

Southgate City Council Agenda

Council Chambers

14400 Dix-Toledo Rd., Southgate, Michigan 48195

Wednesday June 16, 2021

WEB MEETING @ <https://us02web.zoom.us/j/87246156124>

CALL-IN @ + 1-312-626-6799 Passcode:87246156124#

6:30pm Work Study Session

1. Officials Reports
2. Proposed Revision of City Ordinance 670.09

7:00 pm Regular Meeting

Pledge of Allegiance

Roll Call: Colovos, Farrah, George, Graziani, Rauch, Rollet, Zamecki.

Minutes:

1. Work Study Session Minutes dated June 2, 2021
2. Regular City Council Meeting Minutes dated June 2, 2021

Scheduled Persons in the Audience:

Consideration of Bids:

1. Letter from Mayor; Re: City Hall Parking Lot Maintenance Improvements Page 18

Scheduled Hearings:

1. Letter from City Engineers; Re: Drinking Water Revolving Fund (DWRP) Project Plan Page 23

Communications "A" –

1. Letter from Director of Public Safety; Re: Police Dept. Request to sell Shotguns Page 45
2. Memo from Administrator; Re: Southgate Veteran's Memorial Library Comm.: Bylaw Changes Page 49

Communications "B" – (Receive and File)

Ordinances:

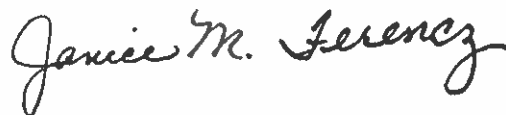
Old Business:

New Business:

Unscheduled Persons in the Audience:

Claims & Accounts: Warrant #1427 \$3,464,559.12

Adjournment:



Janice M. Ferencz, City Clerk

Work Study Session

June 2, 2021

An Informal Meeting of the Council of the City of Southgate was held on June 2, 2021 at 6:30 P.M. *(Due to the Covid-19 virus, this meeting was via Zoom pursuant to our Local State of Emergency to co-inside with Wayne County.*

Present: Bill Colovos (Southgate), Karen George (Southgate), John Graziani (Southgate), Mark Farrah (Southgate), Phil Rauch (Southgate) Chris Rollet (Southgate), Dale Zamecki (Southgate)

Absent:

Also Present: Mayor Joseph G. Kuspa, City Administrator Dustin Lent, City Attorney Brandon Fournier, Assistant City Administrator/Finance Director David Angileri, City Clerk Janice Ferencz, City Engineer John Hennessey, Public Safety Director Joseph Marsh, Police Chief Mark Mydlarz, Fire Chief Marc Hatfield, Acting DPS Director Kevin Anderson, Building Inspections Director Bob Casanova and Parks & Recreation Director Julie Goddard

Discussed the following agenda items:

- Bid for underground storage tanks – removal & replacement
- Waiver of bid for police training equipment
- Addendum to Interlocal agreement – SINC
- Sale of property located at 14386 Pennsylvania Road
- Waiver of bid for flooring for Fire Watch Room

This meeting ended at 6:47 pm.

City of Southgate

Regular City Council Meeting

June 2, 2021

A Regular Meeting of the Council of the City of Southgate was held on Wednesday, June 2, 2021 and was called to order at 7:00 PM by Council President John Graziani (**DUE TO COVID-19 VIRUS, THIS MEETING WAS HELD VIA ZOOM, PURSUANT TO WAYNE COUNTY AND LOCAL STATE OF EMERGENCY.**)

This meeting began with the Pledge of Allegiance, followed by roll call.

Present: Bill Colovos (Southgate), Karen George (Southgate), John Graziani (Southgate), Mark Farrah (Southgate), Phil Rauch (Southgate) Chris Rollet (Southgate), Dale Zamecki (Southgate)

Absent:

Also Present: Mayor Joseph G. Kuspa, City Administrator Dustin Lent, City Attorney Brandon Fournier, Assistant City Administrator/Finance Director David Angileri, City Clerk Janice Ferencz, City Engineer John Hennessey, Public Safety Director Joe Marsh, Police Chief Mark Mydlarz, Fire Chief Marc Hatfield, Acting DPS Director Kevin Anderson, Building Inspections Director Bob Casanova and Parks & Recreation Director Julie Goddard.

Minutes:

Moved by Zamecki, supported George, RESOLVED, that the minutes of the City Council Work Study Session dated May 19, 2021 be approved as presented. Carried unanimously.

Moved by Rauch, supported by Colovos, RESOLVED, that the minutes of the Regular City Council Meeting dated May 19, 2021 be approved as presented. Carried unanimously.

Consideration of Bids:

1. Letter from Mayor; Re: Underground Storage Tanks (DPS Yard) – Removal & Replacement moved by George, supported by Rauch, RESOLVED, that the Southgate City Council hereby concurs with the Mayor's recommendation and awards the contract for the removal and replacement of underground storage tanks to TSP Environmental Services, Inc. (25000 Capitol, Redford, MI 48239) in the amount of \$307,003.40 plus a 15% contingency of \$46,050.51 for a total of \$353,053.91.

Motion carried unanimously.

Communications "A":

1. Letter from Mayor; Re: Police Training Equipment moved by Zamecki, supported by Colovos, RESOLVED THAT the Southgate City Council hereby waives the bid and awards purchase of UTM Training Equipment to Michigan Police Equipment (6251 Lansing Road, Charlotte, MI 48813 in the amount of \$4,773.40.

Motion carried unanimously.

2. Memo from Administrator; Re: Addendum to Interlocal Agreement – SINC moved by Farrah, supported by Zamecki, RESOLVED THAT the Southgate City Council approves the Addendum to Interlocal Agreement for Shared Information Network Consortium (SINC) that changes the systems fiduciary from the City of Trenton to the new Fiduciary Downriver Mutual Aid.

Motion carried unanimously.

Regular City Council Meeting

June 2, 2021

3. Memo from Administrator; Re: Sale of Property – 14386 Pennsylvania Rd moved by Farrah, supported by Zamecki, RESOLVED THAT the Southgate City Council approves the Sale of the property located at 14386 Pennsylvania Road for the maximum amount allowable under General Property Tax Act MCS 211.78m.

Motion carried unanimously.

4. Letter from Mayor; Re: Flooring for Fire Watch Room moved by George, supported by Zamecki, RESOLVED that the Southgate City Council waives the bid and approves purchase of flooring for the Fire Department Watch Room to Dalton Flooring (14701 Eureka Road, Southgate, MI 48195) in the amount of \$4,000.

Motion carried unanimously.

Claims and Accounts:

Moved by Farrah, supported by Zamecki, RESOLVED, that Claims and Accounts be paid as outlined on Warrant #1426 in the amount of \$1,056,173.93.

Motion carried unanimously.

Adjournment:

Moved by Colovos, supported by George, RESOLVED THAT this Regular Meeting of the Southgate City Council be adjourned at 7:15 P.M. Carried unanimously.

John Graziani
Council President

Janice M. Ferencz
City Clerk



SOUTHGATE POLICE DEPARTMENT MEMO

To: Honorable Mayor Joseph Kuspa
From: Director Joseph L. Marsh
CC: City Administrator Dustin Lent, Finance Director David Angileri, Police Chief
Mark Mydlarz
Subject: Proposed Revision of City Ordinance 670.09
Date: 06/09/2021

Dear Honorable Mayor Kuspa,

Based on a review of our current city ordinance 670.09 related to begging it is my recommendation that the ordinance be revised. This revision is necessary to ensure we are up to date with current applicable case law while protecting the constitutional rights of all people within the City of Southgate.

The proposed revision would remove the current ordinance language which states: **"No person who is idle or dissolute shall go about begging."** The proposed revised language is intended to protect citizens from aggressive solicitation which may lead a person to feel threatened or intimidated while protecting the First Amendment rights of all citizens engaging in constitutionally protected activities.

This revision will help ensure that we are maintaining a safe environment for all members of the community. Attached is a copy of the proposed ordinance revision for your review. Your consideration in this matter is appreciated.

Respectfully,

Joseph L. Marsh
Director of Public Safety

Ordinance 670.09 BEGGING in Public Places

- a) Except as otherwise provided in this code of ordinances, or as otherwise authorized by law, no person shall beg or solicit for the immediate payment of money or goods from another person under any of the following circumstances:
 - 1) Within twenty (20) feet of a bank or automated teller (ATM) machine.
 - 2) By soliciting a patron at a sidewalk venue (i.e. café, sidewalk sale, etc.) without first having obtained the permission of the operator of the business.
 - 3) By knowingly making a false and misleading representation in the course of a solicitation.
 - 4) In a manner that would constitute aggressive begging, which shall mean the following:
 - a. Touching the solicited person without that person's consent
 - b. Blocking the path of the person being solicited, or the entrance to any building or vehicle.
 - c. Engaging in repeated requests after a refusal by the person being solicited.
 - d. Following behind, alongside or ahead of a person who walks away from the solicitor after having been solicited.
 - e. Using abusive language, either during the solicitation or following the refusal to donate, and making any statement, gesture, or other communication that would cause a reasonable person to be fearful or feel compelled to make a donation.
- b) This provision is intended to protect persons from threatening, intimidating, or harassing behavior; to keep public places safe for use by all members of the community; and to maintain and preserve public places as places where all of the community can interact in a peaceful manner. This provision is also intended to facilitate the free flow of pedestrian and vehicular traffic on streets and sidewalks within the City. While the City finds that aggressive acts associated with solicitation and begging can interfere with the free flow of traffic and intimidate persons in public places, it is not the intent of the City to limit persons from exercising their constitutional right to solicit funds or engage in other constitutionally-protected activities. The provision is intended to protect First Amendment rights of all people within the City, as well as the rights of non-participating people and their property, and to ensure they will be free from duress and/or fraud to the extent possible.

Ord. No. 670.09- Chapter 670 Peace Disturbance

State Law reference – Such person defined as disorderly person, MCL 750.167(1)(h),
MSA 28.364(1)(h).

670.09 BEGGING.

No person who is idle or dissolute shall go about begging.

Ord. 405. Passed 1-23-85.)

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.167 Disorderly person; subsequent violations by person convicted of refusing or neglecting to support family; breastfeeding or expressing breast milk exempt.

Sec. 167. (1) A person is a disorderly person if the person is any of the following:

- (a) A person of sufficient ability who refuses or neglects to support his or her family.
- (b) A common prostitute.
- (c) A window peeper.
- (d) A person who engages in an illegal occupation or business.
- (e) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.
- (f) A person who is engaged in indecent or obscene conduct in a public place.
- (g) A vagrant.
- (h) A person found begging in a public place.
- (i) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged, or allowed.
- (j) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.
- (k) A person who loiters in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of surties upon criminal recognizances.

(l) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(2) If a person who has been convicted of refusing or neglecting to support his or her family under this section is charged with subsequent violations within a period of 2 years, that person shall be prosecuted as a second offender or third and subsequent offender as provided in section 168, if the family of that person is then receiving public relief or support.

