

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE COUNCIL MEETING
DATE 04/11/2011**

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, DPS Director Tom Svrcek, Attorney Michael Gildner.

Others Present: Bob Plumb, Boots Abrams, Sharon Shumaker, Tommy Butler, Rose Keen, Beth Stark, Ron Schultz, Jim Florence, Mary Ann McCarthy, Jan Elmore, Swartz Creek Poms, Don Adams, Patty Reed.

APPROVAL OF MINUTES

Resolution No. 110411-01

(Carried)

Motion by Councilmember Porath
Second by Councilmember Hurt

I Move the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting, held March 28, 2011, 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. 110411-02

(Carried)

Motion by Mayor Pro-Tem Krueger
Second by Councilmember Binder

I Move the Swartz Creek City Council approve the Agenda, as printed, for the Regular Council Meeting of April 11, 2011 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. 110411-03

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the City Manager's Report of April 11, 2011, to be circulated and placed on file.

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:

The Mayor presented a proclamation to the Swartz Creek Varsity Poms Squad for winning the 2011 National Dance Alliance Championship.

Mayor Abrams presented a proclamation for National Library Week.

Beth Stark, 5037 First Street, questioned why the Farmer's Market was cancelled for this year. City Manager Bueche stated that the main reason is money, and the second reason is all of the other markets around made it hard to find vendors. Ms. Stark volunteered her time to help run the market. Ms. Stark spoke about a low hanging wire near her house that she has been unable to get help with.

Ron Schultz, 4279 Springbrook, complained about the Kroger store stacking mulch in front of the store.

Patty Reed, Fairchild Street, complained about businesses and homeowners that don't shovel their sidewalks.

Council Business

Adopt Ordinance #407; Regulate Medical Marijuana Dispensaries & Growing Facilities

Resolution No. 110411-04

(Not Passed)

Motion by Mayor Pro-Tem Krueger
Second by Councilmember Porath

I Move the Swartz Creek City Council table Ordinance #407 until such time as the changes to the State law are determined.

YES: Krueger, Porath, Binder.

NO: Shumaker, Abrams, Hicks, Hurt. Motion not passed

Resolution No. 110411-05

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Porath

I Move the City of Swartz Creek adopt Ordinance No. 407, an Ordinance to amend the Zoning Ordinance of the City of Swartz Creek To Regulate Medical Marijuana Dispensaries and Growing Facilities in response to the Michigan Medical Marijuana Act of 2008, as follows:

THE CITY OF SWARTZ CREEK ORDAINS:

**CITY OF SWARTZ CREEK
ORDINANCE NO. 407**

An Ordinance To Amend The Zoning Ordinance of the City of Swartz Creek To Regulate Medical Marijuana Dispensaries and Growing Facilities in response to the Michigan Medical Marijuana Act of 2008.

THE CITY OF SWARTZ CREEK ORDAINS:

The City Council of the City of Swartz Creek hereby amends the City Zoning Ordinance as follows:

Section 1. Amendment of Section 2.07 of Article 2 of the City of Swartz Creek Zoning Ordinance.

The City Council hereby amends Section 2.07 of Article 2 of the City Zoning Ordinance by adding thereto the following new definitions:

Medical Marijuana (Marihuana) Dispensary. A medical marijuana dispensary shall mean a facility, jointly owned or operated by two or more "primary caregivers," where marijuana is stored, dispensed or offered for sale to "qualifying patients" under the Michigan Medical Marijuana Act of 2008. A "primary caregiver," "qualifying patient" and "marijuana" shall have the meanings ascribed to them in the Michigan Medical Marijuana Act of 2008.

Medical Marijuana (Marihuana) Growing Facility. A medical marijuana growing facility shall mean a facility, jointly owned or operated by two or more "primary caregivers," where marijuana is grown, cultivated, processed and/or packaged for "qualifying patients" but is not offered for direct or retail sale at this location to "qualifying patients" under the Michigan Medical Marijuana Act of 2008. A "primary caregiver," "qualifying patient" and "marijuana" shall have the meanings ascribed to them in the Michigan Medical Marijuana Act of 2008.

Section 2. Amendment of Section 14.02 of Article 14 of the City Zoning Ordinance.

The City Council hereby amends Section 14.02 of Article 14 of the City Zoning Ordinance by adding thereto a "medical marijuana dispensary" as a use permitted as a Special Land Use in the GBD, General Business zoning district.

Section 3. Amendment of Section 17.02 of Article 17 of the City Zoning Ordinance.

The City Council hereby amends Section 17.02 of Article 17 of the City Zoning Ordinance by adding thereto a “medical marijuana growing facility” as a use permitted as a Special Land Use in the I-2, Heavy Industrial zoning district.

Section 4. Amendment of Section 30.09 of Article 30 of the City Zoning Ordinance.

The City Council hereby amends Section 30.09 of Article 30 of the City Zoning Ordinance by adding thereto, under subsection (A), a “Medical Marijuana Dispensary” and “Medical Marijuana Growing Facility,” as uses requiring specific site and/or use standards.

