

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE COUNCIL MEETING  
DATE 05/09/2011**

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

Invocation and Pledge of Allegiance to the Flag.

Councilmembers Present: Binder, Hicks, Hurt, Krueger, Shumaker.

Councilmembers Absent: Abrams, Porath.

Staff Present: City Manager Paul Bueche, City Clerk Juanita Aguilar, DPS Director Tom Svrcek, Finance Officer Mary Jo Clark.

Others Present: Tommy Butler, Rick Ballreich, John Mullen, Jason Gagne, Ron Schultz, Tyler McPherson, Terry O'Brien.

**Resolution No. 110509-01**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Shumaker

**I Move** the Swartz Creek City Council hereby excuse the absence of Councilmember Porath due to a work conflict, and also to excuse the absence of Mayor Abrams due to a family matter that takes him out of state.

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

**APPROVAL OF MINUTES**

**Resolution No. 110509-02**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Hurt

**I Move** the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting, held April 25, 2011, to be circulated and placed on file.

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

**APPROVAL OF AGENDA**

**Resolution No. 110509-03**

**(Carried)**

Motion by Councilmember Hicks  
Second by Councilmember Binder

**I Move** the Swartz Creek City Council approve the Agenda, as presented, for the Regular Council Meeting of May 9, 2011 to be circulated and placed on file.

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

## **REPORTS AND COMMUNICATIONS:**

### **City Manager's Report**

**Resolution No. 110509-04**

**(Carried)**

Motion by Councilmember Binder  
Second by Councilmember Hurt

**I Move** the Swartz Creek City Council approve the City Manager's Report of May 9, 2011, to be circulated and placed on file.

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

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

## **MEETING OPENED TO THE PUBLIC:**

Terry O'Brien spoke about the street sign on Holland Drive. Ms. O'Brien asked that a bigger street sign be placed so that people can easily identify the street.

## **Council Business**

Tyler McPherson explained his Eagle Scout project to the City Council.

### **Tyler McPherson, Eagle Scout Project**

**Resolution No. 110509-05**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Binder

**I Move** the City of Swartz Creek accept the recommendation of the Park Board and the DPW Director, and approve Mr. Tyler McPherson's Eagle Scout Project, in accordance with his plan as submitted, the project being the refurbish and repairs of the basketball court located in Winshall Park, and further, on behalf of the residents, extend the City's appreciation for his dedication and accomplishments.

Discussion Took Place.

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

### **Hometown Days Permits, Master Resolution**

**Resolution No. 110509-06**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Hurt

**I Move** the City of Swartz Creek approve Resolutions 110509-8B through 110509-8I, allowing for the various permits relative to the annual Swartz Creek Hometown Days events, to be held beginning Wednesday June 1, 2011, and concluding on Monday June 6, 2011, inclusive of all stipulations and conditions as specified and listed within.

### **Hometown Days, Street Carnival, General Street & Property Use Permits**

**I Move** the City of Swartz Creek approve and authorize the Swartz Creek Hometown Days Committees' application for street closing and City property use permits for the following locations:

- A. Morrish between Miller and Ingalls-Wade, Carnival Midway.
- B. Holland between Miller and Ingalls, Vendor – Carnival.
- C. City Lot located at the southwest corner of Miller and Morrish, Carnival – Midway.
- D. Ingalls at Holland and Park Land located to the North and Northwest of the intersection of Morrish and Ingalls, Carnival & Midway.
- E. City owned property located along the North side of Fortino, West of South Morrish Road, Car Show and Radio D.J., general parking.
- F. City owned property, 4438 South Morrish Road.
- G. City owned property, 4505 Fortino.
- H. Fire Hall out lot properties.

Street and City property use, unless otherwise indicated, begins Wednesday, June 1, 2011 at 9:00 a.m. until Monday June 6, 2011 at 9:00 A.M., for the purpose of, and authorization to conduct a carnival, vendor/display areas, car show and or other similar events under the following stipulations:

1. Insurance certificate naming the City as insured in the amount not less than \$1,000,000.00 (One-Million Dollars)
2. Written permission from deed holders of any private properties to be used and appropriate insurance certificates naming such parties as additional insured: William Kincaid 5086 South Morrish; Mark O'Brien 5099 South Morrish; Swartz Creek Acquisitions (Race Track) 4290 South Morrish; Swartz Creek Schools 8354 Cappy (High School Middle School); Scott Hoover 8280 Crapo; Swartz Creek Pentecostal 4494 South Morrish; Branoff Fortino Drive 58-35-576-032;

3. Sufficient number of portable bathrooms placed and located, and liter control program in accordance and under the approval of Director of Community Services.

General approval of the Chief of Police. Traffic control and pedestrian safety plan in accordance with and under the approval of office of Chief of Police.

