

**SUMMARY REPORT TO CITY MANAGER
for City Council Meeting of 12-18-06**

SUBJECT: Requested vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street.

PETITIONER: The Dow Chemical Company, Michigan Operations.

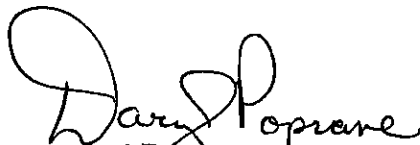
SUMMARY: THIS RESOLUTION WILL SET A PUBLIC HEARING TO VACATE BUTTLES STREET AND BAY CITY ROAD, INCLUDING SECTIONS OF SIXTH STREET, JEFFERSON AVENUE AND PERSHING STREET.

ITEMS ATTACHED:

- 1. Letter to City Council.
- 2. Resolution for City Council action.
- 3. Staff Report to the Planning Commission dated December 6, 2006.
- 4. Map showing location of the proposed street vacations.

CITY COUNCIL ACTION:

- 1. Public hearing is required. Public hearing date: January 22, 2007.
Advertising Dates: December 30, 2006; January 6, 2007 and January 13, 2007.
- 2. 3/5 vote required to set public hearing.



Daryl Poprave
Acting Director of Planning & Community Development

DP/djm

12-13-06



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December 13, 2006

Honorable Mayor and City Council
City Hall - 333 West Ellsworth Street
Midland, Michigan

Dear Councilmen:

At its meeting on Tuesday, December 12, 2006, the Planning Commission considered The Dow Chemical Company, Michigan Operation's petition for vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street.

The following action was taken:

It was moved by Senesac and seconded by Eyre to recommend vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street. The vote proceeded as follows:

YEA: Eyre, Gaynor, Hanna, Kozakiewicz, Mead, and Senesac
NAY: None
ABSENT: Brown, Jocks and Svenson

Respectfully,

Daryl Poprave
Acting Director of Planning and Community Development

LETTER OF TRANSMITTAL – Street Vacation Dow Chemical Buttles



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BY COUNCILMAN

WHEREAS, the Midland City Council, acting upon the request of The Dow Chemical Company, Michigan Operations for vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street, referred the matter to the Midland City Planning Commission, the City Engineer, the Director of Utilities and the Director of Public Services for report and recommendation; and

WHEREAS, a report has been received from the Midland Planning Commission recommending vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street to retained utility easements; and

WHEREAS, a response has been received from the City Engineer indicating no objection to the vacation request; a response has been received from the Director of Utilities indicating no objection to the vacation request; and a response has been received from the Director of Public Services indicating no objection to the vacation request; now therefore

RESOLVED, that the Midland City Council deems it advisable to consider the vacation of Buttles Street and Bay City Road, including sections of Sixth Street, Jefferson Avenue and Pershing Street; and

RESOLVED FURTHER, that the 22nd day of January, 2007, at 7:00 p.m., is hereby appointed as the date and time the Midland City Council shall meet in the Council Chambers of City Hall in the City of Midland for the purpose of hearing any objections, suggestions, or recommendations concerning the vacation of said streets, and that the City Clerk shall give notice of such hearing by causing a notice thereof, with a copy of this resolution, to be published in the Midland Daily News once each week for not less than three (3) weeks before the time appointed for such hearing with advertising dates on December 30, 2006; January 6, 2007 and January 13, 2007; and

RESOLVED FURTHER, that objections to such proposed action of the Council may be filed with the Clerk, in writing, at any time prior to the opening of the public hearing.

YEAS:

NAYS:

ABSENT:

I, John E. Duso, Deputy City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yeas vote of all the Councilmen present at a regular meeting of the City Council held Monday, December 18, 2006.

John E. Duso, Deputy City Clerk



Date: December 6, 2006

STAFF REPORT TO THE PLANNING COMMISSION

SUBJECT: Public Street Vacation

APPLICANT: William Kellogg, Dow Chemical Company

PROPOSED: Vacation of Buttles Street and Bay City Road between 4th Street and Pershing Street and including sections of 6th, Jefferson Avenue and Pershing Streets.

