

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE COUNCIL MEETING
DATE 02/09/2009**

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: Abrams, Binder, Hicks, Hurt, Krueger, Porath, Shumaker.

Councilmembers Absent: None.

Staff Present: City Manager Paul Bueche, Assistant City Manager Adam Zettel, Deputy City Clerk/Finance Officer Mary Jo Clark, City Attorney Richard Figura.

Others Present: Tommy Butler, Bob Plumb, Boots Abrams, Steve Shumaker, Pat Lockwood.

Mayor Abrams introduced Commissioner Pat Lockwood who made a brief presentation about the County's Neighborhood Revitalization Program, which is a federally funded program to help communities with foreclosed houses. Ms. Lockwood stated that the planning department at the County must be contacted by Friday, February 13, 2009 if communities are interested in the program.

Discussion Took Place.

APPROVAL OF MINUTES

Resolution No. 090209-01

(Carried)

Motion by Mayor Pro-Tem Porath
Second by Councilmember Hurt

I Move the Swartz Creek City Council hereby approve the Minutes for the Regular Council Meeting, held January 26, 2009, as amended, to be circulated and placed on file.

YES: Binder, Hicks, Hurt, Krueger, Porath, Shumaker, Abrams.
NO: None. Motion Declared Carried.

APPROVAL OF AGENDA

Resolution No. 090209-02

(Carried)

Motion by Councilmember Krueger
Second by Councilmember Shumaker

I Move the Swartz Creek City Council approve the Agenda, as printed, for the Regular Council Meeting of February 9, 2009 to be circulated and placed on file.

YES: Hicks, Hurt, Krueger, Porath, Shumaker, Abrams, Binder.
NO: None. Motion declared carried.

REPORTS AND COMMUNICATIONS:

City Manager's Report

Resolution No. 090209-03

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the City Manager's Report of February 9, 2009, to be circulated and placed on file.

Discussion Took Place.

YES: Hurt, Krueger, Porath, Shumaker, Abrams, Binder, Hicks.
NO: None. Motion declared carried.

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

MEETING OPENED TO THE PUBLIC:

Boots Abrams talked about the lights being dim in the parking lot of the fire station.

Councilmember Shumaker made a presentation to Rowe Engineering from the Veteran's Memorial Committee to thank them for all of their help and work that they donated to the Memorial.

Jim Florence, 4296 Springbrook, on behalf of the Senior Center, thanked the Mayor for his years of service to the Swartz Creek Area Senior Center.

COUNCIL BUSINESS:

Updates: Stimulus, NSP, Morrish Property, CDBG Project, Appraisals

Discussion Topic

Assistant City Manager Zettel gave a brief presentation on the Neighborhood Stabilization Program and the Economic Stimulus Package

Mr. Zettel also spoke about the City owned property located at 5189 Morrish Road. He stated that it would take about \$15,000 to \$20,000 to make the property ready to be rented out and he feels it may make more sense to demolish it.

Mr. Zettel talked about the commercial appraisals that Landmark Appraisals did for the City.

CDBG Elms Road Enhancement Project

Resolution No. 090209-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek, on July 14, 2008, amended the three year Community Development Block Grant Distribution in the total amount of \$37,672, and authorized these funds to be allocated as follows: 15% to the Swartz Creek Senior Citizens Operations in the amount of \$5,650.08, and the remaining 85% to the Elms Road Enhancement Project in the amount of \$32,021.02; and

WHEREAS, the Elms Road Enhancement Project consists of lighting, landscaping, and other streetscape amenities; and

WHEREAS, all CDBG projects must be approved by the GCMPC to be bid in accordance with federal statute; and

WHEREAS, Consumers Energy is, by contract, the sole provider of public lighting services on city streets and is solely responsible for all installation of new lines and lights and is therefore exempt from the bidding process; and

WHEREAS, a price quotation for the lighting portion of the Project, as designed by the City's engineer has been received in the amount of \$21,237.23.

NOW, THEREFORE, the City of Swartz Creek hereby approves the lighting portion of the Project as designed and quoted for immediate construction and directs staff to seek bids on the remaining portion of the Project.

Discussion Took Place.