(3) A mother's breastfeeding of a child or expressing breast milk does not constitute indecent or obscene conduct under subsection (1) regardless of whether or not her areola or nipple is visible during or incidental to the breastfeeding or expressing of breast milk.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 84, Eff. Sept. 29, 1939;—CL 1948, 750.167;—Am. 1956, Act 110, Eff. Aug. 11, 1956;—Am. 1964, Act 144, Eff. Aug. 28, 1964;—Am. 1969, Act 328, Eff. Mar. 20, 1970;—Am. 1974, Act 340, Eff. Jan. 1, 1977;—Am. 1977, Act 109, Eff. Jan. 15, 1978;—Am. 2014, Act 199, Imd. Eff. June 24, 2014.

Former law: See section 1 of Act 264 of 1889, being How., § 1997a; CL 1897, § 5923; CL 1915, § 7774; CL 1929, § 9090; and Act 35 of 1927.

726 F.3d 867
United States Court of Appeals,
Sixth Circuit.

James SPEET and Ernest Sims, Plaintiffs--
Appellees,
v.
Bill SCHUETTE, Defendant--Appellant.

No. 12-2213.

|
Argued: June 13, 2013.

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Decided and Filed: Aug. 14, 2013.

Fund of Michigan, Grand Rapids, Michigan, for Appellees.
ON BRIEF: Ann M. Sherman, Office of the Michigan
Attorney General, Lansing, Michigan, for Appellant.
Miriam J. Aukerman, American Civil Liberties Union
Fund of Michigan, Grand Rapids, Michigan, Michael J.
Steinberg, Daniel S. Korobkin, American Civil Liberties
Union Fund of Michigan, Detroit, Michigan, for Appellees.
Before: MARTIN and SUTTON, Circuit Judges; ADAMS,
District Judge.*

Synopsis

Background: Arrestees brought action against state attorney general and city, challenging constitutionality of Michigan statute which criminalized begging in a public place. The United States District Court for the Western District of Michigan, Robert J. Jonker, J., 889 F.Supp.2d 969, granted arrestees' motion for summary judgment. Defendants appealed.

Holdings: The Court of Appeals, Boyce F. Martin, Jr., Circuit Judge, held that:

begging, or the soliciting of alms, was a form of solicitation that the First Amendment protected;

Michigan's anti-begging statute was facially invalid; and

statute could not be read to limit its constitutional effect.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

West Codenotes

Held Unconstitutional
M.C.L.A. § 750.167(1)(h)

Attorneys and Law Firms

***870 ARGUED:** Ann M. Sherman, Office of the Michigan Attorney General, Lansing, Michigan, for Appellant. Miriam J. Aukerman, American Civil Liberties Union

OPINION

BOYCE F. MARTIN, JR., Circuit Judge.

This appeal involves a facial challenge to the constitutionality, under the First and Fourteenth Amendments to the United States Constitution, of a Michigan statute that criminalizes begging. This appeal poses two issues. The first issue is whether begging is a form of solicitation that the First Amendment protects. We hold that it is. The second issue is whether, as the district court concluded, the statute violates—on its face—the First Amendment. We agree with the district court that it does. Michigan's anti-begging statute cannot withstand facial attack because it prohibits a substantial amount of solicitation, an activity that the First Amendment protects, but allows other solicitation based on content. Therefore, we **AFFIRM** the district court's judgment.

The Michigan anti-begging statute at issue in this case has existed since at least 1929. Mich. Comp. Laws § 900 (1929). The statute provides that "[a] person is a disorderly person if the person is any of the following: ... (h) A person found begging in a public place." Mich. Comp. Laws Ann. § 750.167(1)(h) (West 2013). The statute criminalizes begging. A person convicted under section 750.167(1)(h) is "guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both." Mich. Comp. Laws Ann. § 750.168(1) (West 2013). According to the record, the police department in Grand Rapids, Michigan recorded four-hundred and nine reports of incidents of police enforcing this anti-begging ordinance from 2008–2011.

***871** Among those whom the Grand Rapids police arrested under the anti-begging ordinance are the plaintiffs: James

Speet and Ernest Sims, two homeless adult residents of Grand Rapids, Michigan. In January 2011, Speet was arrested for begging in Grand Rapids. He was holding a sign saying: "Cold and Hungry, God Bless." The police gave Speet an appearance ticket, and he pleaded guilty to the charge. Unable to pay the \$198 fine, Speet spent four days in jail. Then, in June 2011, Speet was holding a sign that said, "Need Job, God Bless," while standing between a sidewalk and a street in Grand Rapids. The Grand Rapids police again arrested him for begging. After Speet secured pro bono counsel, the prosecution dismissed the begging charge.

On July 4, 2011, Sims needed money for bus fare, and asked a person on the street: "Can you spare a little change?" A Grand Rapids police officer witnessed Sims asking for change and immediately arrested him. After Sims, a veteran, requested that he not be taken to jail because it was the Fourth of July, the officer agreed to give him an appearance ticket. Later, Sims appeared without counsel in court on the begging charge. He pleaded guilty and was sentenced to pay a fine of \$100. Speet and Sims are not the only people that have been fined or jailed under Michigan's anti-begging statute. The Grand Rapids Police Department, during 2008–2011, initiated three-hundred and ninety-nine cases by arresting or citing people for begging.

Speet and Sims sued Michigan Attorney General Bill Schuette, the City of Grand Rapids, and several of its police officers for declaratory and injunctive relief, alleging that Michigan's anti-begging statute violated—both facially and as applied—the First Amendment and the Fourteenth Amendment's Equal Protection Clause.

The complaint's first count asserted that Michigan's anti-begging law was "facially invalid under the First Amendment[;]" likewise, the complaint's third count asserted that Michigan's anti-begging law was "facially invalid under the Equal Protection Clause." The complaint's second and fourth counts asserted that the statute violated the First and Fourteenth Amendments "as applied" to Speet and Sims.

Instead of moving for summary judgment on the as-applied claims, Speet and Sims moved for summary judgment on the facial claims. *Speet v. Schuette*, 889 F.Supp.2d 969, 972 (W.D.Mich.2012). Michigan also moved for summary judgment on these claims. *Id.* In a published opinion and order, the district court granted Speet's and Sims' motion for partial summary judgment. *Id.* at 980. Michigan Attorney General Bill Schuette filed a timely appeal.

We review de novo a district court's decision to grant

summary judgment. *Ohio Citizen Action v. City of Englewood*, 671 F.3d 564, 569 (6th Cir.2012) (citing *Dillon v. Cobra Power Corp.*, 560 F.3d 591, 595 (6th Cir.2009)). A district court properly grants summary judgment when " 'the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.' " *Id.* (quoting *Estate of Snithers ex rel. Norris v. City of Flint*, 602 F.3d 758, 761 (6th Cir.2010)). Here, the "parties agree[d] that there [was] no genuine issue of material fact regarding the facial challenge and that judgment as a matter of law [was] appropriate." *Speet*, 889 F.Supp.2d at 972.

A facial challenge to a law's constitutionality is an effort "to invalidate the law in each of its applications, to take the law off the books completely." *Connection *872 Distrib. Co. v. Holder*, 557 F.3d 321, 335 (6th Cir.2009) (en banc); see also *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 495, n. 5, 102 S.Ct. 1186, 71 L.Ed.2d 362 (1982) ("a 'facial' challenge ... means a claim that the law is 'invalid *in toto*—and therefore incapable of any valid application.' " (quoting *Steffel v. Thompson*, 415 U.S. 452, 474, 94 S.Ct. 1209, 39 L.Ed.2d 505 (1974))). In contrast to an as-applied challenge, which argues that a law is unconstitutional as enforced against the plaintiffs before the court, a facial challenge "is not an attempt to invalidate the law in a discrete setting but an effort 'to leave nothing standing[.]' " *Connection Distributing Co.*, 557 F.3d at 335 (en banc) (quoting *Warshak v. United States*, 532 F.3d 521, 528 (6th Cir.2008) (en banc)). Sustaining a facial attack to the constitutionality of a state law, as the district court did, is momentous and consequential. It is an "exceptional remedy." *Carey v. Wolnitzek*, 614 F.3d 189, 201 (6th Cir.2010).

Generally, to "succeed in a typical facial attack," a plaintiff must establish " 'that no set of circumstances exists under which [the statute] would be valid.' " *United States v. Stevens*, 559 U.S. 460, 130 S.Ct. 1577, 1587, 176 L.Ed.2d 435 (2010) (quoting *United States v. Salerno*, 481 U.S. 739, 745, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987)). Or, a plaintiff would have to establish that "the statute lacks any 'plainly legitimate sweep [.]' " *Id.* (quoting *Washington v. Glucksberg*, 521 U.S. 702, 740 n. 7, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997) (Stevens, J., concurring)). Here, Attorney General Schuette argues that, to succeed in their facial attack, Speet and Sims must demonstrate that there is no conceivable manner in which the anti-begging statute can be enforced consistent with the First Amendment. While this is the general rule, an exception exists for facial challenges based on the First Amendment.

Where a plaintiff makes a facial challenge under the First Amendment to a statute's constitutionality, the "facial challenge" is an "overbreadth challenge." *Connection Distrib. Co.*, 557 F.3d at 335; *see also City of Houston, Tex. v. Hill*, 482 U.S. 451, 458, 107 S.Ct. 2502, 96 L.Ed.2d 398 (1987) ("Only a statute that is substantially overbroad may be invalidated on its face." (citing *New York v. Ferber*, 458 U.S. 747, 769, 102 S.Ct. 3348, 73 L.Ed.2d 1113 (1982); *Broadrick v. Oklahoma*, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973))). Instead of having to prove that no circumstances exist in which the enforcement of the statute would be constitutional, the plaintiff bears a lesser burden: "to demonstrate that a 'substantial number of instances exist in which the law cannot be applied constitutionally.'" *Glenn v. Holder*, 690 F.3d 417, 422 (6th Cir.2012) (quoting *Richland Bookmart, Inc. v. Knox Cnty.*, 555 F.3d 512, 532 (6th Cir.2009)). Thus, "[t]he First Amendment doctrine of overbreadth is an exception to [the] normal rule regarding the standards for facial challenges." *Virginia v. Hicks*, 539 U.S. 113, 118, 123 S.Ct. 2191, 156 L.Ed.2d 148 (2003) (citing *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 796, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984)).

