal Authority in Michigan

In the 1800s, local government authority and self-determination was a topic of national discussion. The leading proponent of restricting local authority was John Dillon, a justice of the Iowa Supreme Court, federal Court of Appeals judge, and law professor. What became known as "Dillon's Rule" states that local governments only have the powers that are expressly granted to them by the Legislature. In Michigan, the leading advocate of the philosophy opposed to Dillon's Rule was Michigan Supreme Court Justice Thomas M. Cooley. He established the "Cooley Doctrine"—local units had an inherent right to self-determination.

Michigan was the eighth state in the nation to adopt the principles of home rule. Our 1908 Constitution gave the electors of each city and village the ability to frame and adopt a charter and "pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of this state." As noted by the Constitutional Convention of 1907, "each municipality is the best judge of its local needs and the best able to provide for its local necessities." Following adoption of the 1908 Constitution, the Legislature enacted the Home Rule City Act, PA 279 of 1909 and the Home Rule Village Act, PA 278 of 1909. Both enabled municipalities to adopt and amend their own charters for the purpose of exercising municipal powers and managing their own affairs, and to adopt laws and ordinances related to their particular municipality's needs.

In 1963, Michigan citizens approved a new Constitution which strengthened local control by stating, Comments from the 1963 Constitutional Convention indicate that local units of government would be given a broad framework by which to operate, "a new section intended to direct the courts to give a liberal or broad construction to statutes and constitutional provisions concerning all local governments."

“ The provisions of this constitution and law concerning counties, townships, cities, and villages shall be liberally construed in their favor.”

— Michigan Constitution, Article VII, Section 34

Despite the apparent strength of local control, the Constitution provides no guarantee to the right of local self-government. Article VII, Section 22 specifically states that, "Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government subject to the Constitution and law [emphasis added]." As a result, there is nothing to prevent the Legislature from exercising its powers of control over local government.

Dillon's Rule

Local governing bodies have only those powers:

- Which are expressly granted by the state Legislature,
- That are fairly or necessarily implied from expressly granted powers, and
- Which are essential and indispensable.

Dillon vs Cooley

Does the government have the authority to act?

Cooley: Local governments have inherent power.

Dillon: All power derives from the state and as delegated power the powers must find support in the enabling actions, charter, constitution, or act.

Some states embraced Cooley, whereas the majority followed Dillon.

“ Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government subject to the Constitution and law.”

— Michigan Constitution, Article VII, Section 22

Erosion of Home Rule

Over the years, there have been a number of changes affecting the ability of local units to govern without interference. Both statutory and constitutional measures have been passed, including mandated collective bargaining and compulsory arbitration of police and fire labor disputes; the prohibition of residency requirements for municipal employees; and the prohibition of ordinances regulating mobile homes, firearms, obscene materials, and school site plans.

Constitutional changes, such as the adoption of the Headlee amendment in 1978 and Proposal A in 1994, have affected finance and revenue administration while statutory changes have impacted local property tax bases. Local authority received a setback in 2006, in *City of Taylor v Detroit Edison* where the Supreme Court reiterated its previous opinion that, “local governments have no inherent jurisdiction to make laws or adopt regulations of government; they are governments of enumerated powers, acting by a delegated authority; so that while the state legislature may exercise such powers of government...as are not expressly or impliedly prohibited, the local authorities can exercise those only which are expressly or impliedly conferred.”

However, that same year in *GE Property & Casualty v Detroit Edison*, the Court of Appeals stated, including quotes from two decisions of the Michigan Supreme Court, that “home rule cities enjoy not only those powers specifically granted, but they may also exercise all powers not expressly denied” and that the Michigan Constitution maintains a system of municipal governance that includes a “general grant of rights and powers, subject only to certain enumerated restrictions instead of the earlier method of granting enumerated rights and powers definitely specified.” These decisions indicate that Michigan’s courts are apt to be flexible in balancing authority of local governments with that of the state, depending on the facts of the case.

With this backdrop of municipal home rule in Michigan, this publication will begin with the recent, and fundamentally important, decision of the Supreme Court in *Associated Builders and Contractors v City of Lansing*.

Home Rule City Act:

MCL 117.3 Mandatory charter provisions
Each city charter shall provide for:
(j) The public peace and health and for the safety of persons and property.

Home Rule Village Act:

MCL 78.23 Village charter; mandatory provisions
Each village charter shall provide for:
(f) The public peace and health, and for the safety of persons and property.

General Law Village Act:

MCL 67.1 General powers of council
The council of a village subject to this act may enact ordinances relating to 1 or more of the following:
(c) To abate nuisances and preserve the public health.
(z) To adopt other ordinances and make other regulations for the safety and good government of the village and the general welfare of its inhabitants that are not inconsistent with the general laws of this state.

Fourth Class City Act:

MCL 91.1 General powers
(2) The council may enact ordinances and make regulations, consistent with the laws and constitution of the state as they may consider necessary for the safety, order, and good government of the city and the general welfare of the inhabitants of the city.

HOME RULE AUTHORITY – PREVAILING WAGE ORDINANCES

Associated Builders and Contractors v City of Lansing

The City of Lansing enacted an ordinance requiring contractors working on city construction projects to pay their employees a prevailing wage. Associated Builders and Contractors, a trade association, sued the city claiming that the ordinance was unconstitutional on the basis that municipalities do not have the authority to adopt ordinances regulating the wages paid by third parties, even where the work is done on municipal contracts paid for with municipal funds. The trial court determined that the city did not have the authority to enact the ordinance despite the city's "compelling arguments," and found in favor of Associated Builders. However, the Court of Appeals reversed the trial court finding, based on the changes in Michigan's 1963 Constitution and case law since 1923.

The 1963 Constitution granted broad authority to municipal governments to govern their own affairs. The Home Rule City Act likewise recognizes the broad power of municipalities to govern their affairs. The city of Lansing's ordinance is carefully limited to apply only to city contracts, and only to contractors "employed directly on the site of work" in Lansing. Lansing's ordinance does not apply to State contracts—the two work alongside one another and do not conflict. The State prevailing wage statute (repealed in June 2018) regulates only wages paid on State contracts.

Why did our LDF get involved?

The case presented significant issues affecting the home rule authority of cities and villages.

What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

What was the outcome?

The Ingham County Circuit ruled in favor of Associated Builders and Contractors, but that decision was reversed by the Michigan Court of Appeals, which upheld the right of the city to pass such an ordinance. The Michigan Supreme Court affirmed the Court of Appeals' result on the basis that the 1963 Constitution grants to cities and villages the authority to enact ordinances relating to municipal concerns, including those regulating wages paid to third-party employees working on municipal construction contracts.

What are the implications for local governments?

The decision is considered to be highly significant and favorable with respect to the scope of home rule powers in Michigan. The Michigan Supreme Court provided an answer to one of the most important questions concerning the authority of Michigan's cities and villages. In its unanimous decision, the Court underscored the significance of language in the 1963 Constitution related to local government home rule powers. While the decision is important in upholding the city of Lansing's prevailing wage ordinance, the impact should far exceed this one ordinance. There will no doubt be future cases, with different facts, that will offer the Court other opportunities to interpret the proper relationship between Michigan's local governments and the State. Until then, the powerful and insightful language of this Court in this decision should go a long way in supporting the authority of local government officials to make choices about the nature and extent of their local governments services, on behalf of the citizens who elected them.

Who prepared the amicus brief?

Clifford W. Taylor, Paul D. Hudson, and James D. Boufides
(Miller Canfield)

Associated Builders and Contractors v City of Lansing,
880 N.W.2d 765 (2016)

HOME RULE AUTHORITY – PROPERTY MAINTENANCE ENFORCEMENT

Shoemaker v City of Howell

The City of Howell has an ordinance requiring landowners to maintain the land between the sidewalk and the street (known as a curb strip, curb lawn, or berm) and within the city's **right-of-way**. The ordinance requires landowners to keep the area free and clear of any weeds, tall grasses, or other types of plants that are hazardous to health. The city manager, or his/her representative, is authorized to serve written or verbal notice upon the land owner to comply with the provisions of the ordinance. A violation of the ordinance is a **municipal civil infraction**.