LOCATION: South of Business Route 10, east of Downtown

ZONING: Industrial A

REPORT

Attached you will find a City Council resolution of December 4, 2006 directing the Planning Commission to review this request for vacation of public property and offer a recommendation to the City Council. In addition, you will find attached a map illustrating the areas affected by this request.

PROCESS FOR CONSIDERATION

Section 23-39 of the Midland Subdivision Ordinance provides for the vacation of public property by the City Council as follows:

When the City Council shall deem it advisable to vacate, discontinue, or abolish any street, alley, public ground, or any part thereof in a subdivision, or upon petition received by the City Clerk requesting such vacation, discontinuance or abolition, and containing the names of the petitioner, his address, a description of the property proposed to be vacated, and the reasons therefore, together with the

names of all owners of property abutting on that property proposed to be vacated, or whose access to their property would be prohibited thereby, the Council shall:

1. Adopt a resolution referring the matter to the Planning Commission, the City Engineer, and other City departments, as appropriate, for their report and recommendation.
2. Upon receipt of the recommendations, declare, by resolution, the intent to take such action as they may deem advisable and, in the same resolution, shall appoint a time not less than four (4) weeks thereafter when they will meet and hear objections thereto.
3. Cause a notice of hearing with a copy of the resolution to be published once each week for not less than three (3) weeks before the time appointed for such meeting in a newspaper of general circulation in the City, and cause a copy of such notice and resolution to be sent by certified mail to each owner of property abutting the property proposed to be vacated, or whose access to their property would be prohibited thereby.
4. Receive objections to such proposed action either orally at such hearing or in writing filed with the City Clerk prior thereto.
5. Either at the same meeting at which such hearing is held, or at any subsequent meeting, adopts a resolution vacating, abolishing, or discontinuing such property, or any portion thereof, on any such conditions as they may deem advisable, or refuse to take such action. Upon receipt of any objections to such proposed action either orally at such meeting or in writing prior thereto, the street, alley, or other public ground or any part thereof shall not be vacated, abolished or discontinued except by concurring vote of four fifths (4/5) of the Councilmen elect. Before any petition seeking vacation of public grounds, or any portion thereof, shall be received by the City Clerk, it must be accompanied by the fee prescribed in Chapter 21 of this code to defray the costs of administration and publication.

BACKGROUND

The Dow Chemical Company, Michigan Operations, has filed this request with the intent of making aesthetic and security improvements at Michigan Operations. Specifically, they wish to expand their site fencing and increase their green belt to their outermost property boundaries. This will improve security by enlarging the buffer space between the chemical plants and the public roads, reduce public traffic adjacent to the site property, and eliminate un-needed cross streets near the existing fence line. This effort is in support of improving safety and security in concert with Department of Homeland Security requirements.

If approved, these street vacations will facilitate these security improvements and fence line expansion and may lead to additional investment at this site.

The streets, subject to this vacation request, are not located within a subdivision and thus, if vacations are approved by City Council, the City of Midland will still have to dedicate or sell this public property to the Dow Chemical Company.

DEPARTMENTAL REVIEWS

Engineering Department

No objections subject to the following conditions:

- Buttles St. becomes a two way street from Third St. to Fourth St.
- That Austin and Indian Streets become two-way streets from Third St. to Pershing St.
- That easements be maintained for all public utilities.

Fire Department

That emergency vehicle access be maintained to the vacated portions of Bay City Road, Sixth St., Jefferson Avenue and Pershing Street. It is also recommended that once the new security fence is installed, that interior fences be removed whenever possible to facilitate rescue and suppression operations.

Public Services Department

No comment

Utilities Department

So long as utility and fire hydrant maintenance easements are retained, there is no objection to the street vacations.

STAFF RECOMMENDATION

Upon review of the request, staff recommends approval of the right of way vacations contingent upon the following conditions:

- That Austin and Indian Streets are converted to two-way traffic between 3rd Street and Pershing Street.
- That Buttles Street is converted to two-way traffic between 3rd St. and 4th St.
- That all public utility easements are retained.

Respectfully Submitted,



Daryl Poprave

Acting Director of Planning & Community Development

PROPOSED STREET VACATION

BUTTES ST., BAY CITY RD., INCLUDING SECTIONS OF 6TH, JEFFERSON AVE. AND PERSHING.