Section 5. Amendment of Section 30.09 of Article 30 of the City Zoning Ordinance.

The City Council hereby amends Section 30.09 of Article 30 of the City Zoning Ordinance by adding thereto, under subsection (B), the following specific site and/or use standards for a “Medical Marijuana Dispensary” and “Medical Marijuana Growing Facility,” to read as follows:

Medical Marijuana Dispensary and/or Medical Marijuana Growing Facility.

A. Dispensary & Growing Facility Location Limitations. The contemplated location of any medical marijuana dispensary or growing facility shall not be permitted within 500 feet of the following uses. The distance between such uses shall be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the center of the primary entrance of the contemplated uses and the center of the primary entrance of the relevant use as follows.

1. Any other medical marijuana dispensary or growing facility;
2. Any residential district or use;
3. Any nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
4. Any church, house of worship or other religious facility or institution;

Furthermore, the contemplated location of any medical marijuana dispensary or growing facility shall not be permitted within a 1,000 foot radius of any school, public or private, and any public or municipal park.

B. Operational Limitations.

1. A medical marijuana dispensary or growing facility operation shall be limited to operating between 8:00 A.M. and 8:00 P.M., Monday through Saturday and 12:00 noon and 6:00 P.M. Sunday.
2. A medical marijuana dispensary or growing facility shall comply at all times with each and every provision of the Michigan Medical Marijuana Act of 2008 (MCL 333.26421,

et seq.), and with all provisions of federal law, as enforced.

3. *Marijuana or cannabis shall only be grown, manufactured or harvested inside a fully enclosed structure or building that is kept secured with locks to prevent unintended or uninvited access.*
4. *Persons under the age of eighteen (18) years of age are not permitted to be on the premises of any medical marijuana dispensary and/or growing facility unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan.*
5. *All employees of a medical marijuana dispensary and/or growing facility shall have a valid primary caregiver card or a valid qualifying patient card issued by the State of Michigan.*
6. *The cultivation, manufacturing, growing, packaging, storing or distribution of marijuana shall not occur in connection with or at a location at which any other commodity, product or service is also available.*
7. *A facility that is limited to selling or dispensing medical marijuana shall provide detailed information regarding the growing facility from which it receives its stock of medical marijuana and illustrate the lawful connection between the source product grower and the dispensary's qualified patients.*
8. *Marijuana shall not be smoked, eaten or otherwise consumed at any dispensary or growing facility.*
9. *The owner of a medical marijuana dispensary and/or growing facility who violates these sections shall be liable for all costs associated with the investigation, prosecution and enforcement of that violation.*

C. Site Plan Requirements. *A site plan shall be submitted, conforming to all requirements of Article 29 of the City Zoning Ordinance and which shall include the following:*

1. *Security system details which shall include, at the minimum, audible and silent alarms and video surveillance cameras.*
2. *Details regarding the building electrical system, power demands of specialized lighting and other necessary equipment, and method proposed to prevent excessive heat build-up and risk of fire within the building.*
3. *Ventilation equipment details, including fresh air intake and filtration of exhaust air to prevent offensive odors from leaving the site.*
4. *Proposed methods for controlling insects within the building and preventing insects from becoming a nuisance or health hazard off the site.*
5. *Anticipated quantity of water to be used by any proposed hydroponics growing system(s), anticipated quantity of*

wastewater to be generated, and method for treating and properly discharging wastewater so as not to become a hazard or nuisance to nearby properties.

6. A description of the operation of the dispensary or growing facility in sufficient detail to permit the City to determine if the operation, as described, would be lawful and fully compliant with the Michigan Medical Marijuana Act of 2008.

D. Inspections and Fees.

1. An application and review fee, established from time to time by resolution of the City Council, shall accompany each application for approval of a medical marijuana dispensary and/or growing facility.
2. Approved medical marijuana dispensaries and/or growing facilities shall submit annual permit renewal and facility inspection fees in amounts set by the City Council by resolution.
3. All approved medical marijuana dispensaries and/or growing facilities shall permit authorized City zoning and building inspection and/or law enforcement personnel to make unannounced, inspections for purposes of verifying compliance with all requirements of the Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and the City Zoning Ordinance, and any reasonable conditions placed upon the special land use permit by the City Council.

Section 6. Effective Date.

This ordinance shall take effect on May 24, 2011

Moved: Councilmember Hicks
Second: Councilmember Porath
Voting For: Shumaker, Abrams, Binder, Hicks, Hurt, Krueger
Voting Against: Porath
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. 407, which was enacted by the Swartz Creek City Council at a regular meeting held on the 11th day of April, 2011

Juanita Aguilar
City Clerk

Publish Date: May 1, 2011
Paper: SwartzCreek News
Effective Date: May 24,
2011

Discussion Ensued.

YES: Shumaker, Abrams, Binder, Hicks, Hurt, Krueger.
NO: Porath. Motion Declared Carried.