The city started reconstruction of the street where Shoemaker lived. Prior to the street renovation, Shoemaker maintained both the sidewalk and the right-of-way area between the sidewalk and the edge of the road abutting his home and property. After renovation, he refused to maintain the area because the city had removed a tree and grass he planted. The city planted new trees and grass in the area, but Shoemaker asserted that it was more difficult to maintain the curb strip.

For a period of 16 months, the city requested Shoemaker maintain this area. Initially Shoemaker complied; however, as he continued to be cited for municipal civil infraction violations, he refused to maintain the area altogether. Consequently, the city had a contractor mow the area then billed Shoemaker for the cost. Shoemaker argued that the city failed to notify him about the ways in which he could challenge those charges. He then filed suit against the city in federal district court alleging violations of **procedural due process** and **substantive due process**.

In his procedural due process claim, Shoemaker alleged that the ordinance imposed fines, costs, and penalties without giving him the opportunity for a hearing. As to the substantive due process claim, Shoemaker alleged that the ordinance imposed a duty upon a citizen to maintain city-owned property without pay and additionally, that the city had no power under law to impose such a duty. Though the city argued that there were adequate procedural protections in the ordinance, the federal district court found that the ordinance did not include a method for a citizen to seek a hearing. As to the issue of substantive due process, the court declared that the city's ordinance was unconstitutional because the city imposed costs on citizens to abate a nuisance on public, city-owned property.

Why did our LDF get involved?

The federal district court's decision invalidating parts of a city's health, safety, and sanitation ordinance is a cause of great concern to municipalities. Similar ordinances exist throughout the state of Michigan as appropriate exercises of municipal authority to protect the health, safety, and welfare of residents. Requiring additional processes to abate nuisances would constitute a significant burden on the municipality. If not maintained, the unkempt properties would have a detrimental impact on municipal efforts to encourage traffic safety, enhance aesthetics, and to abate or prevent potential nuisances and improve property values.

Right-of-way easement: property owners own the land to the middle of the street and municipalities have permission to use the land for highway purposes.

Municipal civil infraction: A civil infraction is a violation of the law less serious than a misdemeanor. A municipal civil infraction is a civil infraction involving a violation of a municipal ordinance.

Procedural Due Process: requires government officials to follow fair procedures before depriving a person of life, liberty, or property.

Substantive Due Process: prohibits government officials from infringing on fundamental constitutional liberties.

What action did the LDF take?

The LDF filed an amicus brief with the federal Court of Appeals, joined by the Michigan Municipal League's Property & Liability Pool, the Michigan Townships Association, and the Michigan Public Corporation Law Section of the State Bar.

What was the outcome?

The Sixth Circuit Court of Appeals reversed the district court and found the purpose of the city's ordinance to advance traffic safety, sanitation, animal and rodent control, protection of property values, aesthetics, and public health, safety, and welfare to be legitimate.

Regarding procedural due process, the court found that the city provided Shoemaker with multiple notifications of the ordinance violation, alerted him of the charges against him, and notified him of the avenues available to challenge those charges. Regarding substantive due process, Shoemaker claimed the city owned the land and could not require him to maintain it. However, under Michigan law, the property owner owns the land to the middle of the street and a municipality has an easement, or right-of-way. The court ruled that Shoemaker did have an interest in the property and the city merely possessed a right-of-way for public use.

What are the implications for local governments?

Michigan municipalities continue to have the authority to require property owners to maintain those portions of the right-of-way which abut their properties—the curb strip, between the sidewalk and curb/edge of the road—be it mowing the grass during the summer, or removing snow and ice from the sidewalk in the winter.

Who prepared the amicus brief?

Julie O'Connor (O'Connor, DeGrazia, Tamm & O'Connor, P.C.)

Shoemaker v City of Howell, 795 F.3d 553 (2015)

NUISANCE ABATEMENT/ DEMOLITION OF UNSAFE STRUCTURES

Bonner v City of Brighton

This case involves three structures—two former residential homes and one barn/garage—that sat unoccupied and generally unmaintained in the city of Brighton for over 30 years. In January 2009, the city's building and code enforcement officer informed the owners of these properties, through a written notice, that the three structures were "unsafe" and in violation of the city's ordinance. In addition, the property owners were informed that the building official had determined that it was unreasonable to repair these structures consistent with the standard set forth in the ordinance (an "unreasonable-to-repair-presumption"—where the cost of the repairs exceed the value of the property). Consequently, the property owners were ordered to demolish the structures within 60 days of the date of the building official's letter.

Instead of demolishing the houses, the property owners filed suit against the city, alleging procedural and **substantive due process** violations. Brighton also filed suit, seeking **injunctive relief** to compel demolition of the houses.

The two suits were consolidated and two subsequent trial court decisions were appealed—one reaching the Michigan Supreme Court with regard to the property owners' procedural and substantive due process claims.

Why did our LDF get involved?

The Brighton ordinance addresses unsafe structures, and ample evidence supported the assertion that abandoned houses and other unsafe structures had reached epidemic proportions nationwide. More than just unsightly blight, these abandoned buildings result in increased crime, a severe strain on municipal resources, and a threat to public health, safety, and welfare. If the Court of Appeals decision had been allowed to stand, it would have prevented municipalities from effectively and efficiently protecting the public from the danger of unsafe and abandoned structures.

What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

Procedural Due Process: requires government officials to follow fair procedures before depriving a person of life, liberty, or property.

Substantive Due Process: prohibits government officials from infringing on fundamental constitutional liberties

Injunctive Relief: a judge's order to a person to do or refrain from doing a particular thing.

What was the outcome?

The Michigan Supreme Court found in favor of the city. It held that the city's ordinance does not deprive a property owner of substantive due process because the ordinance is reasonably related to the city's legitimate interest in promoting the health, safety, and welfare of its citizens. Furthermore, the ordinance is not an arbitrary and unreasonable restriction on a property owner's use of his or her property because there are circumstances under which the presumption may be overcome and repairs permitted. In addition, the Court held that the city's existing demolition procedures provide property owners with procedural due process.

What are the implications for local governments?

This case upholds a far-reaching remedy as part of a municipality's legitimate interest in removing structures that are unsafe or present a health hazard, in the interest of protecting the health, safety, and welfare of its citizens. Nuisance ordinances regulating unsafe structures are related to a permissible regulatory objective. Municipalities and their attorneys should review their dangerous building ordinances and all ordinances related to building and enforcement procedures in terms of scope and needs of the community.

Who prepared the amicus brief?

Mary Massaron and Josephine A. DeLorenzo
(Plunkett Cooney)

Bonner v City of Brighton, 298 Mich App 693 (2015)

ZONING – BILLBOARDS

International Outdoor, Inc v City of Livonia

Shortly after the City of Livonia incorporated in 1950, city leaders drafted the city's first zoning ordinance. Among other things, that original ordinance contained an outright ban on billboards, along with a grandfather clause protecting billboards already in existence. The last of those billboards came down in 1986, and Livonia has been billboard-free ever since. This is unusual in the metro Detroit area: a 36-square-mile billboard-free zone crossed by two busy interstate highways—I-96 and I-275. While there are no billboards in Livonia, there are more than 50 billboards in the roughly two-mile wide zone just outside Livonia's borders. International Outdoor, an outdoor advertising company, applied to the City of Livonia for a permit to erect a digital billboard at a site adjacent to I-96. The city denied the request pursuant to its 1952 ordinance banning billboards. International Outdoor applied for a variance and was denied.

International Outdoor filed suit against the city, claiming the city used prohibited **exclusionary zoning** to keep billboards out. The protection against certain exclusionary zoning practices, however, were developed to counteract the use of zoning laws designed to keep low to moderate income housing within certain areas. No Michigan court had ever applied the concept of prohibited exclusionary zoning to billboards. Rather, the amended zoning law's protection against exclusionary zoning practices were applied to protect necessary uses within a municipality where there is a "demonstrated need." It was not contemplated that billboards would be considered protected under restrictions against exclusionary zoning or that billboards were a demonstrated need in a community.

The Michigan Zoning Enabling Act (MZEA) establishes the framework for a local government to create a comprehensive zoning plan to promote the public health, safety, and welfare of the community. The Home Rule City Act provides for "licensing, regulating, restricting, and limiting the number of locations of billboards within the city," and the courts have stated that home rule cities have broad powers with respect to billboards. The challenged ordinance here did allow billboards—provided they were in existence at the time the restriction was enacted for on-site signs.