And in a facial challenge, a plaintiff must show substantial overbreadth: that the statute prohibits "a substantial amount of protected speech both in an absolute sense and relative to [the statute's] plainly legitimate sweep[.]" *Carey v. Wolnitzek*, 614 F.3d 189, 208 (6th Cir.2010) (quoting *Connection Distrib. Co.*, 557 F.3d at 336). We have acknowledged that "[T]he concept of 'substantial overbreadth' " has "some elusive qualities[.]" *Connection Distrib. Co.*, 557 F.3d at 340; *see also Taxpayers for Vincent*, 466 U.S. at 800, 104 S.Ct. 2118 ("[t]he concept of *873 'substantial overbreadth' is not readily reduced to an exact definition."). But the doctrine of substantial overbreadth "involves an inquiry into the 'absolute' nature of a law's suppression of speech." *Connection Distrib. Co.*, 557 F.3d at 340. A facial challenge based on substantial overbreadth "describe[s] a challenge to a statute that in all its applications directly restricts protected First Amendment activity and does not employ means narrowly tailored to serve a compelling governmental interest." *Sec'y of State of Md. v. Joseph H. Munson Co., Inc.*, 467 U.S. 947, 966 n. 13, 104 S.Ct. 2839, 81 L.Ed.2d 786 (1984) (citing *Vill. of Schaumburg v. Citizens for a Better Env't*, 444 U.S. 620, 637-639, 100 S.Ct. 826, 63 L.Ed.2d 73 (1980) (rest of citation omitted)). As the Supreme Court has explained, the point of an overbreadth challenge "is that there is no reason to limit challenges to case-by-case 'as applied' challenges when the statute on its face and therefore in all its applications falls short of constitutional demands." *Joseph H. Munson Co., Inc.*, 467 U.S. at 966 n.

13, 104 S.Ct. 2839. If we determine that a statute is substantially overbroad, we have necessarily determined that there is "a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court." *N.Y. State Club Ass'n v. City of N. Y.*, 487 U.S. 1, 11, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988) (quoting *Taxpayers for Vincent*, 466 U.S. at 801, 104 S.Ct. 2118). To succeed in an overbreadth challenge, therefore, a plaintiff must "demonstrate from the text of [the statute] and from actual fact that a substantial number of instances exist in which the [statute] cannot be applied constitutionally." *N.Y. State Club*, 487 U.S. at 14, 108 S.Ct. 2225.

So the first step in reviewing a facial challenge to a law's overbreadth requires us "to determine whether the enactment reaches a substantial amount of constitutionally protected conduct." *City of Houston*, 482 U.S. at 458-59, 107 S.Ct. 2502 (quoting *Vill. of Hoffman Estates*, 455 U.S. at 494, 102 S.Ct. 1186; *Kolender v. Lawson*, 461 U.S. 352, 359 n. 8, 103 S.Ct. 1855, 75 L.Ed.2d 903 (1983)). If the law does not reach a substantial amount of constitutionally protected conduct, "then the overbreadth challenge must fail." *Vill. of Hoffman Estates*, 455 U.S. at 494, 102 S.Ct. 1186. In other words, the "first step in overbreadth analysis is to construe the challenged statute; it is impossible to determine whether a statute reaches too far without first knowing what the statute covers." *Williams*, 553 U.S. at 293, 128 S.Ct. 1830. We must scrutinize "[c]riminal statutes ... with particular care[.]" *City of Houston*, 482 U.S. at 459, 107 S.Ct. 2502 (citing *Winters v. New York*, 333 U.S. 507, 515, 68 S.Ct. 665, 92 L.Ed. 840 (1948)). Here, then, we must first determine whether the Michigan statute reaches a substantial amount of constitutionally protected conduct or speech. And, because it is a criminal statute, we must scrutinize the statute with particular care.

On appeal, Attorney General Schuette argues that the anti-begging statute does not reach any conduct or speech that the First Amendment protects. But begging, by its very definition, encapsulates the solicitation for alms. Although neither the anti-begging section of the statute, nor another section of the statute, defines "begging," according to Michigan law, "[w]hen a statute fails to define a term, we will construe it 'according to its common and approved usage....'" *Jennings v. Southwood*, 446 Mich. 125, 521 N.W.2d 230, 237 (1994) (quoting *State ex rel. Wayne Cnty Prosecuting v. Levenburg*, 406 Mich. 455, 280 N.W.2d 810, 812 (1979), *abrogated on other grounds by Michigan ex rel. County Prosecutor v. Bennis*, 447 Mich. 719, 527 N.W.2d 483 (1994)). Michigan law further provides *874 that "resort[ing] to the standard dictionary definition is an appropriate means of determining [a term's] common and approved usage." *Shinkle v. Shinkle*, 255 Mich.App. 221,

663 N.W.2d 481, 485 (2003) (citing *Horace v. Pontiac*, 456 Mich. 744, 575 N.W.2d 762, 767 (1998)). Here, Attorney General Schuette resorted to a dictionary definition of begging in his opening brief, defining begging as “soliciting alms.” The New American Heritage Dictionary 119 (5th ed.1976). We see no reason not to use, for the purposes of this appeal, this commonsense definition of begging as “soliciting alms.”

While the United States Supreme Court has not, as Michigan correctly points out in its briefs, directly decided the question of whether the First Amendment protects soliciting alms when done by an individual, the Court has held—repeatedly—that the First Amendment protects charitable solicitation performed by organizations.

In *Village of Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 622, 100 S.Ct. 826, 63 L.Ed.2d 73 (1980), the Court addressed the validity, under the First and Fourteenth Amendments, of a municipal ordinance that prohibited charitable organizations from soliciting contributions unless they used at least seventy-five percent of their receipts for what the ordinance defined as charitable purposes. The plaintiffs challenged “the facial validity of the village ordinance on First Amendment grounds,” *id.* at 627, 100 S.Ct. 826, and the Court affirmed the Seventh Circuit’s upholding of the district court’s “judgment of facial invalidity” of the ordinance. *Id.* at 634, 100 S.Ct. 826.

After summarizing its relevant cases, the Court held that its “[p]rior authorities, therefore, clearly establish that charitable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.” *Id.* at 632, 100 S.Ct. 826.

The Court has repeatedly reaffirmed *Schaumburg*’s holding that the First Amendment protects charitable solicitation. In 1984, the Court observed that *Schaumburg* had determined that “charitable solicitations are so intertwined with speech that they are entitled to the protection of the First Amendment.” *Joseph H. Munson Co.*, 467 U.S. at 959, 104 S.Ct. 2839. Then, in 1988, the Court reiterated that *Schaumburg* and *Munson*, “teach that the solicitation of charitable contributions is protected speech[.]” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 789, 108 S.Ct. 2667, 101 L.Ed.2d 669 (1988). In 1990, in *United States v. Kokinda*, 497 U.S. 720, 110 S.Ct. 3115, 111 L.Ed.2d 571 (1990) (plurality opinion), while the Court held constitutional, as applied, a United States Postal Service regulation prohibiting the

solicitation of alms and contributions on postal premises, the Court also stated that “[s]olicitation is a recognized form of speech protected by the First Amendment.” *Kokinda*, 497 U.S. at 725, 110 S.Ct. 3115 (citing *Schaumburg*, 444 U.S. at 629, 100 S.Ct. 826; *Riley*, 487 U.S. at 788–789, 108 S.Ct. 2667). Thus, the First Amendment protects charitable solicitation performed by organizations. But does the First Amendment protect the solicitation of alms when performed by an individual not affiliated with a group? We hold that it does.

We find persuasive the Seventh Circuit’s reasoning in *Gresham v. Peterson*, 225 F.3d 899 (7th Cir.2000), in which a plaintiff mounted an as-applied challenge, on First Amendment grounds, to an Indianapolis ordinance that prohibited soliciting in public places. The Seventh Circuit acknowledged that “the Supreme Court has not resolved directly the constitutional limitations *875 on [panhandling laws] as they apply to individual beggars,” but noted that the Court “has provided clear direction on how they apply to organized charities, not-for-profits, and political groups.” *Gresham*, 225 F.3d at 903 (citing *Riley*, 487 U.S. at 789, 108 S.Ct. 2667; *Joseph H. Munson Co.*, 467 U.S. at 959–60, 104 S.Ct. 2839; *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826).

We agree with the Seventh Circuit’s reasoning that “*Schaumburg* provides the appropriate standard to analyze” whether the First Amendment protects begging. *Gresham*, 225 F.3d at 904–05. *Gresham* analogized panhandlers to the charity in *Schaumburg*, saying that “[l]ike the organized charities, [the panhandlers’] messages cannot always be easily separated from their need for money.” *Id.* at 904. The *Gresham* panel concluded by saying that “[w]hile some communities might wish for all solicitors, beggars and advocates of various causes be vanished from the streets, the First Amendment guarantees their right to be there, deliver their pitch and ask for support.” *Id.* (citing *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). We further agree with *Gresham*’s observation that “[i]ndeed, the Court’s analysis in *Schaumburg* suggests little reason to distinguish between beggars and charities in terms of the First Amendment protection for their speech.” *Id.*

Our sister circuits—the Second, Eleventh, and Fourth Circuits—in cases decided before and after *Gresham*, have similarly held that begging is a type of solicitation protected by the First Amendment. We find these cases to be persuasive authority, as well, for our holding that begging is a form of solicitation that the First Amendment protects.

The Second Circuit, in *Loper v. New York City Police*

Department, 999 F.2d 699, 706 (2d Cir.1993), affirmed the district court's judgment that had declared unconstitutional, on First Amendment grounds, a state statute which stated that "[a] person is guilty of loitering when he: 1.[l]oiterers, remains or wanders about in a public place for the purpose of begging...." N.Y. Penal Law § 240.35(1) (McKinney 1989). *Loper*, like *Gresham*, relied on *Schaumburg*'s holding that "'charitable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of view and ideas, and the advocacy of causes—that are within the protection of the First Amendment.'" *Loper*, 999 F.2d at 704 (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). *Loper* explained that "[i]nherent in all the charitable solicitation cases revolving around the First Amendment is the concept that '[c]anvassers in such contexts are necessarily more than solicitors for money.'" *Id.* (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). The *Loper* panel explained that "[b]egging frequently is accompanied by speech indicating the need for food, shelter, clothing, medical care or transportation." *Loper*, 999 F.2d at 704. It concluded that[,] "in regard to the message conveyed," it saw "little difference between those who solicit for organized charities and those who solicit for themselves[.]" because those who solicit for organized charities "are communicating the needs of others[.]" while those who solicit for themselves "are communicating their personal needs." *Id.* According to the *Loper* panel, "[b]oth solicit the charity of others. The distinction is not a significant one for First Amendment purposes." *Id.* (citation omitted).

The Eleventh Circuit, in *Smith v. City of Fort Lauderdale, Fla.*, 177 F.3d 954, 955 (11th Cir.1999), held that a city's regulation proscribing begging on a certain five-mile strip of beach and two attendant sidewalks was narrowly tailored to serve the city's legitimate interests. But the court *876 began its analysis by stating that "[l]ike other charitable solicitation, begging is speech entitled to First Amendment protection." *Id.* at 956 (footnote omitted) (citing, *Loper* 999 F.2d 699 at 704; *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826).