Amend AFSCME Collective Bargaining Agreement, Letter of Understanding

Resolution No. 110411-06

(Carried)

Motion by Councilmember Binder
Second by Councilmember Hurt

I Move the City of Swartz Creek approve a letter of understanding that amends the collective bargaining agreement between the City of Swartz Creek and AFSCME #1918-23, Section #20 (B) to provide for an additional 20 hours of absent leave, from 96 annual hours to 116 annual hours, and, Section #20 (D) to reduce the annual paid out unused absent time from 72 hours to 56 hours, the letter of understanding extending through the life of the contract only, expiring June 30, 2012.

Discussion Took Place.

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

Park Use Request, Veteran's Memorial Committee

Resolution No. 110411-07

(Carried)

Motion by Councilmember Hurt
Second by Councilmember Binder

I Move the City of Swartz Creek approve the reservation and use of Pavilion #5, the Tennis Courts and Basketball Courts in Elms Road Park on Saturday, June 4, 2011, from 8:00 AM to 8:00 PM, for the purpose of holding a fundraiser to raise capital for the purchase of statues to be placed in the City's Veterans Memorial.

Discussion Took Place.

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

Appropriation & Bid Award, Lawn Care Services

Resolution No. 110411-08

(Carried)

Motion by Councilmember Porath
Second by Councilmember Hurt

I Move the City of Swartz Creek award a contract for lawn care services to the low bidder, Royalty Landscaping Services of Byron Michigan, in the amount of \$815 per "cut", as per the specifications set forth in the bid documents, a copy of which is

attached hereto, and further, appropriate an amount sufficient to meet the payment of the award, and further, direct the City Manager to prepare and execute a contractor's agreement.

Discussion Ensued.

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

2011-2012 FY Budget

(Discussion Topic)

City Manager Bueche made a brief presentation on the 2011-2012 proposed budget.

2011-2012 FY Budget, Set Public Hearing

Resolution No. 110411-09

(Carried)

Motion by Mayor Pro-Tem Krueger
Second by Councilmember Hurt

I Move the City of Swartz Creek set a Public Hearing, to be held on Monday, May 9, 2011 at 7:00 PM, at the regularly scheduled City Council Meeting, or as soon thereafter as this matter can be heard, to hear public comments and needs regarding the Proposed 2011-2012 Fiscal Year Budget, and further, post a notice of the public hearing in the Swartz Creek News, to run on Sunday May 1, 2011, with a copy of the proposed budget to be available in the Clerk's Office beginning May 1, 2011.

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

Utility Rates, 6" Meter Users

(Discussion Topic)

City Manager Bueche gave a brief presentation on water/sewer accounts with 6" meters and possible changes in their water/sewer billing.

MEETING OPENED TO THE PUBLIC

Rick Henry questioned whether a specific route could be set up for the garbage company so that residents know when the garbage will be collected.

Don Adams, 7192 Parkridge, spoke about Elms Park. Mr. Adams mentioned that there were some younger gentlemen who are not from Swartz Creek engaged in "peculiar activities" at one of the pavilions. Mr. Adams stated that the individuals proceeded to tear up the lawn with their vehicles, shooting mud 15 to 20 feet in the air. Mr. Adams stated that he did call the police. Mr. Adams stated that more than 70% of the individuals had warrants for their arrest and were all from the City of Flint. Mr. Adams stated that he is concerned about things that are going on in Elms Park that are chasing away residents and causing expenses to the City for repairs. Mr. Adams suggested that pavilion reservations be only for City residents.

REMARKS BY COUNCILMEMBERS:

Councilmember Porath remarked that there will be many items for the Park Board to handle at their next meeting. Mr. Porath spoke about Flint Township getting money from FANG and questioned if the City was due any money. City Manager Bueche stated that the City would get its yearly dues back.

Councilmember Shumaker spoke about Elms Road park. Mr. Shumaker stated that in the 1970's it was residents only but that those residents reserved pavilions for friends and family that lived outside the City. Mr. Shumaker suggested possibly revising the reservation system. Mr. Shumaker stated that he was concerned about the FANG report.

Councilmember Hicks stated that she liked that the City is trying to plan 5 years ahead. Ms. Hicks spoke about a clean up day at the Senior Center. Ms. Hicks stated that the Senior Center is being really well taken care of and stated that she wished people took care of the parks the same way.

Councilmember Binder spoke about consolidating the City with other jurisdictions. Ms. Binder spoke about a letter she received from the Department of Agriculture.

Mayor Pro-Tem Krueger spoke about Councilmembers meeting with someone from the Governor's office. Mr. Krueger stated that he has contacted them and he is going to ask the Governor himself to come and speak.

Mayor Abrams spoke about a DDA meeting upcoming on Thursday. Mr. Abrams spoke about a no parking sign in front of Syring school that is leaning over into the right of way.

Adjournment

Resolution No. 110411-10

(Carried)

Motion by Mayor Pro-Tem Krueger
Second by Councilmember Shumaker

I Move the City of Swartz Creek adjourn the Regular Session of the City Council meeting at 9:07 p.m.

YES: Unanimous Voice Vote.
NO: None. Motion Declared Carried.

Richard Abrams, Mayor

Juanita Aguilar, City Clerk