Exclusionary zoning: using zoning ordinances to exclude certain types of land uses in a community.

Why did the LDF get involved?

This case represents a fundamental question relating to a city's power to regulate billboards

as authorized by the Michigan Constitution, the Home Rule City Act, and promoting the health, safety, and welfare of a community through zoning.

What action did the LDF take?

The LDF, Scenic Michigan, the Michigan Townships Association, and the Public Corporation of Law Section of the State Bar of Michigan filed a joint amicus brief with the Court of Appeals in support of Livonia in the case.

What was the outcome?

The Court of Appeals affirmed the trial court's decision finding in favor of the city. International Outdoor appealed the decision to the Michigan Supreme Court. On April 4, 2017, the Michigan Supreme Court denied International Outdoors' request to appeal.

What are the implications for local governments?

The Court of Appeals' decision is unpublished. This means that the decision cannot be used as precedent in other cases. However, it is a major victory for Michigan communities and their ability to regulate and ban billboards. On April 4, 2017, the Michigan Supreme Court denied International Outdoors' request to appeal.

International Outdoor also filed cases against the cities of Roseville and Harper Woods; the Court of Appeals also found in favor of the cities—in 2014 and 2016, respectively.

Who prepared the amicus brief?

Andrew J. Mulder and Vincent L. Duckworth
(Cunningham Dalman, P.C.)

International Outdoor v City of Livonia, 500 Mich. 959; 892 N.W. 2d 359; (2017).

ZONING – MEDICAL MARIHUANA

Ter Beek v City of Wyoming

The Michigan Medical Marihuana Act (MMMA), passed in 2008 by voter initiative, allows certain protections under state law for the medical use of marihuana. Section 4(a) protects registered qualifying patients from penalties for specified medical marihuana use. In 2010, the City of Wyoming amended its zoning code by adding: "Uses not expressly permitted...are prohibited in all districts. Uses that are contrary to federal law, state law, or local ordinance are prohibited." The federal Controlled Substances Act (CSA) classifies marijuana as a Schedule I controlled substance and largely prohibits its manufacture, distribution, or possession. By prohibiting all uses that are illegal at the federal level, the city's ordinance incorporated the CSA's prohibitions relating to marijuana and associated land uses.

John Ter Beek, a registered "qualifying patient" under the MMMA, desired to exercise his rights to grow, possess, and use medical marihuana in his home. Ter Beek brought a case against the city claiming that its ordinance prohibited the exercise of medical marihuana rights, punished such use, and was pre-empted by the MMMA. The trial court rejected Ter Beek's challenge to the ordinance, finding that section 4(a) of MMMA is preempted by the CSA. The Michigan Court of Appeals reversed, and found in favor of Ter Beek. The Court of Appeals stated that the CSA does not preempt section 4(a) of the MMMA, finding instead that section 4(a) preempts the city's ordinance because the ordinance directly conflicts with the MMMA.

Why did our LDF get involved?

Michigan law gives local governments broad authority over land use. In areas where the Legislature wanted to limit local zoning authority, it made explicit exemptions (e.g. airports, and oil and gas wells). Yet a similar exemption was not made for qualified medical marijuana patients to use land in violation of zoning ordinances. If the Legislature intended, it could have provided for it like it did for a variety of other specially protected land uses. Municipalities are entrusted with the responsibility of providing basic and necessary community caretaking services. They should be able to respond to the desires of their citizens and regulate activities that protect the health, safety, and welfare of the community.

What action did the LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court.

Marihuana: The spelling, with an "h," was chosen for the Marihuana Tax Act of 1937. Michigan's adopted definition of marihuana in the Public Health Code uses the federal spelling.

Pre-emption: when a state law supersedes, or has precedence over, a local law.

What was the outcome?

The Michigan Supreme Court affirmed the judgment of the Court of Appeals. The Court found that Wyoming's ordinance directly conflicted with the state statute (MMMA) and was invalid. The ordinance did not conflict with the MMMA because it generally pertained to marijuana, but rather because it penalized registered qualifying patients for engaging in MMMA-compliant use. Note, however, in a footnote the Court stated: "[c]ontrary to the city's concern, this outcome does not 'create a situation in the State of Michigan where a person, caregiver, or a group of caregivers would be able to operate with no local regulation of their cultivation and distribution of marijuana.'"

What are the implications for local governments?

Cities with the same ordinance provision as the city of Wyoming had to change their ordinances. While the Michigan Supreme Court ruled against the city of Wyoming, it did say that this ruling does not necessarily mean that municipalities can't regulate medical marihuana at all. In fact, municipalities have passed ordinances regulating medical marihuana uses—as home occupations for example, or requiring local licenses.

Who prepared the amicus brief?

Andrew J. Mulder and Vincent L. Duckworth
(Cunningham Dalman P.C.)

Ter Beek v City of Wyoming, 495 Mich 1 (2014)

ZONING – SHOOTING RANGES

Addison Township v Barnhart

In 1993, the defendant requested to build a shooting range on his 80-acre property which was in an agricultural zone. Addison Township approved the request because “it was agreed that only defendant and his family would use the shooting range.” But the defendant began conducting firearm lessons and charged at least one person a fee. He also used the range for testing firearms for various companies and for deputy sheriffs’ training. The defendant thus allowed not just his family, but the ‘public’ to use the shooting range. In 2005, the township issued the defendant a misdemeanor citation for operating the shooting range without a zoning compliance permit.

The shooting range, which at the start was for a recreational purpose, changed to a business purpose. The township zoning ordinance requires a permit before constructing, altering, or repairing any structure; a permit is also required to change the use of land or the use of any building. Barnhart was given a permit for land in an agriculture zone; he changed the use over time to business use by charging for shooting lessons.

Barnhart argued that Michigan’s Sport Shooting Range Act (SSRA) protected him against the township’s ordinance so long as the shooting range complied with portions of the Act. The intent of the Act, passed on July 5, 1994, was to supply some protection to the recreational activity of shooting ranges against noise complaints by neighbors and/or regarding danger from stray bullets. The SSRA defines a “sport shooting range” as “an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.”

To receive the protection of the SSRA, Barnhart’s shooting range would have to have been legally in existence on July 5, 1994 as a “sport shooting range,” (not a range for non-sporting activities), and comply with existing zoning regulations, as well as with “generally accepted operation practices.” According to testimony, none of these conditions were complied with. The Court of Appeals ruled in favor of the township and found that the defendant’s shooting range did not meet the requirements of the SSRA. The Court found that because the defendant’s operation of a shooting range was in part for business/commercial purposes, the SSRA did not shield the defendant from compliance with local zoning regulations.

Pre-emption: when a state law supersedes, or has precedence over, a local law.

Why did our LDF get involved?

Local jurisdictions should be able to regulate the location of shooting ranges within their boundaries as part of their home rule authority to protect the health, safety, and welfare of their citizens.

What action did the LDF take?

At the request of the Michigan Supreme Court, the LDF and Michigan Townships Association filed a joint amicus brief.

What was the outcome?

The Michigan Supreme Court reversed the Court of Appeals and found in favor of the property owner. The Court stated that a shooting range may meet the statutory definition of a ‘sport shooting range’ despite the fact that the owner of the shooting range makes a profit. The status of the use of the shooting range doesn’t matter because the shooting range is legislated under a state law and only the state law applies to it, thus pre-empting local ordinances.

What are the implications for local governments?

Shooting ranges may be protected from the reach of local zoning ordinances if they are in part used as sport shooting ranges even if they are also used commercially.

Who prepared the amicus brief?

John H. Bauckham (Bauckman, Sparks, Lohrstorfer, Thal, & Seeber, P.C.)

Addison Township v Barnhart, 845 N.W. 2d 88 (2014)
495 Mich. 90

GUN CONTROL/OPEN CARRY

Capital Area District Library v Michigan Open Carry, Inc.