This year, the Fourth Circuit, in *Clatterbuck v. City of Charlottesville*, 708 F.3d 549, 551 (4th Cir.2013), addressed the question of whether a municipal ordinance, that prohibited people from soliciting immediate donations in two streets near a downtown shopping area, unconstitutionally restricted the free speech of individuals who regularly begged there. The court noted, "[a]s a preliminary matter," that "the speech and expressive conduct that comprise begging merit First Amendment protection." *Id.* at 553. The court observed that the United States Supreme Court has "held that the solicitation of

'charitable contributions' is protected speech." *Id.* (quoting *Riley*, 487 U.S. at 789, 108 S.Ct. 2667). The court also observed that several other United States Courts of Appeals had "extended that holding to begging, which is simply solicitation on behalf of the speaker." *Id.* (citing *Smith* 177 F.3d at 956; *Loper*, 999 F.2d at 704). The court concluded by stating "[w]e agree that begging is communicative activity within the protection of the First Amendment." *Id.*

Michigan relies on several authorities to argue that the First Amendment does not protect begging, or soliciting alms—but we find not one of these authorities persuasive. First, Michigan cites Part II of Justice Kennedy's concurrence in *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 703, 112 S.Ct. 2701, 120 L.Ed.2d 541 (1992) (plurality opinion). In Part II of his concurrence, Justice Kennedy stated that he was "in full agreement with the statement of the Court that solicitation is a form of protected speech." *Lee*, 505 U.S. at 704, 112 S.Ct. 2701 (citing *Riley*, 487 U.S. at 788–89, 108 S.Ct. 2667; *Schaumburg*, 444 U.S. at 629, 100 S.Ct. 826) (rest of citation omitted). But Justice Kennedy argued that an airport regulation that prohibited solicitation for the immediate payment of funds did not violate the First Amendment because the regulation "reache[d] only personal solicitations for immediate payment of money." *Lee*, 505 U.S. at 704, 112 S.Ct. 2701. Justice Kennedy hypothesized that, had the regulation "prohibited all speech that requested the contribution of funds," then he "would [have] conclude[d] that it was a direct, content-based restriction of speech in clear violation of the First Amendment." *Id.* But, Justice Kennedy wrote, the "regulation d[id] not prohibit all solicitation[.]" rather, "it prohibit[ed] the 'solicitation and receipt of funds.'" *Id.* Justice Kennedy characterized the restriction as "directed only at the physical exchange of money, which is an element of conduct interwoven with otherwise expressive solicitation." *Id.* at 705, 112 S.Ct. 2701.

We decline to follow the reasoning in Part II of Justice Kennedy's concurrence in *Lee* for three reasons. First, to the extent that Part II of Justice Kennedy's concurrence argues that the "physical exchange of money" may be isolated from the act of solicitation, it runs contrary to *Schaumburg*'s holding that solicitation of charitable donations is "characteristically intertwined with informative and perhaps persuasive speech[.]" *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826. *Schaumburg* does not suggest that the physical exchange of money may be isolated; it is "intertwined" with speech that the First Amendment protects. Second, Part II of Justice Kennedy's concurrence is not *Lee*'s holding. And third, Justice Kennedy wrote Part II without another Justice joining him

*877 Michigan also cites the Second Circuit's decision in *Young v. New York City Transit Authority*, 903 F.2d 146 (2d Cir.1990), as authority for the proposition that the First Amendment does not protect begging. *Young* initially framed the issue as "whether the prohibition of begging and panhandling in the New York City subway system violate[d] the First Amendment of the United States Constitution." *Young*, 903 F.2d at 147 (footnote omitted). The regulation provided that " 'no person, unless duly authorized ... shall upon any facility or conveyance ... solicit alms, subscription or contribution for any purpose.' " *Id.* at 148 (quoting N.Y. Comp.Codes R. & Regs. tit. 21, § 1050.6(b) (1989)). The Second Circuit opined that "[c]ommon sense" dictates that "begging is much more 'conduct' than it is 'speech.' " *Id.* at 153. Therefore, the court reframed the issue as "whether begging constitutes the kind of 'expressive conduct' protected to some extent by the First Amendment." *Id.*

Young read *Schaumburg*'s holding to be limited to appeals by organized charities; only these solicitations involve a variety of speech interests including communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes. *Id.* at 155. *Young* asserted that "neither *Schaumburg* nor its progeny stand for the proposition that begging and panhandling are protected speech under the First Amendment." *Id.* Rather, the court said, *Schaumburg*, *Munson* and *Riley* "hold that there is a sufficient nexus between solicitation by organized charities and a 'variety of speech interests' to invoke protection under the First Amendment." *Id.* *Young* displayed the panel's distaste for begging, writing that "[w]hile organized charities serve community interests by enhancing communication and disseminating ideas, the conduct of begging and panhandling in the subway amounts to nothing less than a menace to the common good." *Young*, 903 F.2d at 156 (citing *Taxpayers for Vincent*, 466 U.S. at 805, 104 S.Ct. 2118).

We decline to follow the *Young* majority's reasoning. We find more persuasive *Young*'s dissent, which held that there is no "legally justifiable distinction" between "begging for one's self and solicitation by organized charities." *Young*, 903 F.2d at 164 (Meskill, J., dissenting). The dissent read *Schaumburg*—as we do—as holding that "charitable solicitation is protected because it 'is characteristically intertwined with ... speech seeking support for particular causes or for particular views on economic, political, or social issues.' " *Id.* at 165 (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). We agree with the dissent's statement that *Schaumburg* "held that First Amendment protection attaches to all charitable solicitation, whether or not any speech incident to the solicitation actually takes place, because a sufficient nexus exists between a charity's

expression of ideas and its fundraising." *Id.* We further agree with the dissent's conclusion that "if First Amendment protection extends to charitable solicitation unaccompanied by speech, as it apparently does, it must extend to begging as well." *Id.* And we agree that "begging is indistinguishable from charitable solicitation for First Amendment purposes. To hold otherwise would mean that an individual's plight is worthy of less protection in the eyes of the law than the interests addressed by an organized group." *Id.* at 167.

Moreover, *Loper* overruled *Young*'s holding that begging is not conduct that communicates. *Loper* stated that "[w]hile we indicated in *Young* that begging does not always involve the transmission of a particularized social or political message, see *Young*, 903 F.2d at 153, it seems certain that it usually involves some communication *878 of that nature." *Loper*, 999 F.2d at 704.

Based on the foregoing discussion, we hold that begging, or the soliciting of alms, is a form of solicitation that the First Amendment protects.

We now consider whether Michigan's anti-begging statute is substantially overbroad. We will not apply the " 'strong medicine' of overbreadth analysis where the parties fail to describe the instances of arguable overbreadth of the contested law." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 n. 6, 128 S.Ct. 1184, 170 L.Ed.2d 151 (2008) (citing *N.Y. State Club*, 487 U.S. at 14, 108 S.Ct. 2225). The plaintiff bears " 'the burden of demonstrating ... substantial overbreadth.' " *Connection Distrib. Co.*, 557 F.3d at 336 (quoting *Hicks*, 539 U.S. 113, 122, 123 S.Ct. 2191 (2003)). A plaintiff " 'must demonstrate from the text of the statute and from actual fact that a substantial number of instances exist in which the law cannot be applied constitutionally.' " *United States v. Coss*, 677 F.3d 278, 289 (6th Cir.2012) (quoting *Am. Booksellers Found. for Free Expression v. Strickland*, 601 F.3d 622, 627 (6th Cir.2010)). A plaintiff may not "leverage[e] a few alleged unconstitutional applications of the statute into a ruling invalidating the law in all of its applications." *Connection Distrib. Co.*, 557 F.3d at 340. Sometimes plaintiffs have difficulty bearing this burden. For example, in one case we said that the record was " 'utterly barren about whether some, many, indeed any, [other people] [were] affected by ... application of the statute.' " *Glenn*, 690 F.3d at 422 (quoting *Connection Distrib. Co.*, 557 F.3d at 338–39). We do not have that problem here.

The record shows that the statute reaches a substantial amount of begging, which we have held that the First Amendment protects because it is a form of solicitation.

Instead of a few instances of alleged unconstitutional applications, we have hundreds. The Grand Rapids Police Department produced four hundred nine incident reports related to its enforcement of the anti-begging statute. Thirty-eight percent of the people that the police stopped were holding signs requesting help, containing messages like "Homeless and Hungry: Need Work," "Homeless Please Help God Bless," "Lost My Job Need Help," and "Homeless and Hungry Vet." The other sixty-two percent of the stops (two hundred fifty-five instances) involved people verbally soliciting charity. In forty-three percent of the cases, the police immediately arrested the people who were begging. In two hundred eleven cases, people convicted of begging were sentenced directly to jail time. The record in this case bolsters our "judicial prediction" that "the statute's very existence may cause others not before the court to refrain from constitutionally protected speech or expression." *Broadrick*, 413 U.S. at 612, 93 S.Ct. 2908.

Thus, sustaining the facial challenge in this case is appropriate because the risk exists that, if left on the books, the statute would chill a substantial amount of activity protected by the First Amendment. We must provide "this expansive remedy" because "the threat of enforcement of an overbroad law may deter or 'chill' constitutionally protected speech"—especially where, as here, "the overbroad statute imposes criminal sanctions." *Hicks*, 539 U.S. at 119, 123 S.Ct. 2191 (citing *Schaumburg*, 444 U.S. at 634, 100 S.Ct. 826; *Bates v. State Bar of Ariz.*, 433 U.S. 350, 380, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977); *NAACP v. Button*, 371 U.S. 415, 433, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963)). The reason for this is that "free expression may be inhibited almost as easily by the potential or threatened use of power as by the actual exercise of that power." *N.Y. *879 State Club*, 487 U.S. at 11, 108 S.Ct. 2225 (citing *Thornhill v. Alabama*, 310 U.S. 88, 97–98, 60 S.Ct. 736, 84 L.Ed. 1093 (1940)). We are concerned that "[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-case litigation, will choose simply to abstain from protected speech, harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas." *Hicks*, 539 U.S. at 119, 123 S.Ct. 2191 (citation omitted). Thus "[o]verbreadth adjudication, by suspending *all* enforcement of an overinclusive law, reduces these social costs caused by the withholding of protected speech." *Id.* As long as "the statute remains available to the State the threat of prosecutions of protected expression is a real and substantial one." *Dombrowski v. Pfister*, 380 U.S. 479, 494, 85 S.Ct. 1116, 14 L.Ed.2d 22 (1965).

