

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE COUNCIL MEETING
DATE 12/10/2007**

The meeting was called to order at 7:00 p.m. by Mayor Abrams in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Invocation and Pledge of Allegiance to the Flag.

Councilmembers Present: Mayor Abrams, Adams, Mayor Pro-Tem Christie, Hicks, Hurt, Porath, Shumaker.

Councilmembers Absent: None

Staff Present: City Manager Bueche, City Clerk Aguilar, Assistant City Manager Zettel, City Attorney Richard Figura, Building Inspector Rob Kehoe

Others Present: Bob Plumb, Jerry Ragsdale, Bud Grimes, Tommy Butler, Ron Schultz, Jim Florence, Robyn Rosenthal, Boots Abrams, Cameron Milbrot, Lori Crawford-Milbrot, Lou Fleury.

APPROVAL OF PREVIOUS COUNCIL MINUTES

Resolution No. 071210-01

(Carried)

Motion by Councilmember Porath
Second by Councilmember Hurt

The Swartz Creek City Council hereby approves the Minutes of the Regular Council Meeting held November 26, 2007, as corrected, to be circulated and placed on file.

YES: Adams, Christie, Hicks, Hurt, Porath, Shumaker, Abrams

NO: None. Motion declared carried.

APPROVAL OF AGENDA:

Resolution No. 071210-02

(Carried)

Motion by Mayor Pro Tem Christie
Second by Councilmember Hurt

The Swartz Creek City Council approves the Agenda as presented for the Regular Council Meeting of December 10, 2007 to be circulated and placed on file.

YES: Christie, Hicks, Hurt, Porath, Shumaker, Abrams, Adams
NO: None. Motion Declared Carried.

REPORTS AND COMMUNICATIONS:

City Manager's Report

Resolution No. 071210-03

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hicks

The Swartz Creek City Council approves the City Manager's Report of December 10, 2007, to be circulated and placed on file.

YES: Hicks, Hurt, Porath, Shumaker, Abrams, Adams, Christie.
NO: None. Motion declared carried.

All other reports and communications were accepted and placed on file.

MEETING OPENED TO THE PUBLIC:

None.

COUNCIL BUSINESS:

Sewer Rehabilitation Project, Phase II

Resolution No. 071210-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Hurt

I Move the City of Swartz Creek appropriate an amount not to exceed \$1,500 to the City's Engineer Rowe Incorporated, fees for the preparation and solicitation of bids for Phase II of the City's Sewer Rehabilitation and Relining Project, and further to

bring all returns back to the Council for review and determination.

Short Presentation by City Engineer Lou Fleury.
Discussion ensued.

YES: Hurt, Porath, Shumaker, Abrams, Adams, Christie, Hicks
NO: None. Motion Declared Carried.

Building Department, Trade Inspections

(Discussion Topic)

Presentation by Building Inspector Rob Kehoe and Assistant City Manager Adam Zettel.

**Special Land Use Permit, Essential Public Services, M.T.A., Parcel Identifications:
3462 South Dye Rd 58-29-551-021, 5304 Miller Rd 58-29-551-019, 5314 Miller Rd 58-
29-551-018, 5324 Miller Rd 58-29-551-017**

Mayor Abrams made a statement that he is a member of the M.T.A. Board of Directors, serving as the Secretary Treasurer and the Chairman of the Board's Finance Committee. While on the Board he has been nominated Representative of the Genesee County Small Cities and Villages Association and subsequently appointed by the Genesee County Board of Commissioners. This declaration was made at the Swartz Creek Planning Commission meeting where the M.T.A. special land use and site plan request was reviewed and acted upon. He was informed that no conflict of interest was assumed and that he could be involved in the ensuing discussion and recommendations. He asked if the Council and City Attorney concur with the finding at the Planning Commission that there was no conflict of interest then and now if he discusses and votes on this resolution. He referred to Mr. Figura first who agreed with the Planning Commission that there was no conflict. The City Council also agreed.

Resolution No. 071210-05

(Carried)

Motion by Councilmember Adams
Second by Councilmember Hurt

I Move the City of Swartz Creek approve the Special Land Use request, essential public service for a transportation service center, by the Mass Transportation Authority, 1401 S. Dort Hwy, Flint, Michigan, 48506 for parcels 3462 Dye Road 58-29-551-021, 5304 Miller Road 58-29-551-019, 5314 Miller Road 58-29-551-018, 5324 Miller Road 58-29-551-017, subject to the following conditions:

- 1). The Special Land Use shall apply to only those parts of the parcels that are a part of the site plan revised 11-06-07 pending official lot splits and combinations and the designation of a new parcel identification number.

- 2). The facility shall be owned and operated by the public authority, MTA.
- 3). That the black vinyl fence requirement shall be upheld

YES: Porath, Shumaker, Abrams ,Adams, Christie, Hicks, Hurt
 NO: None. Motion Declared Carried.

Final Site Plan Approval, M.T.A., Parcel Identifications: 3462 South Dye Road 58-29-551-021, 5304 Miller Road 58-29-551-019, 5314 Miller Road 58-29-551-018, 5324 Miller Road 58-29-551-017

Resolution No. 071210-06

(Carried)

Motion by Councilmember Hurt
 Second by Councilmember Adams

I Move the City of Swartz Creek approve the November 15, 2007 MTA site plan for parcels 3462 Dye 58-29-551-021, 5304 Miller Road 58-29-551-019, 5314 Miller Road 58-29-551-018, 5324 Miller Road 58-29-551-017, subject to the following conditions:

- 1). Approval by staff of all items in the Progressive letter addressed November 30, 2007
- 2). Approval by staff of all items in the Rowe letter addressed November 28, 2007 except section C-1, part 2.
- 3). Approval of any and all required construction documents, performance bonds, other governmental permitting, and any and all items required by the zoning ordinance, the engineering standards manual, and the special land use requirements not otherwise waived.