Michigan law prohibits gun owners from bringing guns into schools, child care centers, sports arenas, churches, certain entertainment facilities, hospitals, and colleges. But, there is no statute prohibiting bringing weapons into public libraries. Capital Area District Library (CADL) is a district library established under the District Library Enabling Act (DLEA) and a district library agreement executed by the City of Lansing and Ingham County. Under the DLEA, the operating board has the authority to adopt bylaws and regulations—it essentially operates as an independent public body. CADL's operating board adopted a code of conduct that contains the following weapons policy: "All weapons are banned from Library premises to the fullest extent permitted by law."

Michigan Open Carry (MOC) is a nonprofit corporation whose objectives are to "educate and desensitize the public and members of the law enforcement community about the legality of the open carry of a handgun in public." One method MOC uses to accomplish these purposes is to hold "informal gatherings in public places throughout the state while [openly carrying] our handguns." On multiple occasions between December 2010 and February 2011, individual members of MOC openly carried firearms (pistols and a shotgun) in CADL's downtown Lansing branch. Some library patrons and employees were disturbed by the presence of exposed firearms.

CADL believed that Michigan law permitted it to prohibit the open carrying of firearms on its premises. Accordingly, when a person openly carried a handgun on CADL's premises, one of CADL's security guards asked the person to leave. Generally, persons complied with a security guard's request. If the person did not comply with the request, a security guard would stay near the person until he or she left the library. In this instance, CADL's employees called the Lansing police when a person openly carrying a firearm entered the library.

However, the Lansing police refused to remove the person without a court order. CADL filed suit, asking the court to establish the validity of its weapons policy and permitting it to enforce the policy. CADL won at the lower court but MOC appealed the ruling. The Court of Appeals ruled in favor of MOC, finding that the CADL does not have the right to enact or enforce a policy banning all weapons from its premises.

Pre-emption: when a state law supersedes, or has precedence over, a local law.

Why did our LDF get involved?

The LDF filed an amicus brief in a similar case in 2003. The City of Ferndale's ordinance banning weapons at city hall was found to be pre-empted by state law. We believed the decision was in error—this case had the potential of improving the result for local concerns. CADL's policy relating to weapons in its buildings should be one of purely local concern and responsibility.

What action did our LDF take?

The LDF filed an amicus brief with the Michigan Supreme Court joined by the Michigan Association of Chiefs of Police.

What was the outcome?

The Michigan Supreme Court denied CADL's appeal; so, the Court of Appeals decision that the field of firearms regulation is pre-empted by state law is final.

What are the implications for local governments?

Local units of government were already prevented from adopting policies regarding the regulation of firearms under a series of state laws. District libraries were not included in this statute, however. As it stands, individuals can carry weapons in district libraries openly.

Who prepared the amicus brief?

Thomas Schultz (Johnson, Rosati, Schultz & Joppich)

Capital Area District Library v Michigan Open Carry,
839 N.W.2d 198 (2013)

BOUNDARY ADJUSTMENT – ANNEXATION AND 425 AGREEMENTS

Clam Lake Township v Dept of Licensing/State Boundary Commission, Teridee LLC, and City of Cadillac

For more than seven years, TeriDee, LLC attempted to spur economic growth in Wexford County by developing its property located near highways M-55 and US-131. Desiring services the City of Cadillac could offer, such as water and sewer, it twice petitioned for annexation of its property in Clam Lake Township to the city, which would allow for development of the property. The proposed annexation would have facilitated a commercial development project that would create an estimated 850 to 1,000 jobs. The township opposed such development and appealed a decision of the State Boundary Commission (SBC) to approve the annexation.

Clam Lake previously refused to rezone the property to allow for commercial development, and its citizens voted against an Act 425 Agreement between the township and the city. In 2011, TeriDee filed an annexation petition to transfer the property into the city. Clam Lake immediately entered into an Act 425 Agreement with Haring Township in an attempt to block the annexation, which the SBC determined to be invalid (it denied the annexation petition for other reasons, however).

Two years later, after hearing that TeriDee would be filing a new annexation petition, Clam Lake and Haring townships drew up another Act 425 Agreement. The timing of the agreement and circumstances surrounding its approval, along with a series of emails between the townships' officials, indicated that the Act 425 Agreement was a ploy intended to divest the SBC of jurisdiction.

After receiving more than 2,000 pages of documents and conducting a public hearing, the SBC voted that the Act 425 Agreement was, once again, a sham that did not deprive the SBC of jurisdiction over the annexation petition. The SBC approved TeriDee's annexation request after reviewing the evidence and determining that the request satisfied the statutory criteria. The township then appealed to circuit court, which affirmed the SBC's decision. The township further appealed to the Court of Appeals (which denied hearing), and then to the Michigan Supreme Court.

Why did the LDF get involved?

Annexation will allow for economic development of the property and bring needed revenue and revitalization. The actions of the townships are contrary to the concept of PA 425, and improperly undercut the authority of the SBC.

Annexation: The process of bringing land from one jurisdiction to another by petition or resolution.

Act 425 agreement: The conditional transfer of land from one unit of government to another for an economic development project that envisions the sharing of taxes and revenue. The land included in an Act 425 agreement that is in effect cannot be annexed.

What action did the LDF take?

At the request of the Michigan Supreme Court, the LDF filed an amicus brief.

What was the outcome?

The Michigan Supreme Court concluded that the SBC does not have authority to determine the validity of a 425 agreement beyond ensuring such an agreement is in effect.

What are the implications for local governments?

The Michigan Supreme Court's ruling overruled *Casco Township v State Boundary Commission*, a 2000 decision of the Michigan Court of Appeals which had concluded that the SBC did have authority to determine the validity of 425 Agreements. Unless addressed legislatively, this decision will likely result in the increased use of 425 Agreements between townships to defeat legitimate annexation efforts. Cities and villages commonly provide water and sewer services to businesses—services deemed valuable in the development of their properties. This decision stymies annexation as a tool for cities and villages in their commitment to economic growth.

Who prepared the amicus brief?

Jeffrey Sluggett and Crystal Morgan
(Bloom Sluggett Morgan, P.C.)

Clam Lake Township v Dept. of Licensing, 902 N.W.2d 293
(2017) 500 Mich. 362

GOVERNMENTAL IMMUNITY

Lockett v Southeast Macomb Sanitary District

On March 12, 2008, 14-year old William Lockett went snowmobiling, traveling at 45-50 mph, on Lake St. Clair at 8:30 p.m. He struck the pier, and the impact caused a cervical fracture that resulted in quadriplegia. His parents filed a lawsuit against the Southeast Macomb Sanitary District (SMSD) and employee Rick Kittell alleging **gross negligence**, and supervisor Patrick O'Connell for failing to properly train/supervise Kittell in his duties.

The lights on the pier had a photocell/solar panel and automatically turned on at dusk and automatically shut off in the morning. As part of his duties, Kittell was required to go to the pier and check the lights once per shift. On the day before the accident, Kittell entered in the log book that all the lights were on. On the day of the accident, another employee noted at 12 a.m. in the log book that all the lights were on. When it was again his shift, Kittell entered in the log book that all lights were on at 8:11 p.m.

The trial judge ruled that the evidence did not show that Kittell engaged in conduct so reckless as to amount to gross negligence, as required by the Governmental Tort Liability Act. There was no evidence of willful disregard of safety measures or of disregard for substantial risks. Instead, his actions were consistent with the duties he was required to perform. Lockett then appealed to the Court of Appeals. The Court of Appeals affirmed the trial court dismissal as to O'Connell, but reversed as to Kittell, finding that there was a question as to whether his actions amounted to gross negligence. The SMSD appealed to the Michigan Supreme Court.

Why did our LDF get involved?

Governmental immunity is a significant issue and one on which all governments should want clarification. In this case, the analysis of the Court of Appeals of the "**proximate cause**" of the accident was incorrect, which led it to decide that there was a question as to whether Kittell's conduct was "the proximate cause" of Lockett's injury. The Court misapplied the interpretation of proximate cause from an earlier case.

What action did the LDF take?

The LDF filed an amicus brief to the Michigan Supreme Court joined by the Michigan Townships Association and the Public Corporation Law Section of the State Bar of Michigan.

Governmental immunity: a governmental agency is immune from tort liability if it is engaged in the exercise or discharge of a governmental function.

Proximate cause: the primary cause of an injury without which the injury would not have occurred.

Gross negligence: conduct so reckless as to demonstrate a substantial lack of concern for whether injury results.

