

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE COUNCIL MEETING
DATE 07/27/2009**

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, City Clerk Juanita Aguilar, Assistant City Manager Adam Zettel.

Others Present: Joanne Holmquist, Boots Abrams, John & Pat Mullen, Bob & Mary Carey, Evie & Dick Deneen, Tommy Butler, Frank Skinner, Sharon Klein, Steve Shumaker, Jim Florence, Lou Fleury.

Mayor Abrams recognized Dr. Franklin Skinner, who brought a group of criminal justice students from ITT Tech.

APPROVAL OF MINUTES

Resolution No. 090727-01

(Carried)

Motion by Mayor Pro-Tem Porath
Second by Councilmember Shumaker

I Move the Swartz Creek City Council hereby approve the Minutes for the Regular Council Meeting, held July 13, 2009, as presented, to be circulated and placed on file.

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

Excuse Mayor Pro-Tem Porath, Absence from Previous Meetings

Resolution No. 090727-02

(Carried)

Motion by Councilmember Hurt
Second by Councilmember Krueger

I Move the Swartz Creek City Council hereby excuse the absence of Mayor Pro-Tem Porath from previous meetings due to work commitments.

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

APPROVAL OF AGENDA

Resolution No. 090727-03

(Carried)

Motion by Councilmember Krueger
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the Agenda, as presented, for the Regular Council Meeting of July 27, 2009 to be circulated and placed on file.

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

REPORTS AND COMMUNICATIONS:

City Manager's Report

Resolution No. 090727-04

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the City Manager's Report of July 27, 2009, to be circulated and placed on file.

Discussion Ensued.

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

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

MEETING OPENED TO THE PUBLIC:

Tommy Butler, 40 Somerset, questioned the resolution to renew the lease on the police motorcycle.

Jim Florence, 4296 Springbrook, wanted to thank the City and the Council for approving the Senior Center addition.

COUNCIL BUSINESS:

Police Motorcycle Lease Renewal, Cummings Harley Davidson

Resolution No. 090727-05

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Binder

I Move the City of Swartz Creek approve a 12 month lease with Cummings Harley-Davidson of Burton, Michigan, for one (1) HD Road King police motorcycle, under the terms and conditions as set forth in the Lease Agreement, a copy of which is attached hereto, and further, direct the Mayor and City Clerk to execute the agreement on behalf of the City of Swartz Creek.

Discussion Took Place.

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

Morrish Road South Project, MDOT Construction Agreement, ARRA Funded

Resolution No. 090727-06

(Carried)

Motion by Councilmember Binder
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek is a Local Governmental Unit and recognized Street Authority eligible to receive funding from the Michigan Department of Transportation and the Federal Highway Administration; and,

WHEREAS, the City of Swartz Creek is a member of the Genesee County Metropolitan Planning Alliance, an urban transportation planning cooperative charged with allocating funds to eligible street authorities in Genesee County; and

WHEREAS, the City of Swartz Creek has identified a need to make rehabilitative repairs to a section of South Morrish Road between I-69 and the CNA Rail Crossing near the City's South Corporate Limits, in conformance with the design plans prepared by the City's consulting engineer and approved by the Michigan Department of Transportation; and,

WHEREAS, the Genesee County Metropolitan Alliance and the Swartz Creek City Council has considered the making of such repairs in open session following the review of documents and the hearing of comments on the need from the city's engineer, staff and from the public, and further, design engineering plans have been drafted, submitted and approved by the Michigan Department of Transportation; and,

WHEREAS, the South Morrish Road Rehabilitative Repair Project has been obligated for funding and scheduled for bid through the Michigan Department of Transportation using funds procured from the American Recovery and Reinvestment Act of 2009, funding maximum 100% limited at \$300,000.

NOW, THEREFORE, be it resolved that the City of Swartz Creek approves the project as designed and accepted by the Michigan Department of Transportation, and further, authorize Mayor Richard Abrams and City Clerk Juanita Aguilar to

execute an agreement with the Michigan Department of Transportation, MDOT Contract #09-5431, Control Section #ARU-25402, Job #106187, a copy of which is attached hereto.

Discussion Took Place.

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

NO: None. Motion Declared Carried.

Adopt Ordinance # 403-Building Trades, Electrical, Plumbing & Mechanical

Resolution No. 090727-07

(Carried)

Motion by Councilmember Hurt
Second by Councilmember Krueger

I Move the City of Swartz Creek adopt Ordinance #403, an ordinance to amend the code of ordinances of the City of Swartz Creek to designate an enforcing agency to discharge the responsibility of the City of Swartz Creek, located in Genesee County, under the provisions of the State Construction Code, 1972 pa 230, for the enforcement of the Michigan Mechanical Code, the Michigan Electrical Code and the Michigan Plumbing Code, as follows:

CITY OF SWARTZ CREEK

Ordinance No. 403

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK TO DESIGNATE AN ENFORCING AGENCY TO DISCHARGE THE RESPONSIBILITY OF THE CITY OF SWARTZ CREEK, LOCATED IN GENESEE COUNTY, UNDER THE PROVISIONS OF THE STATE CONSTRUCTION CODE, 1972 PA 230, FOR THE ENFORCEMENT OF THE MICHIGAN MECHANICAL CODE, THE MICHIGAN ELECTRICAL CODE AND THE MICHIGAN PLUMBING CODE.