YES: Krueger, Porath, Shumaker, Abrams, Binder, Hicks, Hurt.
NO: None. Motion Declared Carried.

2010 Application T.I.P. Projects

Resolution No. 090209-05

(Carried as Amended)

Motion by Councilmember Binder
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek is a local government unit eligible to receive funding under the Transportation Improvement Program; and,

WHEREAS, the City of Swartz Creek, through working with its consultants, administrative staff and the Genesee County Metropolitan Planning Commission's Transportation Section, have identified the need to repair or improve the following Federal Aid Eligible Major Streets:

1. Miller Road from Elms Road to Tallmadge Court
2. Miller Road from Elms Road to Seymour
3. Bristol Road from the General Motors SPO Plant to Miller Road
4. Trail project from Heritage Subdivision to Elms Park

WHEREAS, the Swartz Creek City Council has considered the making of such repairs and improvements in open session following the hearing of comments on the need for the improvements from the city's engineer and administrative staff;.

NOW THEREFORE BE IT RESOLVED, the City of Swartz Creek hereby approves and submits the following applications for street repair for 2010-2013 Genesee County Transportation Improvement Projects (T.I.P.) funding:

1. Miller Road from Elms Road to Tallmadge Court
2. Miller Road from Elms Road to Seymour
3. Bristol Road from the General Motors SPO Plant to Miller Road
4. Trail project from Heritage Subdivision to Elms Park

Amendment to Resolution No. 090209-05

Motion by Councilmember Hurt
Second by Mayor Pro-Tem Porath

I Move that the Swartz Creek City Council add the following street to the list for T.I.P funding:

5. Miller Road from Tallmadge Court to Dye Road.

YES: Porath, Shumaker, Abrams, Binder, Hicks, Hurt, Krueger.
NO: None. Motion Declared Carried.

Discussion Ensued.

Vote on Original Resolution as Amended

YES: Shumaker, Abrams, Binder, Hicks, Hurt, Krueger, Porath.
NO: None. Motion Declared Carried.

Elms Road Project County Road Commission Agreement, Match Funding Split

Resolution No. 090209-06

(Carried)

Motion by Councilmember Hurt
Second by Councilmember Hicks

WHEREAS, the City applied for and received Federal Aid Funding for the reconstruction and repair of Elms Road between I-69 and the north City Limit; and

WHEREAS, the project was designed, bid, awarded and constructed in the summer of 2008; and

WHEREAS, a 1,300' section of the project is a border road that divides the City from the Township, the road jurisdiction under the control of the Genesee County Road Commission; and

WHEREAS, the City's staff has negotiated with the County Road Commission and reached an agreement that provides for a 50-50 split of the match portion of the cost of the 1,300' section of the border road, the total cost being \$48,963, the City and the County's share being \$24,481.53 each.

NOW, THEREFORE, I MOVE the City of Swartz Creek enter into a letter of understanding with the Genesee County Road Commission to split the match portion of the 1,300' border section of the Elms Road Project, in accordance with the cost projections attached hereto, and further, prepare and send an invoice in the amount of \$24,481.53, funds to be returned to 202 major Streets.

Discussion Took Place.

YES: Abrams, Binder, Hicks, Hurt, Krueger, Porath, Shumaker.
NO: None. Motion Declared Carried.

Polling Agreement, United Methodist Church

Resolution No. 090209-07

(Carried)

Motion by Mayor Pro-Tem Porath
Second by Councilmember Hurt

I Move the City of Swartz Creek approve the location of the City's polling place, inclusive of precincts one, two, three and four, at the United Methodist Church, 7400 Miller Road, and further, direct the Mayor and City Clerk to execute an agreement on behalf of the City that sets forth terms and conditions for the use of the facilities, as follows:

POLLING PLACE AGREEMENT

CITY OF SWARTZ CREEK And UNITED METHODIST CHURCH

This agreement is made this 9th day of February, 2009 by and between the City of Swartz Creek, a Michigan Municipal Corporation, with principal offices at 8083 Civic Drive, Swartz Creek, Michigan 48473 ("City") and the United Methodist Church of Swartz Creek, an Ecclesiastical Corporation, with principal offices at 7400 Miller Road, PO Box 268, Swartz Creek, MI 48473 ("Church" or "Owner")