But "[f]acial overbreadth has not been invoked when a

limiting construction has been or could be placed on the challenged statute." *Broadrick*, 413 U.S. at 613, 93 S.Ct. 2908 (citing *Dombrowski*, 380 U.S. at 491, 85 S.Ct. 1116; *Cox v. New Hampshire*, 312 U.S. 569, 61 S.Ct. 762, 85 L.Ed. 1049 (1941); *United States v. Thirty-Seven Photographs*, 402 U.S. 363, 91 S.Ct. 1400, 28 L.Ed.2d 822 (1971); *Breard v. Alexandria*, 341 U.S. 622, 71 S.Ct. 920, 95 L.Ed. 1233 (1951)). Therefore, we must consider any limiting construction of the statute that Michigan can present. *Vill. of Hoffman Estates*, 455 U.S. at 495 n. 5, 102 S.Ct. 1186 ("[i]n evaluating a facial challenge to a state law, a federal court must, of course, consider any limiting construction that a state court or enforcement agency has proffered.") (citing *Grayned v. City of Rockford*, 408 U.S. 104, 110, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972)). We need not consider a limiting construction, however, if the statute "is not 'fairly subject to an interpretation which will render unnecessary or substantially modify the federal constitutional question.'" *Bd. of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 575, 107 S.Ct. 2568, 96 L.Ed.2d 500 (1987) (quoting *Harman v. Forssenius*, 380 U.S. 528, 535, 85 S.Ct. 1177, 14 L.Ed.2d 50 (1965)).

Here, we cannot read the statute to limit its constitutional effect. The statute simply bans an entire category of activity that the First Amendment protects.

We acknowledge that the statute serves "a sufficiently strong, subordinating interest that [Michigan] is entitled to protect." *Schaumburg*, 444 U.S. at 636, 100 S.Ct. 826. Here, Attorney General Schuette argues that Michigan's interest is in preventing fraud. He argues that not all those who beg are homeless and destitute, nor do all those who beg use the funds they receive from begging to meet basic needs. Instead, those who beg often spend that money on alcohol. The record contains an affidavit of an executive director of an agency that works with the homeless as saying that "the great majority of people panhandling for money are using the money for alcohol and drugs." Furthermore, panhandlers who display signs saying that they are homeless often are not. Rather, they use the signs "to elicit sympathy and money, often to feed a drug or alcohol problem." Even the United States Department of Justice has recognized "[t]his potential for fraud" and has put out a publication on panhandling which states that "some panhandlers pretend to be disabled and/or war veterans," and that the panhandlers' "primary purpose is to immediately buy alcohol or drugs." Attorney General Schuette also argues that the ordinance prevents duress.

We agree with Attorney General Schuette that the prevention of fraud and duress are substantial state interests. In *Schaumburg*, the Village argued that its ordinance was intimately related to the *880 substantial

governmental interests in protecting the public from fraud, crime, and undue annoyance. *Schaumburg*, 444 U.S. at 636, 100 S.Ct. 826. The Court noted that, like here, “[p]revention of fraud [was] the Village’s principal justification” for the ordinance. *Id.* The Court declared that, while these interests were substantial, they were “only peripherally promoted” by the ordinance and “could be sufficiently served by measures less destructive of First Amendment interests.” *Id.* The Court said, “[t]he Village’s legitimate interest in preventing fraud can be better served by measures less intrusive than a direct prohibition on solicitation.” *Id.*

Michigan’s interest in preventing fraud can be better served by a statute that, instead of directly prohibiting begging, is more narrowly tailored to the specific conduct, such as fraud, that Michigan seeks to prohibit. Indeed, “[b]ecause First Amendment freedoms need breathing space to survive,” a state “may regulate in the area only with narrow specificity.” *Gooding v. Wilson*, 405 U.S. 518, 522, 92 S.Ct. 1103, 31 L.Ed.2d 408 (1972) (quoting *Button*, 371 U.S. at 433, 83 S.Ct. 328). A state must carefully craft the statute “to punish only unprotected speech and not be susceptible of application to protected expression.” *Gooding*, 405 U.S. at 522, 92 S.Ct. 1103. As the Supreme Court has warned, “statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society.” *Broadrick*, 413 U.S. at 611–12, 93 S.Ct. 2908 (citations

omitted). Where, as here, “the statute unquestionably attaches sanctions to protected conduct, the likelihood that the statute will deter that conduct is ordinarily sufficiently great to justify an overbreadth attack.” *Taxpayers for Vincent*, 466 U.S. at 800 n. 19, 104 S.Ct. 2118 (citing *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 217, 95 S.Ct. 2268, 45 L.Ed.2d 125 (1975)). Michigan may regulate begging. As the Supreme Court has said, “[s]oliciting financial support is undoubtedly subject to reasonable regulation [.]” *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826. But Michigan must regulate begging “with due regard for the reality that solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues[.]” *Id.*

Because the anti-begging ordinance violates the First Amendment in banning a substantial amount of activity that the First Amendment protects, we **AFFIRM** the district court’s judgment. We need not, and so do not, consider whether the ordinance violates the Fourteenth Amendment.

All Citations

726 F.3d 867

Footnotes

- * The Honorable John R. Adams, United States District Judge for the Northern District of Ohio, sitting by designation.

JOSEPH G. KUSPA
Mayor

JANICE M. FERENCZ
City Clerk

JAMES E. DALLOS
Treasurer



City of Southgate

- CITY COUNCIL -

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Council President

MARK FARRAH

KAREN E. GEORGE

BILL COLOVOS

DALE W. ZAMECKI

PHILLIP J. RAUCH

CHRISTOPHER P. ROLLET

June 10, 2021

To the Honorable
City Council
Southgate, Michigan 48195

Re: City Hall Parking Lot Maintenance Improvements

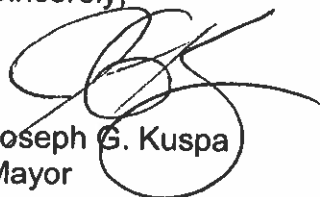
Ladies and Gentlemen:

It is recommended by the City Engineers and I concur, that the bid for City Hall Parking Lot Maintenance Improvements be awarded to the lowest bidder, Al's Asphalt Paving Company, Taylor, Michigan in the amount of \$9,746.75 plus a 15% contingency of \$1,462.01 for a total of \$11,208.76.

Sufficient funds are available in the Escrow Fund to cover costs associated with these repairs.

Your favorable consideration of this matter is requested.

Sincerely,


Joseph G. Kuspa
Mayor

JGK/law

JOSEPH G. KUSPA
Mayor

JANICE M. FERENCZ
City Clerk

JAMES E. DALLOS
Treasurer



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CHRISTOPHER P. ROLLET

MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: David Angileri, Assistant City Administrator/Finance Director 

DATE: June 10, 2021

RE: Recommendation City Hall Parking Lot Maintenance Improvements

I have reviewed the above and concur with the City Engineers to award this Contract to the low bidder AI's Asphalt Paving Company, Taylor, Michigan in the amount of \$9,746.75 plus a 15% contingency of \$1,462.01 for a total of \$11,208.76

Adequate funds are available in the Escrow Fund to cover this contract.



June 10, 2021

Mr. Dave Angileri, Assistant City Administrator/Finance Director
City of Southgate
14400 Dix-Toledo Highway
Southgate, Michigan 48195

**Re: City Hall/Library Parking Lot Maintenance Improvements
Recommendation of Contract Award
City of Southgate
Hennessey Project No. 13111**

Dear Mr. Angileri:

As you are aware, the City of Southgate opened bids on Tuesday, June 8, 2021 for the above referenced project and received bids from two (2) contractors that picked up contract documents. Attached is a copy of the bid tabulation.

Our office has reviewed the two (2) bids received and in summary, bids received were as follows:

Contractor	Bid Amount
• Al's Asphalt Paving Company	\$9,746.75
• A & R Sealcoating, Inc.	\$19,307.50

This project is a maintenance improvement and involves sealing all cracks and joints in the existing asphalt parking lot behind the Library and City Hall. This project will also include applying an asphalt seal coat to the existing asphalt pavement and re-striping. The project is scheduled to start on June 25, 2021 and be completed by June 30, 2021.

Hennessey Engineers has worked with Al's Asphalt Paving Company on many public road and private development projects over the years in the City of Southgate and other communities that Hennessey Engineers oversees.

Therefore, based upon the outcome of the bids and references, it is our office's recommendation to award the City Hall/Library Parking Lot Maintenance Improvements to Al's Asphalt Paving Company in the amount of \$11,208.76, which includes a 15% contingency of \$1,462.01. If you have any questions, please do not hesitate to contact me at any time.



Mr. Dave Angleri
City Hall/Library Parking Lot Maintenance Improvements
Recommendation of Contract Award

June 10, 2021
Page 2

Very Truly Yours,

HENNESSEY ENGINEERS, INC

A handwritten signature in black ink, reading 'John M. Miller'.

John M. Miller
Construction Manager

Enclosure

cc: Honorable Mayor Joseph Kuspa, City of Southgate
City Council Members, City of Southgate
Dustin Lent, City Administrator, City of Southgate
Kevin Anderson, DPS Acting Director, City of Southgate
John J. Hennessey, P.E., Vice-President, Hennessey Engineers, Inc.

CITY OF SOUTHGATE - CITY HALL/LIBRARY PARKING LOT MAINTENANCE IMPROVEMENTS PROJECT NO. 13111					A & R Sealcoating, Inc. 4882 Pontiac Lake Road Waterford, MI 48328	
Line Number	Description	Estimated Amount	Unit		Unit Price in Figures	Line Total
1	Joint & Crack Sealing	6,650	LFT		\$1.25	\$8,312.50
2	Asphalt Seal Coating (2 Coats)	47,200	SFT		\$0.20	\$9,440.00
3	4-inch Striping (Yellow & Blue)	2,960	LFT		\$0.50	\$1,480.00
4	24-inch Stop Bar	15	LFT		\$5.00	\$75.00
TOTAL BID AMOUNT						\$19,307.50

Al's Asphalt Paving Company 25500 Brest Road Taylor, MI 48181-4065		Al's Asphalt Paving Company 25500 Brest Road Taylor, MI 48181-4065	
Unit Price in Figures	Line Total	Unit Price in Figures	Line Total
\$0.85	\$5,652.50	\$0.85	\$5,652.50
\$0.07	\$3,304.00	\$0.07	\$3,304.00
\$0.25	\$740.00	\$0.25	\$740.00
\$3.35	\$50.25	\$3.35	\$50.25
			\$9,746.75



June 9, 2021

Mr. Dustin Lent
City of Southgate
14400 Dix-Toledo Highway
Southgate, Michigan 48195

**Re: Drinking Water Revolving Fund (DWRf) Project Plan
Public Hearing to Discuss Project Plan for Submittal to EGLE
Resolution to Submit Final Project Plan to EGLE
Hennessey Project No. 11084**

Dear Mr. Lent:

As you are aware, our office has prepared a draft comprehensive project plan for submittal to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to potentially obtain a Drinking Water Revolving Fund (DWRf) loan, a 20-year, low interest loan, for a water main lining project per the water Capital Improvement Plan (CIP) and to replace lead and galvanized water services throughout the city between 2022 and 2025 based upon the new lead and copper rules enacted by EGLE in June 2018.

Prior to submittal of this project plan, EGLE requires that the project plan be available for the general public to review and comment upon for at least 30 days and a public hearing be held at the end of the public comment period. The 30-day public comment period began on May 17, 2021 and the notice of public hearing scheduled for June 16, 2021 during the regular City Council meeting has been posted in the City's newspaper of record.