What was the outcome?

The Michigan Supreme Court found in favor of the SMSD, and stated that the only evidence concerning the illumination of the pier lights was Kittell's log where he recorded that they were all lit approximately 20 minutes prior to the accident. Lockett's evidence all concerned the status of the lights following the accident. There was no evidence that Kittell was grossly negligent, that is, that he engaged in "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." The Court went on to state that there was no evidence that Kittell's acts or omissions were the proximate cause of Lockett's injuries.

What are the implications for local governments?

Municipalities can still rely on the immunity statute that exempts them from liability unless there is gross negligence and the governmental employee was the "sole" cause of the accident. In this case, snowmobiling in the dark at high speed could have been a contributing factor to the accident.

Who prepared the amicus brief?

Rosalind Rochkind (Garan Lucow Miller P.C.)

Lockett v Southeast Macomb Sanitary District,
861 N.W.2d 284 (2015)

TAX ASSESSING – DARK STORES

Menard, Inc. v City of Escanaba

Across Michigan, retailers such as Meijer, Lowe's, Target, Kohl's, Menards, IKEA, Wal-Mart, and Home Depot argue that the market value of their operating store should be based on the sales of similar sized "comparable" properties that are vacant and abandoned and may not even be located in Michigan. The stores also place deed restrictions on the vacated buildings that greatly limit what can go in the buildings once they are empty and become dark. These Big Box stores convinced the Michigan Tax Tribunal to give them special treatment as it pertains to the market value of their property. Prior to the dark store theory, Michigan Big Box stores were assessed at an average of \$55 per square foot. Here's where they are now compared to states where various Big Box stores are located:

- In Michigan, Lowes stores are assessed at \$22.10 per square foot. In Lowes home state of North Carolina, the same stores are valued at \$79.08 per square foot.
- In Michigan, Menards and Target are valued at \$24.97 per square foot. In Menards' home state of Wisconsin, the same stores are valued at \$61.23 per square foot.

Dark store: a tax loophole scheme used by Big Box retailers to lower the amount they pay in property taxes.

In this case, Menard appealed its 2012, 2013, and 2014 property tax assessments by the city of Escanaba. The Michigan Tax Tribunal (MTT) reduced the true cash value assessments for the three years roughly from \$7.8 to \$8.2 million for each tax year to roughly \$3.3 to \$3.6 million for each tax year. The city appealed the decision to the Court of Appeals. The Court of Appeals determined that because over half of Menard's appraiser's sales comparables were deed-restricted, for which no adjustments were made to the sale prices for the deed restrictions, the Tribunal's valuation was an error of law not supported by competent, material, and substantial evidence.

Why did our LDF get involved?

Most communities welcome having Big Box retailers such as Lowe's and Home Depot nearby. But they don't expect those stores to then ask to be taxed at artificially low rates. The decision of the Tribunal is precedential to itself, and if allowed to stand will



TAX ASSESSING – DARK STORES CONTINUED

Menard, Inc. v City of Escanaba

impact subsequent decisions of the Tribunal and communities across the state. The result of this case could have put the state's entire property tax base at risk.

What action did the LDF take?

The LDF, joined by the Michigan Townships Association (MTA), the Michigan Association of Counties (MAC), the Michigan Association of School Boards (MASB), the Michigan School Business Officials (MSBO), and the Michigan Assessors Association (MAA), filed an amicus brief with the Court of Appeals.

What was the outcome?

The Court of Appeals rejected the Michigan Tax Tribunal's decision in favor of Menard and found in favor of the city. The Court sent the case back to the Tribunal, ordering it to take evidence on the market effect of the deed restrictions, and directing that if the sales comparables cannot be reliably adjusted as if they were sold for the same highest and best use as the Menard's store, then the comparables should not be used and the Tribunal should consider the cost approach to value.

Menard filed an Application for Leave to Appeal to the Michigan Supreme Court, which the city opposed. On February 1, 2017, the Michigan Supreme Court entered an order for oral argument on the application (known as a "MOAA"—mini oral argument on the application). The order required the parties to file supplemental briefs and the oral arguments were heard on October 12, 2017.

On October 20, 2017, the Michigan Supreme Court declined to take the matter up and denied the Application for Leave to Appeal. Essentially, the Court issued a ruling that Big Box stores can no longer use the "dark stores" property valuation method, which allowed them to escape paying millions in local property taxes.

The case is now back before the Tax Tribunal, as directed by the Court of Appeals, for consideration of the effect of the deed restrictions on sales comparables and utilization of the cost approach.

Additionally, because of the precedent-setting potential, complexity, and huge cost of defending its assessments by the city, the Michigan Municipal League, MTA, MAC, and MASB are supporting the city's request for each of their member units of government to offer financial support.

What are the implications for local governments?

Overall, this is a huge win for local government and its ability to fairly tax all property owners. In its order, the Supreme Court denied Menard's application for leave to appeal. Through the denial, the Court essentially rejected Menard's claims that the Court of Appeals exceeded its permissible scope of review, that the cost approach amounts to a value-in-use standard and should not be used to value real property for tax purposes, and that it is permissible to utilize deed restricted properties to value non-deed restricted properties. The Court's decision upholds the May 26, 2016, published opinion of the Court of Appeals which found the Michigan Tax Tribunal (MTT) committed an error of law when the MTT rejected the cost approach and then utilized a sales comparison approach without accounting "for the effect on the market of deed restrictions" on the sales comparables. Ultimately, since the case is on remand to the MTT, there is at least one more chapter to be written and that result may be appealed yet again to the Supreme Court.

Who prepared the amicus brief?

Stephanie Simon Morita (Johnson Rosati Schultz & Joppich, P.C.)

Menard, Inc. v City of Escanaba, 315 Mich App 512 (2016) and 501 Mich 899 (2017)

TAX EXEMPTION – NONPROFIT CHARITABLE INSTITUTION

Trinity Health-Warde Lab, LLC v Charter Township of Pittsfield

Warde Lab is a for-profit medical laboratory that performs clinical laboratory testing. Although Warde Lab is owned by a nonprofit, Trinity Health Michigan, the lab itself is not a nonprofit charitable institution. Trinity appoints the lab's board of directors, who manage its business and affairs. Trinity created the lab for the purposes of acquiring, owning, and operating the lab's real property—a 57,000-square foot building used solely as a medical laboratory.

Warde Lab filed a motion with the Michigan Tax Tribunal claiming that because Trinity has complete corporate control over the lab, it should be deemed a charitable institution, thus exempting it from taxation. The township responded that, as a for-profit entity, it does not meet the requirements for a charitable institution, and therefore the lab's property is not eligible for tax-exempt status.

The Tribunal found that Warde Lab and the nonprofit Trinity Health are "essentially the same entity," entitling Warde Lab to the nonprofit charitable institution exemption even though itself it is not a nonprofit charitable institution.

Why did our LDF get involved?

Municipalities have an interest in the proper construction and application of the property tax law, both procedural and substantive. Cities and townships are the assessing units which administer the property tax through the actions of assessors and the local boards of review and as the respondents in most property tax appeals. This case could cause serious negative consequences to municipal property tax administration, tax revenues, and to the public services provided therefrom. The general understanding of assessors throughout the state in the performance of their property tax assessing function has been that the property tax exemptions for charitable, educational, and scientific institutions were not available to for-profit entities. The purpose of a for-profit corporation is to make a profit to distribute or otherwise benefit the shareholders—this is in direct opposition to the purpose of a nonprofit institution with its sole motive to carry out its cause, whether it be educational, scientific, or charitable. Promotion of these nonprofit causes by provision of property tax exemptions is a worthy intent of the legislation; such an exemption should not be extended to for-profit entities.

What action did the LDF take?

The LDF joined the Michigan Townships Association in filing an amicus brief with the Court of Appeals.

What was the outcome?

The Court of Appeals reversed the Michigan Tax Tribunal and ruled in favor of the township. It concluded that a for-profit entity owned by a charitable institution is not exempt from real property taxes. A Supreme Court Order was issued stating that the parties stipulated to dismissal of the case and the Court accordingly dismissed the application for leave to appeal. The dismissal is good news, as it leaves unaltered the favorable Court of Appeals published decision.

What are the implications for local governments?