### **Hometown Days, Amplified Concert Music Permit**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee application to conduct an outdoor concert to be held at the outdoor football stadium of the Swartz Creek High School on Friday, June 3, 2011 between 4:30 p.m. and 10:00 p.m., under the following stipulations:

1. Insurance certificate naming the City as insured in the amount not less than \$1,000,000.00 (One-Million Dollars)
2. Written authorization from the School District Superintendent along with acceptable insurance certificates naming the School District as an additional insured, minimum amount not less than \$1,000,000 (One Million Dollars)
3. General approval of the Chief of Police. Traffic control and pedestrian safety plan in accordance with and under the approval of office of Chief of Police.
4. Music to end no later than 10:00 p.m.

### **Hometown Days, Street Usage Permit, Motor and Pedestrian Parade**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committees' application for street closing / usage permit for Saturday, June 4, 2011 from 11:00 a.m. until 1:30 p.m. for purposes of conducting a parade, streets used to be Fairchild Street, Miller Rd, and Frederick St under the following stipulations:

1. Insurance certificate naming the City as an additional insured party in the amount not less than \$1,000,000.00 (One Million Dollars).
2. No candy or other objects be thrown or handed from, to or at any vehicle, trailer, float, or similar, and further, that the Hometown Days Committee establish and maintain a list of all participants and/or entries in the parade that identifies a contact person, such contact to be informed by the Hometown Days Committee of the stipulation and motor vehicle code enforcement actions for violations thereof.
3. General approval, and under the direction and control of the Office of the Chief of Police.

### **Hometown Days Permit, Aerial Fireworks Display**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee's application for one fireworks aerial display to be held on Friday, June 3, 2011, at or shortly after dusk, with a cancellation date of Saturday, June 4, 2011, at or shortly after dusk, to be launched from properties

directly west of the Swartz Creek Middle School Building, said properties owned by the Swartz Creek School District and Mr. Scott Hoover, under the following stipulations and conditions:

1. Insurance certificate naming the City as insured in an amount to be determined adequate by the City Manager.
2. Written permission from the aforementioned parcel owners along with acceptable insurance certificates naming said parcel owners as additional insured parties, in an amount to be determined adequate by the City Manager.
3. Traffic Control Plan and administration by the Offices of Chief of Police and Director of Community Services.
4. Detailed Plan submitted to and approved by the Fire Chief.
5. All decisions concerning the event and cancellation thereof, if needed, under the direction and control of the Fire Chief.

### **Hometown Days Permit, Operate Entertainment Tent**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee application to operate an entertainment tent with the sale of beer and wine for consumption on the premises, along with live entertainment, to be held on Parcel No. 58-02-200-014, owned by William Kincaid and located 5086 Morrish Road, south of Wade Street, beginning Thursday, June 2, 2011 through Sunday, June 5, 2011, 9:30 PM, under the following stipulations:

1. Michigan Liquor Control Commission Approved Application with appropriate insurance in accordance with the rules of the L.C.C. and naming the City and all other property owners as additional insured parties, in an amount not less than \$1,000,000 (One Million Dollars).
2. Portable bathrooms appropriately located and litter control program in accordance and under the approval of Director of Community Services.
3. Traffic control and pedestrian safety plan in accordance with and under the approval of Office of Chief of Police.
4. Adherence to all L.C.C. stipulations and regulations, state and local laws.
5. No music after 11:00 p.m. Thursday, June 2, 2011 and 1:00 a.m. Friday, June 3, 2011 (Saturday Morning), and Saturday June 4, 2011 (Sunday Morning), and Sunday June 5, 2011, 9:30 PM.
6. Adequate security as approved by the Chief of Police.
7. Adherence to and under the direction and control of the Office of the Chief of Police.

### **Hometown Days Permit, Ceremonial Discharge of a Firearm**

**I Move** the Swartz Creek City Council, pursuant to section 10-212(3) of the Code of Ordinances, approve and authorize the Swartz Creek Hometown Days Committee to discharge weapons as a part of a military concert and ceremonial military honor guard, to be held at the Swartz Creek High School's outdoor football stadium, on Friday, June 3, 2011, at approximately 9:00 p.m., in conjunction with a concert and aerial fireworks display, with a backup rain date of Saturday, June 4, 2011 at approximately 9:00 p.m. under the following stipulations and conditions:

1. Insurance certificate naming the City as an additional insured party in an amount not less than \$1,000,000.00 (One Million Dollars).
2. The party(ies) discharging the weapon(s) must be a practicing military honor guard trained and capable in the handling of firearms.

**Hometown Days Permit, Ceremonial Discharge of a Firearm**

**I Move** the Swartz Creek City Council, pursuant to section 10-212(3) of the Code of Ordinances, approve and authorize the Swartz Creek Hometown Days Committee to discharge weapons in conjunction with a Parade and as a ceremonial military honor guard, to be held along Miller Road on Saturday, June 4, 2011, at approximately 12:00 noon, under the following stipulations and conditions:

1. Insurance certificate naming the City as an additional insured party in an amount not less than \$1,000,000.00 (One Million Dollars).
2. The party(ies) discharging the weapon(s) must be a practicing military honor guard trained and capable in the handling of firearms.