WHEREAS, the City is in need of a conveniently located facility with sufficient size to serve as a polling place for various elections conducted by the City; and

WHEREAS, the Owner has a building located at 7400 Miller Road, Swartz Creek, MI 48473 which building has sufficient space for the efficient conduct of elections;

NOW, THEREFORE, the City and the Owner, acting by and through their duly authorized representatives, hereby AGREE AS FOLLOWS:

1. The owner will make available to the City sufficient space in its building located at 7400 Miller Road, Swartz Creek, MI 48473 (the "Facility") for the City to establish a polling place and to conduct City and school elections therein.
2. The space provided within the Facility shall be sufficient to accommodate voters as well as house the election workers and election equipment necessary to conduct a City election and/or a school election. To that end, school elections held on dates other than those on which a City election is held may be held in the so called "Johnson Room" which is located in the northern most room in the newest building addition, with general elections being held in the gym which is significantly larger.
3. The elections for which the City will use the Facility are:
 - a) The February regular election held on the fourth Tuesday in February;
 - b) The May regular election held on the first Tuesday after the first Monday in May;
 - c) The August regular election held on the first Tuesday after the first Monday in August;
 - d) The November regular election held on the first Tuesday after the first Monday in November; and
 - e) Other dates for special elections held in accordance with the Michigan Election law.
4. For each said election, the Owner shall make the space in the Facility available to the City one-half (½) day before the scheduled election date and no later than 1:00 PM, and for no more than one-

half (½) day after each scheduled election date, up to 11:00 AM. Said dates will be extended whenever reasonably possible if such extension is necessary due to a change in the standard election procedures. Additional fees for such an extension may be decided by the parties. The City will need to have access to the facility by 6:00 A.M. of an election day. It is anticipated that the City personnel will vacate the facility by 10:00 P.M. of an election day. Table and chair set-up arrangements will be provided for by the Church, upon advance submittal of a diagram.

5. The City shall pay the Owner the sum of Seven-Hundred & Fifty Dollars (\$750) for each time the City uses the Johnson Room for an election and One-Thousand Dollars (\$1,000) for each time the City uses the gym for an election.
6. The term of this agreement extends until December 31, 2013, however, either party may terminate this agreement for any reason upon giving the other party One Hundred Eighty (180) days written notice of such termination. In the event the Church elects to terminate this agreement, notice of such shall be sent to the City Clerk by certified-registered mail, return receipt requested.
7. The Owner shall take all reasonable steps to ensure that the Facility is maintained in such a condition that election workers and voters will be able to conduct their activities at the Facility in a safe manner. If additional snow removal services are needed, other than that which may be provided by the Church, the City of Swartz Creek reserves the right to remove snow from any parking lot or sidewalk that may be needed to conduct election services. The removal of snow shall be without cost to the Church.
8. The City shall take all reasonable steps to ensure that its election workers do not create any nuisance at the Facility or create any condition which would present a danger to persons using the Facility.
9. Each party will indemnify and hold the other party harmless for any damages to persons or property occasioned by, and to the extent of, its negligence.
10. The Church shall maintain a general liability insurance policy covering injuries to persons and property for persons using its Facility in an amount acceptable from time to time to the City Manager, but in no event less than One-Million Dollars (\$1,000,000) per occurrence and Two-Million Dollars Aggregate, and shall list the City as an additional insured on said policy.
11. The City shall maintain a general liability insurance policy covering injuries to persons property for persons using the Facility for activities in connection with a City election. Such insurance shall be in an amount no less than One-Million Dollars (\$1,000,000) per occurrence and Two-Million Dollars Aggregate, and shall list the Owner as an additional insured on said insurance policy.
12. The Owner shall maintain a policy of fire and casualty insurance on the Facility and such insurance coverage shall cover any equipment and other property of the City while such equipment and property is at the Facility for the purposes of this agreement.

13. The City shall provide casualty and property damage insurance coverage for its equipment and other property placed on the premises of the facility for the purposes of this agreement.