This is a very important ruling for municipalities since property taxes make up the bulk of the revenue they use to provide services to their residents. Our hope is that it will put a stop to the practice of nonprofit charitable entities, setting up wholly owned for-profit entities to own real estate or other property, and still claim a property tax exemption.

The LDF also filed an amicus brief in three similar cases. In *SBC v Kentwood*, *Baruch v Tittabawassee Township*, and *Chelsea Health and Wellness v Dexter*, the plaintiffs sought charitable tax-exempt status. *Baruch* was decided on June 28, 2017 and *Chelsea* on October 12, 2017—both against the municipalities, which may open the door to more "nonprofits" seeking charitable tax exemptions in this manner.

Who prepared the amicus brief?

Robert Thall (Bauckham, Sparks, Thall, Seeber & Kaufman P.C.).

Trinity Health-Warde Lab v Charter Township of Pittsfield, 904 N.W.2d 599 (2017)

TAX SPENDING SHIFTS — HEADLEE AMENDMENT AND REVENUE SHARING

Taxpayers for Michigan Constitutional Government v State of Michigan

The Headlee Amendment to the state constitution governs revenue sharing between the state of Michigan and local governments. The amendment limits the ability of local governments to raise taxes while ensuring that local governments get the financial support that they need from the state. Among other things, Headlee dictates that the state **must** allocate 48.97% of its funding to local governments and that the state **may not** mandate programs for local governments to implement without providing funding for those programs.

The plaintiffs' brief deals with three areas:

1) whether the state can count monies, spent to meet its funding guarantee to schools under Proposal A, toward meeting the 48.97% funding threshold for local governments under section 30 of Headlee; 2) whether monies expended to fund charter schools can be credited to the state to satisfy its funding obligation under section 30; and 3) whether monies paid to local governments to meet state funding obligations under section 29 of Headlee are properly credited to the state regarding section 30.

Plaintiffs assert, in regard to each of the three areas above, that the state has counted spending that does not fall under Headlee in its yearly calculations related to determining required revenue sharing.

A group of taxpayers and a taxpayers' advocacy organization, Taxpayers for Michigan Constitutional Government, have sued the state for the past shortfalls in Headlee funding and to ensure that the state provides adequate funding following Headlee guidelines going forward. This effort was coordinated by Professor John Mogk of the Wayne State Law School. John Philo and others at the Sugar Law Center are representing the plaintiffs.

Why did the LDF get involved?

Revenue sharing represents a substantial portion of local budgets for vital services like police and fire departments. The consistent reduction has led to shortfalls in the budgets of local governments and contributed to state-mandated receiverships. Further, local governments have had to make difficult decisions due to budget restraints and have had to cut down on a wide range of services. Studies demonstrate that the next economic downturn will push even more Michigan municipalities into fiscal distress and/or bankruptcy if revenue sharing from the state does not increase to its proper level.

What action did the LDF take?

The Michigan Municipal League and its LDF commissioned a study to illustrate the impact of the state's inequitable revenue sharing on local communities, and to highlight how crucial local services such as fire, police, and sewage treatment have been hurt by a lack of funding from the state. Further, the LDF submitted an amicus brief joined by the Michigan Townships Association, the Michigan Association of Counties and the Government Law Section of the State Bar of Michigan.

What was the outcome?

To date, the Court of Appeals has rejected some of the procedural arguments brought by the State and the case is going forward.

What are the implications for local governments?

Without a return to the legally established funding mechanism, municipalities will have to cut back on critical services, raise taxes, or both. One major goal of the suit is to ensure that local governments get much-needed funding from the state and are able to attain a measure of fiscal stability, even in the event of an economic downturn.

Who prepared the amicus brief?

Dennis R. Pollard (Secrest Wardle)

Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, and Sara Kandel v State of Michigan, Dept of Technology, Management and Budget, and the Michigan Office of the Auditor General (Michigan Court of Appeals, Case No. 334663)

ELECTION LAW – LOCAL BALLOT PROPOSALS/“GAG ORDER”

Robert Taylor, Mayor of Roseville, et al v Ruth Johnson and the State of Michigan et al

Michigan's Legislature amended a campaign finance bill in order to prevent local public officials from using public resources to communicate with their constituents regarding ballot measures in the 60 days leading up to an election. The language was added to the bill at the last minute and passed in the middle of the night without a public hearing. The State asserted that the purpose of the added language was “to prohibit communications that are plain attempts to influence voters to vote in a particular way without using words like “vote for” or “support.” The Legislature passed the Act notwithstanding that such a prohibition already existed—in the Campaign Finance Act.

The new law (PA 269 of 2016), prohibited local officials or local government employees from using public resources to communicate with voters within 60 days of an election by giving them factual information about a ballot proposal through radio, television, mass mailing, or prerecorded telephone messages in the two months before an election. Thus, local government officials were limited in their ability to inform the electorate in a factual, non-partisan, unbiased manner on complex issues that are pending on the ballot. The public officials seeking to explain a ballot

question—those in the best position to provide factual information and explanations to voters—were banned from doing so.

Why did the LDF get involved?

The Act placed an immediate “gag order” on local government entities with issues on the March 8, 2016 ballot, restricting their abilities to inform citizens about local ballot proposals. This impacted more than 100 cities, villages, townships, school districts, counties, and other entities that had ballot questions before the voters in the March election.

What action did the LDF take?

The LDF filed a co-amicus brief, joined by the Michigan Association of Counties, the Michigan Townships Association, and the Conference of Western Wayne, in U.S. district court.



ELECTION LAW – LOCAL BALLOT PROPOSALS/“GAG ORDER” CONTINUED

Robert Taylor, Mayor of Roseville, et al v Ruth Johnson and the State of Michigan et al

What was the outcome?

After granting a Preliminary Injunction preventing enforcement of the new section finding that the Plaintiffs’ had a strong likelihood of prevailing on the claim that the Act was unconstitutional, the United States District Court Judge accepted an agreement between the Secretary of State’s office and local governments and school groups, permanently stopping Secretary of State Ruth Johnson from enforcing PA 269.

What are the implications for local governments?

While the provisions of PA 269 may not be enforced by the State, the restrictions that were already in place within the Michigan Campaign Finance Act remain and must be adhered to in conveying information regarding local ballot proposals. As an additional cautionary note, municipalities should assume that the proponents of PA 269 will be especially focused on the conduct of local ballot elections and information distribution going forward.

Dos and Don’ts

Generally, public officials can issue communications to voters using public dollars if the communications contain factual information regarding the election, the proposal, and what impact either its passage or defeat will have on the public body. Moreover, the prohibition on using public monies to support or defeat a ballot proposal does not prevent certain high-level officers and employees from expressing their opinions. For example, nothing prevents a city council member or city manager from standing up at a public meeting and telling the gathering that, in his or her opinion, the city needs to ask for a millage increase and the voters need to support it.

Although there are opportunities to carefully use public time and money to further educate the electorate on a proposal, public employees and officials should also keep the following additional guidelines in mind:

1. Non-policy making staff may not take “official” time (i.e., time away from their regular jobs) to participate in campaign committee activities, as this would constitute an inappropriate expenditure of public funds. Nothing would restrict the ability of these individuals to work in any way on the campaign on their own time.
2. The public body may provide information to individuals and/or a campaign committee which is publicly available in the same manner as it would provide information to anyone else requesting the information.
3. The campaign committees may meet at public facilities only to the extent that and on the same terms as any other group could use the same facilities. If the public body incurs any expense in providing meeting space to the committee, the committee must reimburse the public for that expense.
4. The public body should not place links to campaign-related websites on its website.