At the public hearing, per the requirements of EGLE, our office will provide a brief presentation summarizing the project plan and the costs associated with the proposed project. Following our presentation, questions will be entertained from City Council and the general public. A court reporter, coordinated through our office, will also be present to transcribe the public hearing. Our intent is to provide a copy of the final presentation to Council to your attention.

In addition to the public hearing a resolution must be adopted by City Council allowing our office to finalize the project plan and submit to EGLE and to designate a representative from the City to authorize all necessary documents related to this loan program if the City is approved to proceed with this loan program. Attached to this documentation, you will find the resolution that must be approved by Council to meet the final submission deadline of July 1, 2021.



Mr. Dustin Lent
9, 2021

June

Drinking Water Revolving Fund (DWRf) Project Plan
Page 2

Public Hearing to Discuss Project Plan for Submittal to EGLE
Resolution to Submit Final Project Plan to EGLE
City of Southgate

If you have any questions, or if additional information is necessary, please do not hesitate to call me at any time.

Very Truly Yours,

HENNESSEY ENGINEERS, INC

Tiffany T. Neubig
Project Manager

cc: Kevin Anderson, Acting Director of Public Services, City of Southgate
Janice M. Ferencz, City Clerk, City of Southgate

File B.3

Agenda Item Details

Meeting June 16, 2021

Category 6. New Business

Subject Resolution to be adopted by City Council allowing Hennessey Engineers to finalize the DWRP project plan and submit to EGLE and to designate a representative from the City to authorize all necessary documents related to this loan program if the City is approved to proceed with this loan program.

Type Action

Introduction:

This agenda item is for City Council to concur with the completing the final DWRP project plan for the lead service lead replacements and watermain replacement project. The project plans is to

1. Secure funding to replace 70 lead service leads (14 per year over 5 years).

2. Secure funding for a water main replacement project per the Capital Improvement Plan (CIP)

Through the DWRP project plan process the City is also applying for a Drinking Water Infrastructure (DWI) Grant that will be for 30% of the project cost up to \$2 Million.

Overview:

The City of Southgate is required to replace a minimum of 5% lead service leads per year. This project will consist of the replacement of lead and galvanized water service lines from the main to 18-inches inside each building for all properties at various locations throughout the city. The City of Southgate has a Capital improvement plan to replace the watermain along Allen Road between Superior Road and Orchard Avenue.

Budget Impact:

Funding for this project will come from the DWRP Loan.

Lead Water Service Replacement	\$ 409,500.00
Watermain replacement	\$1,673,119.75
Total	\$2,082,619.75

The above cost estimates incorporate the following tasks:

- 1) Concept Planning
- 2) Topographical Design
- 3) Engineering Drawings/basis of design
- 4) Specifications and permitting
- 5) Bidding
- 6) Construction Cost

Prepared by:

Tiffany T. Neubig, Project Manager, Hennessey Engineers, Inc.

Reviewed by:

Dustin Lent, City Administrator

Attachments:

- Southgate DWRP Project Plan Presentation

**A RESOLUTION TO TENTATIVELY AWARD
A CONSTRUCTION CONTRACT
FOR DRINKING WATER SYSTEM IMPROVEMENTS
DWRP LEAD WATER SERVICE REPLACEMENT PROGRAM**

WHEREAS, the City of Southgate wishes to proceed with improvements to its existing drinking water collection system; and

WHEREAS, the City of Southgate authorized Hennessey Engineers, 13500 Reeck Road, Southgate, Michigan 48195 under the supervision of Tiffany T. Neubig to prepare a Project Plan, which recommends the construction of the drinking water system project, consisting of the replacement of 70 lead and galvanized water service lines from the main to 18-inches inside the building for all properties at various locations throughout the city with construction beginning in 2022 and a watermain replacement project submitted to the Michigan Department of Environment, Great Lakes and Energy on July 1, 2021 and formally adopted will be funded through Michigan's Drinking Water Revolving Fund Loan Program; and

WHEREAS, said Project Plan was made available for the public review and comment from May 17, 2021 thru June 16, 2021 and was presented at a Public Hearing held on June 16, 2021 and all public comments have been considered and addressed;

NOW THEREFORE BE IT RESOLVED, that the City of Southgate (legal name of applicant) formally adopts said Project Plan and agrees to implement the selected alternative (Alternative), lead service line replacements and watermain replacement project.

BE IT FURTHER RESOLVED, that the Director of Public Services, a position currently held by Mr. Kevin Anderson (name of the designee), is designated as the authorized representative for all activities associated with the project referenced above, including the submittal of said Project Plan as the first step in applying to the State of Michigan for a Drinking Water State Revolving Fund Loan to assist in the implementation of the selected alternative.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTHGATE, WAYNE COUNTY, MICHIGAN THIS 16th DAY OF JUNE 2021.

AYES:

NAYS:

ABSENT:

ATTEST:

Janice M. Ferencz, City Clerk

**NOTICE OF PUBLIC HEARING
CITY OF SOUTHGATE**

PROPOSED WATER IMPROVEMENTS PROGRAM

The City of Southgate will hold a public hearing for the Drinking Water State Revolving Fund (DWRf) loan for the City of Southgate lead service line replacement and water system improvements program. The purpose of the meeting is to present the Water System Improvements and to receive comments from interested parties. The hearing will be held during the Southgate City Council starting at 7:00pm on Wednesday, June 16, 2021 using Zoom, interested persons may attend either on-line or by phone.

Topic: City of Southgate City Council - Public Hearing

Time: June 16, 2021 07:00 PM Eastern Time (US and Canada)

From **internet connected computer**, follow this link: <https://us02web.zoom.us/j/87246156124>

From **internet connected mobile phone**, download ZOOM Cloud Meetings app from the [Apple App Store](#) or [Google Play Store](#) and enter Join Meeting. Enter Meeting ID#: **87246156124**

Join audio only meeting:

You may dial 1-312-626-6799 and enter Meeting ID: **87246156124#**

The purpose of the proposed project is to provide a water lining project along Allen Road from Orchard street to Superior Avenue, to enhance water quality, prevent structural failure of the main and to prevent water loss from the existing main. In addition, the project plan will include lead service line replacement as required by the Lead and Copper Rule (LCR) in June 2018 requiring all cities in Michigan to replace all lead water service lines. The water service lines must be replaced from the City-owned water mains within the street to 18 inches inside individual houses. The estimated cost of all the projects is approximately \$2,023,353.

Copies of the project plan detailing the proposed projects will be available for inspection by the general public at the Office of the City Clerk, 14400 Dix-Toledo Rd., Southgate, Michigan starting Monday, May 17, 2021. Written comments received before the public hearing is closed on June 16, 2021 will be reviewed for incorporation into the final project plan. Written comments should be sent to the City of Southgate's Clerk's Office located at 14400 Dix-Toledo Rd., Southgate, Michigan.

Janice M. Ferencz, City Clerk

Publish date: May 12, 2021

AFFIDAVIT OF PUBLICATION

2125 Butterfield Dr, Suite 102N • Troy MI 48084

City of Southgate
14400 DIX TOLEDO RD

SOUTHGATE, MI 48195-2598
Attention: Michelle Kessler

STATE OF MICHIGAN,
COUNTY OF WAYNE

The undersigned Cindy Slater, being duly sworn the he/she is the principal clerk of The News-Herald, thenewsherald.com, thenewsherald.com2, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

City of Southgate

Published in the following edition(s):

The News-Herald	05/12/21
thenewsherald.com	05/12/21
thenewsherald.com2	05/12/21

VICKI ARSENAULT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires May 11, 2026
Acting in the County of _____

Sworn to the subscribed before me this 13 May, 2021

Vicki Arsenault
Notary Public, State of Michigan
Acting in Oakland County

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CITY OF SOUTHGATE**

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Janice M. Ferencz, City Clerk

Publish date: May 12, 2021

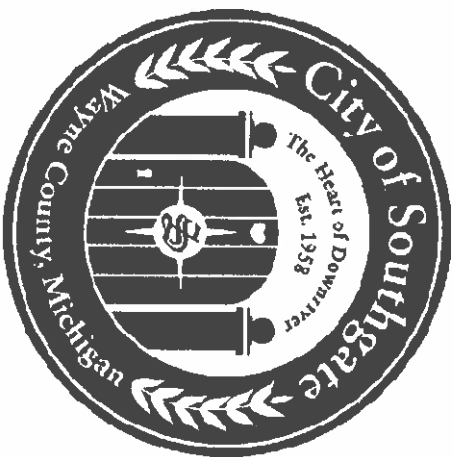
Advertisement Information

Client Id: 640703

Ad Id: 2169001

PO:

Sales Person: 200309



DRINKING WATER REVOLVING FUND (DWRF) PROJECT PLAN PUBLIC HEARING

JUNE 16, 2021

PRESENTED TO THE MAYOR AND CITY COUNCIL AND THE RESIDENTS OF
THE CITY OF SOUTHGATE BY:

TIFFANY T. NEUBIG
PROJECT MANAGER



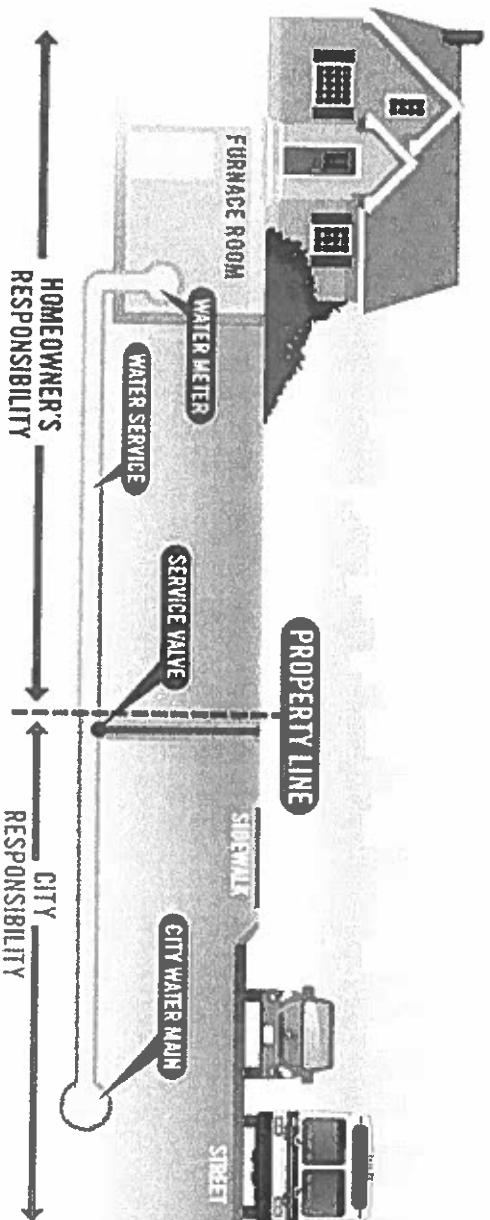
OVERVIEW

page 30

- Overview of DWRF Program and Issues to Address
- Overview of New Lead and Copper Rules
- Overview of Water Service Lead Replacement Requirements
- Water Main Lining Project
- Social and Environmental Impacts