14. Except as stated in Section 6, any notices required to be given by either party to this agreement to the other shall be sufficient if given in writing and deposited in a United States Postal Service mailbox with sufficient first class postage thereon and addressed to:

a. For the City:

Clerk, City of Swartz Creek
City Manager, City of Swartz Creek
8083 Civic Drive,
Swartz Creek, Michigan 48473

With a copy to:

Richard J. Figura, Esq.
SIMEN, FIGURA & PARKER, P.L.C.
5206 Gateway Centre Blvd, Ste. 200
Flint, MI 48507

b. For the Owner:

Rev. Dr. J. D. Landis
Pastor
United Methodist Church of Swartz Creek
7400 Miller Road
PO Box 268
Swartz Creek, MI 48473

15. This is the entire agreement between the parties regarding the City's use of the Facility for staging a polling place for elections and no other agreement regarding same is valid or enforceable unless such agreement is in writing as an amendment hereto.

(Signature Page to Follow)

CITY OF SWARTZ CREEK

**UNITED METHODIST CHURCH
OF SWARTZ CREEK**

Richard B. Abrams, Mayor

Ivan Brouwer, Chairman-Board

Juanita Aguilar, City Clerk

Rev. John D. Landis, Pastor

approved as to form:
Richard J. Figura, City Attorney
Feb 9, 2009

Discussion Ensued.

YES: Binder, Hicks, Hurt, Krueger, Porath, Shumaker, Abrams.
NO: None. Motion Declared Carried.

C.D.B.G. Designation of Authorization

Resolution No. 090209-08

(Carried)

Motion by Councilmember Krueger
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek participates in the Genesee County Community Development Program; and

WHEREAS, the Genesee County Community Development Program has requested that we update our authorized card.

NOW, THEREFORE, BE IT RESOLVED that the following individuals be authorized to request reimbursement from the Community Development Block Grant Program:

1. Juanita Aguilar, City Clerk
2. Mary Jo Clark, Finance Director
3. Adam Zettel, Local Program Coordinator, Zoning Administrator, Assistant City Manager

Discussion Ensued.

YES: Hicks, Hurt, Krueger, Porath, Shumaker, Abrams, Binder.

NO: None. Motion Declared Carried.

Appropriation, Commercial & Industrial Property Re-Appraisal

Resolution No. 090209-09

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the City of Swartz Creek appropriate an amount not to exceed \$4,250 to the City’s contract assessor, LandMark Appraisal, final payment installment for the re-appraisal of all Commercial and Industrial Properties.

Discussion Took Place.

YES: Hurt, Krueger, Porath, Shumaker, Abrams, Binder, Hicks.

NO: None. Motion Declared Carried.

MEETING OPENED TO THE PUBLIC

City Attorney Dick Figura reminded the Council that if they send e-mail messages back and forth to each other, the communication should be on a one to one basis and that when they reply to a message, reply only to that person and not to all as it would violate the open meetings act.

REMARKS BY COUNCILMEMBERS:

Councilmember Krueger commended Mayor Abrams on his recognition of the potential conflict of interest with the Senior Center and his decision to step down from his position on the Senior Center Board in order to avoid a possible conflict. Mr. Krueger also stated that he liked the article that Laura Angus wrote about the Mayor and his wife.

Councilmember Shumaker agreed with Mr. Krueger about the article by Laura Angus.

Councilmember Hurt also liked the article. Mr. Hurt stated that he was impressed with an article that he read in the Swartz Creek News about the program that Clayton Township has for looking in on seniors. Mr. Hurt stated that he was impressed by the leadership shown by Clayton Township and said that he would like to see something similar in Swartz Creek.

Mayor Abrams talked about the MML seminar on April 3, 2009 in Wayne County. Mr. Abrams spoke about being a judge for the 4th and 5th graders at the Syring Elementary spelling bee. Mr. Abrams stated that the finals for the local schools will be in the Swartz Creek Council Chambers on Tuesday, February 24, 2009.

ADJOURNMENT:

There being no objection, Mayor Abrams declared the meeting adjourned at 8:25 p.m.

Richard Abrams, Mayor

Mary Jo Clark, Deputy City Clerk