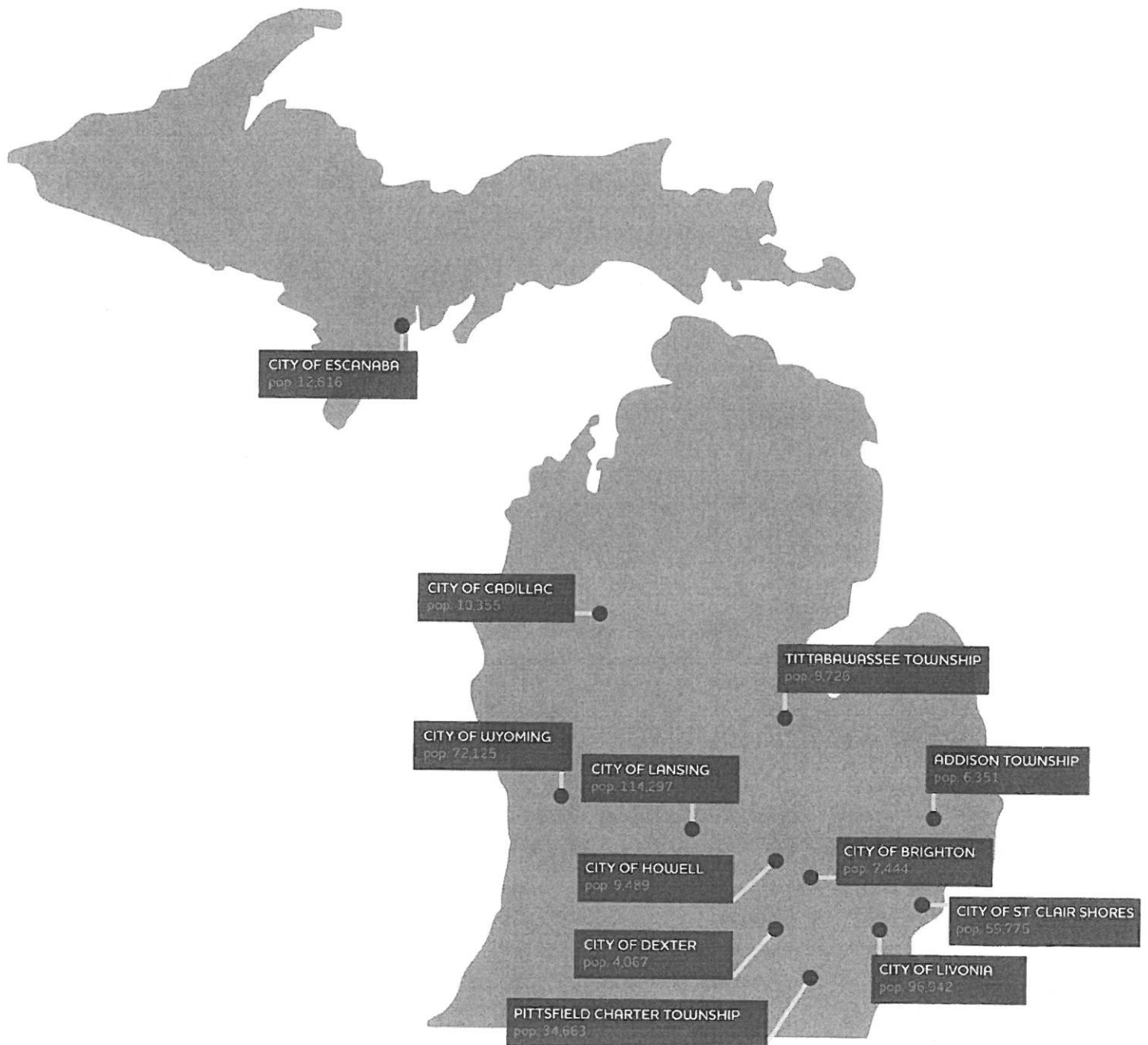
In a nutshell: public officials can generally issue communications to voters using public dollars if the communications contain factual information regarding the election, the proposal, and what impact either its passage or defeat will have on the public body.

Who prepared the amicus brief?

Gary Gordon and Jason Hanselman
(Dykema Gossett PLLC)

Taylor et al v Johnson et al, No. 5:2016cv10256 -
Document 27 (E.D. Mich. 2016)

CASE LOCATIONS



CITY COUNCIL

OPEN HOUSE

- The West Branch City Council invites the public to its annual “Council Open House”. Join us for food and refreshments along with the opportunity to mingle with Council members, wish our outgoing Council Members and Mayor well, welcome the new Members and Mayor in, and chat with them for a bit after the meeting.



See Santa, Mrs. Claus, Elves and more!!
Lake State Railroad Company will be in West Branch
with 5 car train.

Saturday, December 1st

The train will leave Standish at 10:30 and arrive in
West Branch around 11:45 am. Please arrive early so you
don't miss out and stay clear of the railroad track area.

Punch and cookies will be served by tracks donated by local
businesses & organizations.

Viewing will be by the tracks
By Tipsy Bear Bistro & Chamber Area



**West Branch Area
Chamber of Commerce**

**West Branch Area Chamber of Commerce invites you to participate in this
SWEET opportunity.....**



CHRISTMAS in Candy Land

**2018 Christmas Light Parade
Saturday, December 8 at 7 pm down Houghton Ave**

Join us after the parade for a Afterglow Party at the Chamber office.

Tree Lighting, Christmas Carols and visit with Santa

Best Overall Entry, Best in Theme, Best in Lights, Best Large Float, Best Small Float
Winners will be recognized on main page of Website, E-blast, Facebook, Chamber page in
Newspaper and will be given a FREE Parade Entry to utilize at the next Parade.

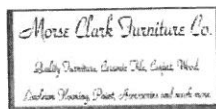
Judges

**This year we will have the judges at the light for
you to wow them.**

Line-up begins at 5:30 p.m. and is on a first come basis. The Parade starts promptly at 7:00
p.m.

No entrant will be accepted without prior registration.

Start: By Smiley Face Water Tower Griffin & Valley Finish: Houghton Ave. & Eighth St.



**West Branch Automotive
Rose City Automotive**

Culligan
better water. pure and simple.

2018 Christmas Light Parade Rules:

It is the responsibility of the individual who signs this form to ensure that all participants of their organization receive a copy of these rules.

- *No Santas- The West Branch Area Chamber of Commerce will provide Santa
- *Parade entries must continue through entire route of the Parade. Line-up begins at 5:30 p.m. and is on a first come basis. The parade starts promptly at 7:00 p.m. All entries in place by 6:30 p.m. No entrant will be accepted without prior registration. Start will be by the Smiley Face Water Tower, Griffin & Valley. Finish will be Houghton Ave. & Eighth St.
- *All entries must be family oriented
- *All pets must be on a leash and person holding leash strong enough to control and manage them
- *No drugs, alcohol, weed. Anyone intoxicated will be turned over to the police.
- *All items must be given HAND-TO-HAND at the curb by walking along the parade route next to spectators. It is very dangerous for spectators to run into the street for candy or other hand-outs. No throwing is permitted. The Chamber reserves the right to inspect and approve any items distributed during the parade.
- * All Large Semi Trucks will be in the back of parade
- *All vehicles in parade carry SUFFICIENT AUTO LIABILITY INSURANCE
- *All participants, in consideration of participation in this event, agree to indemnify, hold harmless and release the West Branch Area Chamber of Commerce, West Branch Visitors Bureau & City of West Branch, its agents and employees, from any and all liability for any injury or damage which may arise out of or in any way be connected with participation in the Parade.

By signing this you agree to follow ALL the rules of the parade.

Print Name _____ Signature _____ Date _____

*The Parade Committee reserves the right to bar, AT ANY TIME, any entry not conforming to the rules and regulations, or refusing to follow instructions of police or parade officials from the Parade. The Parade committee also reserves the right of final decision on entries accepted for the Parade.

Please return form to 422 W Houghton Ave, West Branch, MI 48661. Questions please contact us at

989-345-2821

REMIT APPLICATIONS CHECK PAYABLE TO: West Branch Area Chamber of Commerce
422 W Houghton Ave, West Branch, MI 48661

Questions please contact us at 989-345-2821 or email wbchamberdirector@gmail.com
www.wbacc.com

\$20 Non Chamber Members

\$15 Chamber Members

Organization/Business _____

Phone _____ Address _____

Contact

Person _____ Phone _____ Email _____

Address _____

Description of Parade Entry

Save the Date:

November 24th Small Business Saturday

December 1st: Santa Train at 11:45 am

December 1st: Art & Wine Walk 5-9 pm

December 8th: Christmas Light Parade 7 pm

December 15th: Christmas Fantasy

2019 Events

February 16th: 15th Chamber Winter Ball &
Outstanding Business Awards

March 26th: Ogemaw County Business &
Community Expo

April 27th :Spring Art & Wine Walk

May 15th: Chamber Golf Outing

www.wbacc.com for all community happenings



FAQ

Michigan PFAS Statewide Sampling Initiative

Frequently Asked Questions (FAQ)

Contents

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1. What are PFAS?

Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) (sometimes known as perfluorinated chemicals or PFCs) are a class of organic chemicals that are fire resistant and repel stains, oil, grease, and water. PFAS have been manufactured since the 1950s and have been used in numerous industrial processes and consumer products, such as fire-fighting foams, stain repellants, nonstick cookware, waterproof clothing, and fast food wrappers. PFAS are persistent and bioaccumulate in the environment which intensifies their potential public health threat. PFAS are found in the environment worldwide. Two of these compounds, perfluorooctanoic acid (PFOA) and perfluorooctanoic acid (PFOS), were widely used in fire-fighting foams, paints, polishes, and lubricants.

The manufacturers of PFOA and PFOS agreed to phase out the production of these compounds around a decade ago, but they are still used in the field. New PFAS have since been developed to replace the ones no longer being manufactured; however, the environmental and health impacts have not been studied.

2. What is the health advisory level?

Currently, there is no regulatory drinking water standard for any of the PFAS chemicals. However, in May 2016, the U.S. Environmental Protection Agency (US EPA) established a non-regulatory Lifetime Health Advisory (LHA) for PFOA and PFOS of 70 parts per trillion (ppt) combined, or individually if only one of them is present. The US EPA recommends that this LHA applies to both short-term (i.e., weeks to months) scenarios during pregnancy and lactation, as well as lifetime-exposure scenarios. The Michigan Department of Health and Human Services (MDHHS), as well as the Michigan Department of Environmental Quality (MDEQ), have used this LHA of 70 ppt to inform decisions on actions that should be taken or are recommended to reduce exposure and prevent increased risk to public health from these PFAS contaminants. The US EPA has not yet set health advisory levels for other PFAS.

3. What are the health effects of PFAS exposure?

According to the Agency for Toxic Substances and Disease Registry (ASTDR), some studies in humans have shown that certain PFAS may: affect growth, learning, and behavior of infants and older children; lower a woman's chance of getting pregnant; interfere with the body's natural hormones; increase cholesterol levels; affect the immune system; and increase the risk of certain cancers.

4. Why are public water supplies being sampled?

The MDEQ is carrying out this project as a proactive measure to identify where PFAS compounds occur and determine actions necessary to protect public health. All Community Water Supplies (CWS) with their own source of water will be sampled during this effort. In addition, the 461 schools in Michigan that use their own wells will be sampled. These schools are classified as Non-Transient Non-Community Water Supplies (NTNCWS). This effort will be prioritized based on factors such as population served, potential vulnerability to contamination, and sampling logistics.

5. Who is conducting the sample collection?

The MDEQ's contractor, AECOM (an environmental consulting firm) will be conducting the sampling effort. AECOM's sampling team is experienced in PFAS sampling and ensuring proper sampling technique and consistent methodologies are used throughout this project.

6. When will I receive my sample results?

It is anticipated you will receive your sample results four to six weeks following sample collection. The results will be provided to the designated contact for your water supply from the MDEQ via e-mail. If the results are above the LHA of 70 ppt, the MDEQ will notify you immediately by phone.

7. What will happen after I receive my sample results?

The MDEQ will be available to provide you with additional guidance. As a water supply, you are encouraged to share your sampling results with your consumers in the way you feel is most appropriate. The MDEQ will post all sampling results on the PFAS web site for the public to view within five days of the results notification letter. The results will also go to your local health department, and they are available for health-related questions. The results of the laboratory analysis will determine if additional samples must be collected or other actions are necessary.

8. Where can I get more information about PFAS?

- **State of Michigan PFAS Action Response Team (MPART)** webpage serving as the main resource for public information on PFAS contamination in Michigan
www.michigan.gov/pfasresponse
- **United States Environmental Protection Agency (US EPA)** webpage including basic information, US EPA actions, and links to informational resources
www.epa.gov/pfas
- **Agency for Toxic Substances and Disease Registry (ASTDR)** webpage including health information, exposure, and links to additional resources
www.atsdr.cdc.gov/pfas

9. Who can I contact for more information about this sampling event?

Please contact Ms. Lois Elliott Graham, Environmental Quality Analyst, MDEQ, Drinking Water and Municipal Assistance Division, at 810-730-8674 or DEQ-PFAS-DrinkingWater@michigan.gov

Reports

Mayor

Council

City Manager

Public Comment -Any Topic

Adjournment



Annual maintenance
program for the
City of West Branch DDA
2018-2019

1. SIDEWALK WINTER MAINTENANCE PROCEDURES AND POLICIES

A. During regular work day hours, the Public Works Department personnel will monitor the condition of DDA sidewalks for possible actions or applications needed to insure safe pedestrian travel. There are a number of elements that must be taken into consideration before a reasonable and responsible course of action can be taken. The DPW Superintendent will be the final say in what course of action is to be taken.

B. Depth of Snowfall

- The course of action will be determined by the amount and duration of snowfall.
- City staff will typically remove snow from the sidewalks upon 2" of snowfall.
- Additional salting and snow plowing will be at the discretion of the DPW Superintendent.
- Business owners will still be responsible for the upkeep of the sidewalks in front of their business until City crews are on site.

C. Sidewalk Winter Maintenance Locations

The following sidewalks will be maintained with a priority falling on the sidewalks on Houghton Ave between First and Fifth St.

- North and South side of Houghton Ave from First St to M-30.
- East and West side of North Second from Houghton to the river.
- East and West side of North Third from Houghton to the river.
- East and West side of North Fourth from Houghton to the river.
- West side of South Second from Houghton to Wright.
- East and West side of South Third from Houghton to Wright.
- East and West side of South Fourth from Houghton to Wright.
- North and South side of Wright from Second to Third.

D. PENALTY FOR ADDITIONAL SIDEWALK WORK

- If City crews are used to correct problems, property owners will be billed for time and materials.
- In some cases, deliberate actions may constitute illegal activity.

2. ADDITIONAL ITEMS OF MAINTENANCE

A. Pocket Park

- City crews will be responsible for the maintaining of the water at the Pocket Park water fountain including the filling and draining of the fountain as well as the monitoring of water quality and levels.
- If any mechanical parts or repairs are needed, those issues will be brought before the DDA Board for approval of repairs.

B. Downtown Lights

- City crews will be responsible for replacing light bulbs in the downtown light poles as well as the decorating of the poles for Christmas.

C. Downtown Flowers

- City crews will be responsible for the placement of flower pots in the spring and removal of flower pots in the fall.
- DDA will be responsible for notifying the DPW Superintendent of the dates the flowers will be planted in order to schedule the placement. The removal of the pots will be at the discretion of the DPW Superintendent.

D. Additional Work

- Any additional work requested will be provided upon approval of the DPW Superintendent with time and material be based on current labor rates and State of Michigan approved rental rates.

3. INTERGOVERNMENTAL AGREEMENT

- The City of West Branch and the West Branch DDA agree to the above maintenance agreement on a per fiscal year basis.
- The amount of the agreement will be determined upon review of costs on a year by year basis

- The amount agreed upon for the fiscal year of July 1, 2018- June 30, 2019 is in the amount of \$15,000

Heather Grace, Manager

Date

Samantha Fabbri, DDA Chair

Date



Michigan Municipal League
1675 Green Rd
Ann Arbor, MI 48105

FIRST CLASS
US POSTAGE
PAID
PERMIT NO. 492
ANN ARBOR, MI

We hope to see you in Lansing!

2019 is almost here!

Our calendar is busy as we plan a great Capital Conference chock-full of the latest updates on state and federal happenings. We want YOU to be there, so save a spot in your calendar and budget for this eye-opening event.

Date

March 19-20, 2019

Location

Lansing Center, Lansing

Registration

- Registration opens Jan. 7, 2019
- Members: \$250
- Late registration for members: \$325

Radisson Hotel

- League room block available beginning Jan. 7, 2019
- Nightly rate: \$130.95

Ms. Heather Grace
Manager

West Branch

121 N. Fourth St.

West Branch, MI 48661-1217

48661-1217 0001