LEAD AND COPPER RULE CHANGES

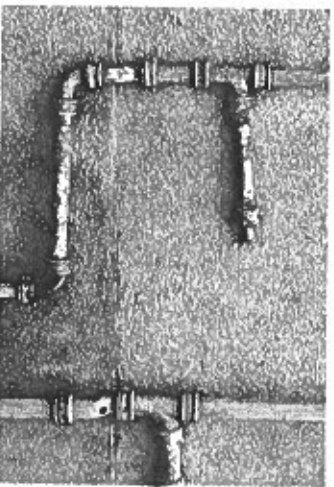
- EGLE Lead and Copper Rules were amended and adopted in June 2018
- Lead and galvanized water service lines must be replaced in their entirety from the water main to at least 18 inches into the structure being served regardless of ownership



**EGLE (Formerly MDEQ)*

LEAD AND COPPER RULE CHANGES

- Communities must replace 5 percent of lead and galvanized water service lines over a 20-year period by 2041
- Lead action level of 15 parts per billion will be reduced to 12 parts per billion by 2025
- Additional water sampling is required
- A preliminary inventory of water services is due to EGLE in 2020 and a final inventory due by 2025 and revised every 5 years thereafter



LEAD AND COPPER RULE CHANGES – FINANCIAL IMPACT

page 33

- Based upon recent study:
 - Replacement of all Lead and Galvanized Water Services in the State of Michigan - *\$2.5 Billion*
 - City of Detroit - *\$500 Million*
 - City of SOUTHGATE - *\$1.2 Million*
 - Approximately 200 services
 - Average cost \$5,000 per service

➤ UNFUNDED MANDATE



OVERVIEW OF DWRF LOAN PROGRAM

- Low interest loan program through EGLE
- 20-year loan, typically at 2 percent interest
- Assists with the funding of water distribution system improvements
 - Water Main Replacements/Rehabilitation
 - Water Treatment Plant Improvements
 - Pump Station/Booster Station Improvements
 - Storage Tanks/Water Towers
 - Lead Remediation within Water Systems
- Must submit final project plan for consideration by July 1 of each year for inclusion on the project priority list issued typically in August of each year.

2022 DWRF PROGRAM GRANTS

- Drinking Water Infrastructure Grant (DWI) – 30% of project Cost
- Accelerated timeline to submit a project plan for consideration:
 - Submit Intent to Apply Form 1/31/21
 - Submit Draft Project Plan for Comments 5/17/21
 - 30 Day Public Comment Period Begins 5/17/21
 - Public Hearing and Resolution Adoption 6/16/21
 - Deadline for Final Project Plan Submittal 7/1/21
- If loan approved, loan closing would take place in January 2022.

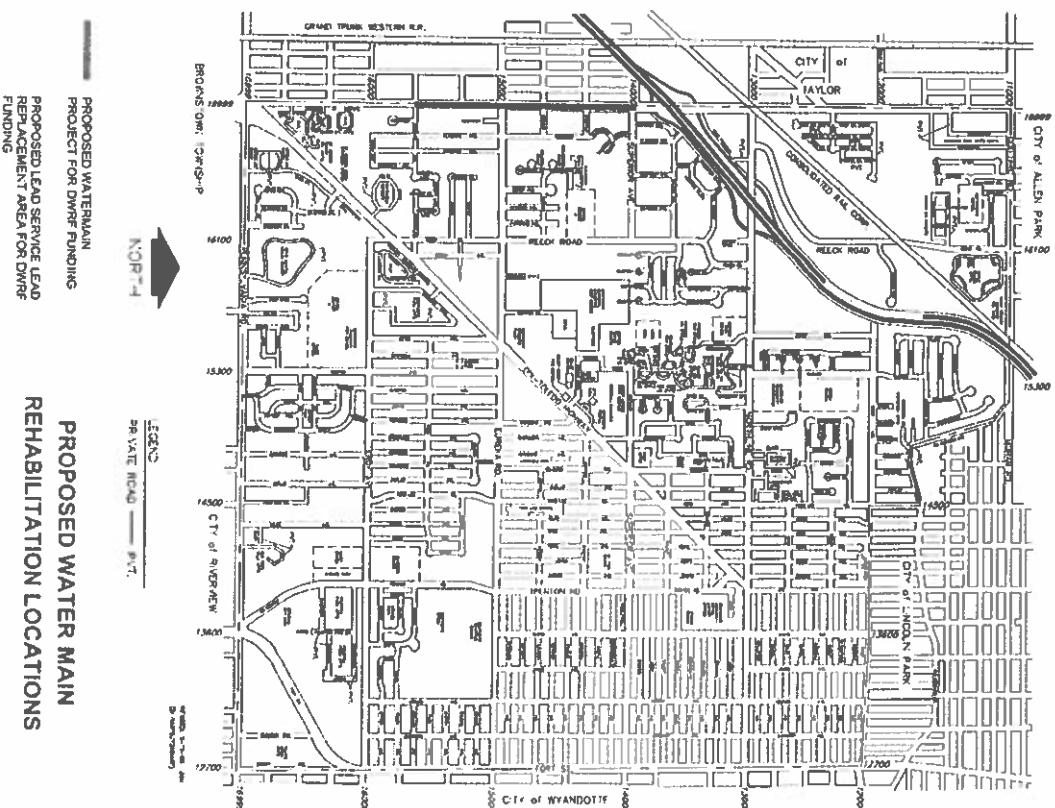
WHY DWMRF?

page 36

- \$250 Million available for all communities with water distribution systems in the State of Michigan. Received 125 project plans.
- In prior years, not all proposals received could be funded and could wait on the contingency list for several years.

page 37

- Allen Road, Orchard Street to Superior Avenue



NO ACTION

- Allow water distribution system to operate in existing conditions
 - Continued water main breaks and more frequent water main breaks as water mains continue to deteriorate with age
 - Disruption to service to residential and commercial properties
 - Costly repairs
 - Additional man hours required by Department of Public Services staff
 - Non-compliance with current Lead and Copper rules

PROPOSED PROJECT

page 39

- Due to new lead and copper rules, full-service replacement would take place as one separate project
- Waivers will need to be developed and approved by the City Attorney in order to enter and complete work on private property
- All water main lining work and lead service replacements will be funded through the DWRF loan, with the opportunity for a 30% Grant.

SUMMARY OF COSTS

PROJECTS	Total Project Cost
Lead Service Line Replacement (70 Services)	\$409,500.00
Watermain Lining Project	\$1,673,119.75
Total	\$2,085,619.75

- Drinking Water Infrastructure Grant (DWI) – 30% of project Cost

SUMMARY OF COSTS

page 41

- Total Project Costs Include Engineering, Construction Inspection and Construction QA/QC Testing
- Approximately 10,530 customers using the water distribution system
- Annual debt service required at 1.875 percent interest is calculated at \$125,133.00 per year
- User costs would be a \$11.88 per year or \$1.00 per month increase (fixed cost, same for all users) *(Will be reduced if Grants are awarded)*
- Costs could be reduced if certain properties have copper services installed

NEXT STEPS

- Final DWRF Project Plan
 - Submit no later than July 1, 2021 to EGL
 - Approve project and place on project priority list in August 2021
- Construction Schedule
 - If DWRF loan is approved, expect loan closing in May 2022 to start construction early Summer 2022

SOCIAL AND ENVIRONMENTAL IMPACTS

- Positive Long-Term Impacts
 - Reduced number of water main breaks within the system
 - Reduction in water loss
 - More reliable water distribution system
 - Compliance with Lead and Copper Rules
 - Reduction of Lead Materials in Water Distribution System
- Negative Impacts During Construction
 - Short term inconvenience to general public
 - Noise
 - Temporary lane or driveway closures
 - Temporary loss of water service
 - Private property access
 - Construction equipment and stockpiles
 - Dust and particulate matter

QUESTIONS?



SOUTHGATE POLICE DEPARTMENT MEMO

To: Mayor Joseph Kuspa
From: Director Joe Marsh
Subject: Request to Sell Department Shotguns
Date: 06/09/2021

Mayor Kuspa,

Currently the Police Department has eight (8) Benelli M2 18.5" shotguns in our department armory. The shotguns are in good working order and overall a good weapon system. However, after speaking with our department range instructors and other factors such as training time, user comfortability, simplicity of the weapon system, ammunition shortages, etc. we made a collective decision on the department to take the Benelli M2 shotguns out of service. Taking this weapon system out of service has allowed us to focus our training specifically onto two weapon systems (our department issued Glock handguns and our Ar-15 rifles).

Training and officer comfortability with our weapon systems that we deploy is our greatest focus. What we were finding is that the majority of officers did not have a high level of comfortability with the new Benelli shotguns. Having only two weapon systems allows us for more in-depth focused training with those systems. Further, the current ammo shortage has been making it extremely difficult to purchase ammunition for all three weapon systems. All of these factors led us to remove the Benelli shotguns from service in April/2021.

It is my recommendation to sell our department Benelli Shotguns. We have contacted three firearm distributors; CMP, Downriver Guns, and Michigan Police Equipment. All three distributors are offering us \$600 apiece for our 8 shotguns. Our guns do contain our department logo etched on them which we also requested the distributors to remove prior to resale. Both Michigan Police Equipment and Downriver Guns have agreed to remove the laser markings at no cost.

It is our recommendation to sell these 8 Benelli shotguns to Michigan Police Equipment located at 16753 Industrial Parkway, Lansing, MI 48906. With your approval we request that this matter be taken before City Council.

Sincerely,

Joseph L. Marsh
Director of Public Safety



Michigan Police Equipment Company

6521 Lansing Road

Charlotte, MI 48813

Phone: (517) 322-0443 or (800) 422-0270

Fax: (517) 322-0491

QUOTE Submitted to:		Phone No:
SOUTHGATE POLICE DEPARTMENT		
14710 REAUME PKWY		EMAIL
SOUTHGATE MI 48175		WCAMPBELL@CI.SOUTHGATE.MI.US

Date	Quotation Expires In	Terms	Delivery	
5-May-21	60 days	Net 30 Days	best way	
Quantity	Description	Unit Price	Amount	
8	BENELLI M2 SEMI AUTO SHOTGUNS 12 GA	(\$600.00)	(\$4,800.00)	
	FOR TRADE IN			
	etch removal included			
		SUBTOTAL	(\$4,800.00)	
		SHIPPING		
		TOTAL	(\$4,800.00)	

THANK YOU
KIM ZUIDEMA

Michigan Police Equipment Company Sales Representative

Downriver Guns and Ammo
Downriver Laser Engraving

19999 Dix Toledo Hwy
 Brownstown, MI 48183

Tel 734-341-7515

E-Mail :josh@DownriverGuns.com



PURCHASE QUOTE

5.5.2021

BILL TO

Downriver Guns

PAID TO

Southgate PD

INSTRUCTIONS

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
8	Benelli M2 Service used Shotguns	\$600.00	\$4,800.00
8	Detailed Laser Markings- Removal	\$0.00	\$0.00

All Southgate PD logos/Branding will be removed prior to resell to the public.