The City of Swartz Creek Ordains:

Section 1 Amendment of Title to Chapter 4, Article II.

The Code of Ordinances of the City of Swartz Creek is hereby amended to change the title to Article II of Chapter 4 to be "Building, Mechanical, Electrical and Plumbing Codes."

Section 2. Addition of Section 4-23, 4-24, 4-25 and 4-26.

The Code of Ordinances of the City of Swartz Creek is hereby amended to add thereto new sections 4-23, 4-24, 4-25 and 4-26 to read as follows:

Sec. 4-23 Adoption of Michigan Mechanical Code.

Pursuant to the provisions of the Michigan Mechanical Code, in accordance with Section 8b(6) of 1972 PA 230, the Mechanical Code Official of the City of Swartz Creek is hereby designated as the enforcing agency to discharge the responsibility of the City of Swartz Creek under 1972 PA 230, State of Michigan. The City of Swartz Creek assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Sec. 4-24 Adoption of Michigan Electrical Code.

Pursuant to the provisions of the Michigan Electrical Code, in accordance with Section 8b(6) of 1972 PA 230, the Electrical Code Official of the City of Swartz Creek is hereby designated as the enforcing

agency to discharge the responsibility of the City of Swartz Creek under 1972 PA 230, State of Michigan. The City of Swartz Creek assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Sec. 4-25 Adoption of Michigan Plumbing Code.

Pursuant to the provisions of the Michigan Plumbing Code, in accordance with Section 8b(6) of 1972 PA 230, the Plumbing Code Official of the City of Swartz Creek is hereby designated as the enforcing agency to discharge the responsibility of the City of Swartz Creek under 1972 PA 230, State of Michigan. The City of Swartz Creek assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

Sec. 4-26 Violations.

Any violations of the Building Code shall be municipal civil infractions and shall be subject to the sanctions and penalties provided for in Chapter 1, Article II of this Code of Ordinances. Any violations of the Mechanical Code, the Electrical Code and/or the Plumbing Code shall be misdemeanors and shall be subject to the penalties and sanctions provided for in each such code.

Section 3. Repeal.

All ordinances inconsistent with the provisions of this ordinance hereby repealed.

Section 4. Effective Date.

This ordinance shall take effect on September 1, 2009

Moved: Councilmember Hurt
Second: Councilmember Krueger
Voting For: Abrams, Binder, Hicks, Hurt, Krueger, Porath, Shumaker.
Voting Against: None.
Absent: None.

The Mayor declared the ordinance adopted.

Richard B. Abrams, Mayor

Juanita Aguilar, City Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 403 which was enacted by the Swartz Creek City Council at a regular meeting held on the 27TH day of July, 2009.

Juanita Aguilar
City Clerk

Publish Date: August 9, 2009
Paper: The Swartz Creek News
Effective Date: September 1, 2009

Discussion Ensued.

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

Miller & I-69 Repair Project

(Discussion Topic)

City Manager Bueche gave a brief update on the project.

Adopt Ordinance #402, Municipal Civil Infraction Sanctions

Resolution No. 090727-08

(Carried)

Motion by Mayor Pro-Tem Porath
Second by Councilmember Hurt

I Move the City of Swartz Creek adopt an ordinance to amend the code of ordinances of the City of Swartz Creek to add thereto a new section 1-26 to provide for sanctions and penalties for the violation of any provision of the code of ordinances where such violation is a municipal civil infraction, as follows:

CITY OF SWARTZ CREEK

Ordinance No. 402

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SWARTZ CREEK TO ADD THERETO A NEW SECTION 1-26 TO PROVIDE FOR SANCTIONS AND PENALTIES FOR THE VIOLATION OF ANY PROVISION OF THE CODE OF ORDINANCES WHERE SUCH VIOLATION IS A MUNICIPAL CIVIL INFRACTION.

The City of Swartz Creek ordains:

Section 1. Amendment of Chapter 1, Article II of the Code of ordinances to add thereto a new section 1-26.

Article II of Chapter 1 of the Code of Ordinances of the City of Swartz Creek is hereby amended to add thereto a new section 1-26 to read as follows:

Sec. 1-26 Penalties and Sanctions.