**Amplified Outdoor Music, Feather & Fin**

**I Move** the City of Swartz Creek approve the use of an outdoor music / DJ amplification system at Feather & Finn Ice Cream, 7543 Miller Road, in conjunction with the Swartz Creek Hometown Days Festival, permit for Saturday, June 4, 2011 from 2:00 p.m. until 10:00 p.m., only.

Discussion Took Place.

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

**Park Fee Waiver Request, Swartz Creek Women's Club, Elms Pavilion #4**

**Resolution No. 110509-07** **(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Hurt

**I Move** the City of Swartz Creek approve the use of and grant a waiver of fees for the use of Elms Road Park Pavilion #4 on Sunday, September 11, 2011, from 9:00 AM to 6:00 PM, for the Swartz Creek Women's Club.

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

**Street Usage Permit, 5K Road Race, River Bend Striders**

**Resolution No. 110509-08** **(Carried)**

Motion By Councilmember Hicks  
Second by Councilmember Hurt

**I Move** the City of Swartz Creek approve the application for a street usage permit to conduct a 5 kilometer foot road race on Thursday, June 2, 2011, 6:00 PM – 7:30 PM, applicant: the River-Bend Striders - Swartz Creek Cross Country Team, in the care of Mr. Allen Murphy, race to be held in Winchester Village Subdivision, in accordance with the application submitted, under the direction and control of the Chief of Police.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

### **Public Hearing, 2011-2012 FY Budget**

City Manager Bueche made a brief presentation on the FY11-12 Budget.

Public Hearing Open.

No Speakers.

### **2011 Delinquent Assessments**

**Resolution No. 110509-09**

**(Carried)**

Motion by Councilmember Binder  
Second by Councilmember Hurt

**I Move** the City of Swartz Creek direct the Treasurer to prepare an audit of all outstanding debts owed to the City for delinquent water, sewer, mowing & sidewalk repairs, and further, to cause such debts to be assessed against the property owner of record, in accordance with City Ordinance and State Statute, said debts to be placed against the summer 2011 tax collection roll.

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

NO: None. Motion Declared Carried.

### **Waste Collection Bids**

**(Discussion Topic)**

City Manager Bueche spoke about the differences between the two systems for waste collection. Mr. Bueche stated that he believes the better way to go is with the automated system.

### **MEETING OPENED TO THE PUBLIC**

Tommy Butler, 40 Somerset, spoke about Republic taking over the waste collection in Swartz Creek Estates. Mr. Butler questioned if Clayton Township is interested in

consolidation. Mr. Butler spoke about the senior millage that passed. Mr. Butler questioned how extreme a possible consolidation may get.

Ron Schultz, 4279 Springbrook, stated that he has some reservations about the size of the new waste collection bins. Mr. Schultz stated that some of their garages aren't big enough to hold the bins.

**REMARKS BY COUNCILMEMBERS:**

Councilmember Hicks spoke to Tommy Butler about the Women's Club bringing money in and sending it right back out to the community.

Councilmember Binder spoke about a newspaper article stating that the racetrack was upset about their water/sewer bill. Ms. Binder asked what business is going in next to Jan's Bar. She was advised that it was now owned by Woods Collision. Ms. Binder reminded everyone that May 15<sup>th</sup>, at 2:00 pm, the Marine statue will be installed. Anyone with a motorcycle that wants to escort the statue can meet at Rick Henry's house no later than 1:40pm.

Councilmember Hurt congratulated Mayor Pro-Tem Krueger on doing a good job on the meeting tonight.

Mayor Pro-Tem Krueger spoke about Steve Shumaker requesting that the Secretary of State put an automated machine in the City offices. Mr. Krueger asked if the City had put in a request yet. He was advised that the City Manager looked into it but there were costs to the City involved.

Councilmember Hicks spoke about the City budget and the different influences that fluctuate and have an effect on it.

Mayor Pro-Tem Krueger asked about a resolution that was passed at the last meeting inviting the communities on the west side of the county to meet with the Council. Mr. Krueger asked if that would be separate from the meeting with the leadership. Mr. Bueche stated that was the start of it.

**Executive Session**

**Resolution No. 110509-10**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Binder

**I Move** the City of Swartz Creek, at the request of the City Manager and the City Attorney, and in accordance with the Michigan Open Meetings Act, enter into Executive Session for the purpose of attorney client privilege and the legal opinion of trial strategy for pending litigation.

Discussion Ensued.

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

**Resolution No. 110509-11**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Shumaker

**I Move** the Swartz Creek City Council authorize the City Manager and City Attorney to carry out the recommendation made by the City Attorney in closed session.

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

**Adjournment**

**Resolution No. 110509-12**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Shumaker

**I Move** the City of Swartz Creek adjourn the Regular Session of the City Council meeting at 9:50 p.m.

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

David Krueger, Mayor Pro-Tem

Juanita Aguilar, City Clerk