Discussion took place.

YES: Shumaker, Abrams, Adams, Hicks, Hurt, Porath
 NO: Christie. Motion Declared Carried.

Overhead Utility Reorganization Project

Resolution No. 071210-07

(Carried)

Motion by Councilmember Porath
 Second by Councilmember Adams

WHEREAS, the City of Swartz Creek was incorporated in 1959 as parts of three

surrounding rural townships; and

WHEREAS, prior to its incorporation, Swartz Creek's land use, streets and rights of way were largely unregulated; and

WHEREAS, baseline overhead utility infrastructure, consisting of electrical and telephone communication lines, were installed in rights of way long before the City was incorporated; and

WHEREAS, the City is a nucleus for a variety of overhead and underground utilities that seem to cluster and concentrate and then filter into surrounding townships; and

WHEREAS, growth sprawl in surrounding townships has ballooned over several decades causing additions to baseline overhead utilities located within the City rights of way; and

WHEREAS, the City has been increasingly concerned over the last two decades that capital repairs and upgrades to overhead utilities have suffered in the wake of supplying service to meet increasing demands; and

WHEREAS, in the summer of 2007, the City conducted an inventory of overhead utilities in several sections of the City and identified and documented numerous concerns posing safety risks, consisting of, but not limited to, poor workmanship, out of code makeshift repairs, unfinished work, open and exposed bare wires, damaged junction boxes, unstable and eroded poles and abandoned structures, and further, negative aesthetic and subsequent economic impact that cannot be quantified; and

WHEREAS, the City has been unsuccessful in the regular course of business in addressing concerns with companies that own or are responsible for the maintenance, upgrade and repair of such overhead utilities and further, state and federal legislation have eliminated the City's authority to regulate and police overhead utility infrastructure thus leaving little remedy to address safety and aesthetic concerns.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek direct the City Attorney and City Manager to seek address of the concerns as identified within, up to and including litigation, and further, solicit and locate expert witnesses and consultants to assist with additional evaluation, documentation and testimony, and further, develop a plan with all such recommendations to be brought back before the Council for action.

BE IT FURTHER RESOLVED, that the City of Swartz Creek appropriate an amount not to exceed \$50,000 from unencumbered unreserved General Fund balance, funds to be used for legal fees and associated pre-litigation investigation and expert consulting, and further, direct the City Manager to make the necessary budget

amendments and account creations to set up a new project.

Discussion took place.

YES: Abrams, Adams, Christie, Hicks, Hurt, Porath, Shumaker
NO: None. Motion Declared Carried.

As previously mentioned, Councilmember Porath had to leave the Council meeting after voting on the above resolution.

Appropriation, 2008 Annual F.A.N.G. Dues

Resolution No. 071210-08

(Carried)

Motion by Mayor Pro Tem Christie
Second by Councilmember Hicks

I Move the City of Swartz Creek appropriate and approve the expenditure in an amount not to exceed \$8,368 from Fund 265, the City's annual fees for membership of the Flint Area Narcotics Group.

YES: Adams, Christie, Hicks, Hurt, Shumaker, Abrams
NO: None. Motion Declared Carried.

MEETING OPENED TO THE PUBLIC:

City Manager Bueche introduced Cameron Milbrot, who is observing for the boy scouts.

Ron Schultz, 4279 Springbrook, wanted to speak about the building inspectors. He feels that the Council should "dig deep" into this. Mr. Schultz has been a contractor for more than 40 years. Mr. Schultz stated that he would like to be on the committee, if one is formed, to have some input on it.

REMARKS BY COUNCILMEMBERS:

Councilmember Shumaker commented on the building inspectors presentation. He stated that in some levels of trades, there are different levels of licenses. He agreed with Mr. Schultz that the Council should "look before we leap" on the inspector issue. Mr. Shumaker talked about renting out an antenna on the 140 ft water tower. He felt that the rates should be reviewed next time.

Councilmember Hicks thanked Tom Svrcek, Connie Eskew, and Amy Nichols for helping with the open house. Ms. Hicks also thanked Jim Florence for his help at the Senior Center.

Councilmember Adams spoke about all of the work that goes into the Christmas parade and the open house. He stated that he thought it was really nice again this year. Mr. Adams also spoke about the building inspectors. He questioned the fees and why would the City want to do this as opposed to letting the State continue to do it. Mr. Adams spoke about the overhead utilities. He believes that the City has a good argument for considering litigation. Mr. Adams questioned whether the new police dog found some drugs at the high school. City Manager Bueche stated that there were drugs found on a traffic stop. Mr. Adams stated that Mr. Saroki from Marathon is supposed to be at the next meeting.

Councilmember Hurt questioned whether the bill from Marathon has been paid as yet. Mr. Bueche stated that a small amount of cleanup has been done, but nothing else.

Mayor Pro Tem Christie thought the DDA report was interesting and that a great job was being done.

The Mayor talked about the Fire Department Consolidation meeting that he attended.

ADJOURNMENT:

There being no objection, Mayor Abrams declared the meeting adjourned at 8:50 p.m.

Richard B Abrams, Mayor

Juanita Aguilar, City Clerk