A. Unless provided otherwise in a specific ordinance, and except as provided in Subsection B, below, for municipal civil infraction violation notices paid at the Bureau, the sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided below, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, et seq], and other applicable laws.

1. Unless otherwise specifically provided for a particular municipal civil infraction violation by any other City ordinance, the civil fine for a violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction
2. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this or any other City ordinance. As used in this section, Arepeat offense@ means a second (or any subsequent) municipal infraction violation of the same requirement or provision (i) committed by a person within any twelve-month period (unless some other period is specifically provided by this Code or any other City ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this or any other City ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - a. The fine for any offense which is a repeat offense shall be no less than \$200.00, plus costs.
 - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$300.00, plus costs.

- B. Schedule of civil fines for municipal civil infraction violation notices payable at the Bureau.
 - 1. Where a municipal civil infraction violation notice is issued, unless otherwise specifically provided for a particular municipal civil infraction violation by any other City ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$75.00.
 - 2. Where a municipal civil infraction violation notice is issued for the second violation of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other City ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$150.00.
 - 3. Where a municipal civil infraction violation notice is issued for the third or subsequent violation of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other City ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$250.00.
- C. A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any other City ordinance; and any omission or failure to act where the act is required by this Code or any other City ordinance.
- D. Each day on which any violation of this Code or any other City ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- E. In addition to any remedies available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code or any other City ordinance.

Section 2. Repeal.

All ordinances inconsistent with the provisions of this ordinance hereby repealed.

Section 3. Effective Date.

This ordinance shall take effect on September 1, 2009

Moved: Mayor Pro-Tem Porath
 Second: Councilmember Hurt
 Voting For: Binder, Hicks, Hurt, Krueger, Porath, Shumaker, Abrams.
 Voting Against: None.
 Absent: None.

The Mayor declared the ordinance adopted.

 Richard B. Abrams, Mayor

 Juanita Aguilar, City Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 402 which was enacted by the Swartz Creek City Council at a regular meeting held on the 27TH day of July, 2009.

 Juanita Aguilar
 City Clerk

Publish Date: August 9, 2009
Paper: The Swartz Creek News
Effective Date: September 1, 2009

Discussion Took Place.

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

Michigan Green Communities Challenge

Resolution No. 090727-09

(Carried)

Motion by Councilmember Krueger
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek wants to emphasize the benefits of energy efficiency and conservation; and

WHEREAS, the City wants to demonstrate that energy efficiency and conservation practices can be applied to the daily governmental operations and to infrastructure projects; and

WHEREAS, the City seeks to find methods of service delivery and operations that conserve energy and resources, saving taxpayer dollars and protecting and preserving the environment; and

WHEREAS, the City recognizes that sound energy efficiency and conservation practices can reduce government cost over the long-term; and

WHEREAS, the City will lead by example to show the practicality and effectiveness of these practices; and

WHEREAS, the City seeks to encourage its citizens and businesses to initiate stewardship activities that benefit the environment and their community.

NOW, THEREFORE, BE IT RESOLVED THAT, the City of Swartz Creek hereby accepts the Michigan Green Communities Challenge and pledges to work toward achieving the goals of the Basic Challenge over the next three years.

Discussion Ensued.

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

2009-2010 Budget Amendment

(Discussion Topic)

City Manager Bueche went over the new budget amendments with the City Council.

MEETING OPENED TO THE PUBLIC

Senator Gleason spoke about the current state of our economy.

Joanne Holmquist, 5373 Miller Rd, talked about her history in the City. Ms. Holmquist stated that she feels that the current and past City Council members have been the most prudent, fiscally frugal people that she has seen in office. Ms. Holmquist commended City Manager Bueche for his work for the City. Ms. Holmquist stated that she is upset that such a major portion of the City’s Public Safety is being lost. Ms. Holmquist suggested a town meeting to bring forth people who could help the community at no cost to the City. Ms. Holmquist also offered her services to help the City. Ms. Holmquist stated that she is very proud to live in the City of Swartz Creek.

Boots Abrams stated that the Women’s Club was still having the Bike-A-Thon for Ike the police dog.

Michelle Baird, ITT Tech student, questioned why public safety is cut first before anyone on the staff or council takes a pay cut. Mayor Abrams advised that the Council has requested a 20% pay cut and it is under review at this time.

Frank Skinner, ITT Tech Chair for Criminal Justice, spoke to the Council about using some of the students as interns to help the City at no cost.

REMARKS BY COUNCILMEMBERS:

Councilmember Shumaker spoke to Senator Gleason’s comments.

Councilmember Krueger apologized to the ITT students for the meeting not sounding favorable to their career choices. Mr. Krueger assured them that the City has cut everything possible prior to looking at public safety.

ADJOURNMENT:

There being no objection, Mayor Abrams declared the meeting adjourned at 8:45 p.m.

Richard Abrams, Mayor

Juanita Aguilar, City Clerk