SUBTOTAL	\$4,800.00
SALES TAX	N/A
SHIPPING & HANDLING	N/A
TOTAL DUE	\$4,800.00

Thank you for your business!

JOSEPH G. KUSPA
Mayor

JANICE M. FERENCZ
City Clerk

JAMES E. DALLOS
Treasurer



City of Southgate

- CITY COUNCIL -

JOHN GRAZIANI
Council President

MARK FARRAH

KAREN E. GEORGE

BILL COLOVOS

DALE W. ZAMECKI

PHILLIP J. RAUCH

CHRISTOPHER P. ROLLET

Memorandum

To: Honorable City Council Members

From: Dustin Lent, City Administrator

Date: June 10, 2021

Re: Southgate Veterans Memorial Library Commission: Bylaw changes

The Administration is asking council to approve the attached changes to the Southgate Veterans Memorial Library Commission Bylaws. The Library Commission at their meeting in May adopted the updated changes.

Your favorable consideration of this matter is requested.

POLICY and PROCEDURE MANUAL

FOR THE SOUTHGATE VETERANS MEMORIAL LIBRARY

**14680 DIX-TOLEDO RD.
SOUTHGATE, MI 48195**

734.258.3002

LIBRARY COMMISSION

David Grubbs
Haley Picklo
Kim Guentner
Mary Lamos
Helen Loveday
Jill Pastor
Elizabeth Altizer

Karen George, City Council Liaison
David Angileri, Financial Advisor

May 2021

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SOUTHGATE VETERANS MEMORIAL LIBRARY

14680 Dix-Toledo Road

Southgate, MI 48195

Phone: 734-258-3002

Fax: 734-284-9477

APPLICATION FOR MEETING ROOM USE

Please PRINT clearly

Organization name _____
Contact name _____
Address _____ City _____ State _____ ZIP _____
Home/Cell Phone _____ Business Phone _____
E-mail address _____
Date(s) of Meeting _____
Time: From _____ to _____
Total number of hours _____ Reservation Fee Owed: _____
Type of activity _____
Anticipated attendance _____
Preferred Room (circle one) _____ FRONT _____ BACK _____ BOTH

The undersigned hereby states that he or she has read the policies and regulations of the Southgate Veterans Memorial Library relative to the use of the facilities and agrees to all arrangements therein stated. The undersigned further states that he or she has authority to sign this application for the above named organization.

Signature of applicant _____

Remarks _____

Approved by: _____ Date: _____

NO ADMISSION FEES OF ANY KIND MAY BE CHARGED FOR PROGRAMS

The meeting rooms of the Southgate Veteran's Memorial Library is available to all groups regardless of age, sex, race, color, religion, creed, national origin, ancestry, handicap, military service, or political belief, within the guidelines of the policies and regulations for the usage of the meeting rooms. **Hours:** Monday-Thursday, 10am-9pm; Saturday, 10am-5pm

SOUTHGATE VETERANS MEMORIAL LIBRARY

14680 Dix-Toledo Road
Southgate, MI 48195
Phone: 734-258-3002
Fax: 734-284-9477

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Contact name _____

Address _____ City _____ State ____ ZIP _____

Home/Cell Phone _____ Business Phone _____

E-mail address _____

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COMPUTER USE PROCEDURE

1. ~~Patrons are required to sign in for use of Library Internet workstations and furnish a valid government issued photo identification and/or Library Card. Patrons sign on to public computers using their library card, or a temporary guest pass. Patron sign-in represents full agreement with the policies and procedures concerning computer services.~~
2. Minor children (under age 18) are required to present a valid library card and have a signed "Computer Contract" on file. ~~The Library will not accept any other form of identification from minors.~~ They may also use a temporary guest pass with permission of a parent or other responsible adult, who must be present at the time.
3. Minor children are restricted to computers in the youth area.
4. All computer problems must be reported to the Library Staff.
5. Computer users are limited to ~~30 minutes~~ 1 hour of use when necessitated by public demand. When computers are not in demand, sessions can be renewed in half hour increments. These limits may be changed by the Director in response to unexpected circumstances.
6. Printing from the Internet workstations is available at the posted charge. This charge represents costs incurred for paper and ink.

The Library staff will assist patrons with Internet and personal computer use as time and knowledge permits. Books concerning the Internet, personal computers, and word processing are available for patron use. Patrons needing in-depth assistance are encouraged to contact their local Adult Education provider for availability of classes.

~~Amended February 2018~~

Amended May 2021

Access to Patron Information

(Including law enforcement visits)

Michigan Law prohibits library staff from disclosing information contained in library records, except as outlined in the Michigan Library Privacy Act (MCL 397.603)

Southgate Veterans Memorial Library staff is committed to protecting the confidentiality of ~~patron records~~ library records, which includes but is not limited to: database search records, circulation records, computer use records, inter-library loan records, and reference interviews.

Database Records

These records refer to searches of the collection a patron may conduct on the Online Public Access Catalogs and Internet Workstations. These searches are conducted by utilizing the library's automated system and the Internet to connect to databases maintained on computer servers outside the library building. Once a search is concluded, the library-based software does not retain a copy of the search. Records of the search will not exist.

Circulation Records

Patron material is circulated via the library's automated system. The circulation software tracks materials currently checked out, automatically erasing a patron's borrowing record once material is returned and all fines are paid

Inter-Library Loan Records

Patrons may borrow items not owned by the Southgate Veterans Memorial Library through inter-library loan. Requests are tracked in the automated computer system. Once items are returned the record is automatically erased from the patron's account. No paper records are kept.

Reference Interview

No paper record is kept of patron information upon completion of the reference interview. Electronic records are kept only for those items placed on request and are erased upon return of the item.

Staff Procedure

No library staff member or agent of the library shall disclose patron information to any person or agency other than the patron ~~himself or herself~~ themselves unless:

1. The patron has given informed consent (~~in-person or in writing~~) in writing for another individual to obtain that information; in the instance of a minor, Section 3 of the Michigan Library Privacy Act, M.C.L. 397.603 provides for release as stated under Section 5.b of the Library's Application for Borrower's Card.
2. An authorized person (library staff member or ~~city attorney~~ agent of the library) requires that information for retrieval of overdue library material or compensation for damaged or lost library material
3. Library staff or agents may provide a sworn statement or testimony to a law enforcement officer, based solely on their personal knowledge, regarding a crime alleged to have occurred at the library.
4. A law enforcement official makes the request (special circumstances apply to law enforcement requests, please see below for details).

~~Specific instructions for responding to a request from law enforcement follow.~~

The Southgate Veterans Memorial Library will comply with law enforcement when supplied with legal subpoena or warrant.

- When approached by law enforcement official requesting information, do not disclose to that individual any information.
- The supervisor, department head, assistant director, or director will ask to see official identification and will photocopy the ID.
- If law enforcement presents a subpoena, library staff will direct that person to their supervisor, department head, assistant director, or director, who will in turn direct the subpoena to legal council.
- If library staff is presented with a warrant, do not interfere with the search and/or seizure. Contact your supervisor, department head, assistant director or director as soon as possible.
- Keep a record of all legal requests.
- Keep a record of all costs incurred by any search and/or seizure.

Security surveillance recordings and images follow different rules when determining their suitability for sharing with law enforcement officials; please refer to the section "Security Surveillance Policy" for further information.

In the normal course of business, if the library staff observes what can be reasonably construed to be a threat of imminent danger, they are to contact law enforcement immediately. They should then contact their supervisor, department head, assistant director, or director and fill out an Incident Report form.

Incident Report Form

Name of person filling out form: _____

Date: _____ Time: _____

Description of incident (if needed, use back of form and/or additional pages). If possible, record the contact information of witnesses. If police were involved, record the names of the responding officers.

Description of action taken (called police or emergency services, requested patron leave the building, closed the library, etc.)

Any additional information to add?

Person(s) involved: _____

Security Surveillance Policy

The Southgate Veterans Memorial Library surveillance system is in place for security purposes, to make available a recording of incidents that take place within the library, or on the nearby grounds.

1. In accordance with Michigan retention requirements for libraries, recorded video surveillance images will be kept for 2 (two) months after creation. After that time, the images will be deleted as soon as practicable.
2. In the event of an incident, the recordings covering the incident will be kept until they are no longer needed, or 2 months, whichever is greater. Depending on the incident, such recordings may fall under different retention requirements, and may be required to follow other rules.
3. Library staff may view live surveillance at any time, if they have reason to believe there is an issue requiring observation. Such events may include suspicion of theft, trespassing, or other serious issues. The Director, or another librarian if the Director is unavailable, will make the decision to view live surveillance; no other library staff or agent is authorized to do so.
4. Act 315 of 2020 amends the Michigan Library Privacy Act, and specifies that recorded video surveillance images made for security purposes are not considered library records, unless they identify a person as having requested or lawfully obtained specific services, materials, or information resources from the library.
5. In the case of a Freedom of Information Act request for surveillance recordings, the Director must view the requested recording to determine if it contains information protected by the Michigan Library Privacy Act. If it does, the recording is considered a library record, which are exempt from such requests.
6. In the case of a request by law enforcement to view or obtain recorded video surveillance images, the Director must view the requested recording to determine if it contains information protected by the Michigan Library Privacy Act. In such a case, if possible, the Director may decide to modify the recording or image, to obscure or redact the images that cannot be shared, and submit the modified materials to law enforcement. Unmodified materials containing protected information cannot be shared without a subpoena.
7. The Southgate Veterans Memorial Library will share recorded video surveillance images with law enforcement on a case by case basis. It is not required to agree to requests from law enforcement for these images, and will only do so in response to appropriate incidents. The final decision whether or not to share recorded video surveillance images will be made by the Director, in consultation with the chairperson of the Library Commission.

~~Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act)~~

~~When presented with a warrant to comply with the Patriot Act of the United States,
library personnel will refer all such warrants to the Library Director.~~

~~The Library Director will first inform the City Administrator and Corporate Counsel for
the Southgate Veterans Memorial Library before any other action is taken.~~

~~In the absence of the Library Director, the person designated in charge will notify the
City Administrator and Corporate Counsel for the Southgate Veterans Memorial Library
for direction in compliance.~~

~~Under State Law, library records are protected and can only be accessed by library
personnel.~~

REMOVE

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- Libraries that make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948.

Amended February 2, 1961, and January 23, 1980; inclusion of "age" reaffirmed January 23, 1996, by the ALA Council.

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- VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.
Inclusion of "age" reaffirmed January 23, 1996.