

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE COUNCIL MEETING  
DATE 1/14/2013**

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

Invocation and Pledge of Allegiance to the Flag.

Councilmembers Present: Abrams, Gilbert, Hicks, Hurt, Krueger, Porath, Shumaker.

Councilmembers Absent: None.

Staff Present: City Manager Paul Bueche, City Clerk Juanita Aguilar, DPS Director Tom Svrcek.

Others Present: Tommy Butler, Steve Shumaker, Bob Plumb, Doug Schultz, Boots Abrams, Lou Fleury, Edna Gilbert, Ron Schultz.

**APPROVAL OF MINUTES**

**Resolution No. 130114-01**

**(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 December 10, 2012, to be circulated and placed on file.

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

**Resolution No. 130114-02**

**(Carried)**

Motion by Mayor Pro-Tem Abrams  
Second by Councilmember Hurt

**I Move** the Swartz Creek City Council hereby approve the Minutes of the Special Council Meeting, held Thursday, December 20, 2012, to be circulated and placed on file.

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

## APPROVAL OF AGENDA

### Resolution No. 130114-03

(Carried)

Motion by Councilmember Shumaker  
Second by Councilmember Hurt

**I Move** the Swartz Creek City Council approve the Agenda, as presented, for the Regular Council Meeting of January 14, 2013, to be circulated and placed on file.

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

## REPORTS AND COMMUNICATIONS:

### City Manager's Report

### Resolution No. 130114-04

(Carried)

Motion by Councilmember Hicks  
Second by Councilmember Hurt

**I Move** the Swartz Creek City Council approve the City Manager's Report of January 14, 2013, to be circulated and placed on file.

Discussion Took Place.

YES: Krueger, Porath, Shumaker, Abrams, Gilbert, 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, commented that he was very pleased with the article about the Mayor in the Swartz Creek View.

## COUNCIL BUSINESS:

### Five Year Parks & Recreation Plan

(Presentation)

Doug Schultz from ROWE Professional Services made a brief presentation outlining the Five Year Parks & Recreation Plan.

### Public Hearing Open:

Councilmember Porath asked if Mr. Schultz generally works on these types of plans. Mr. Porath was advised that he does. Mr. Porath asked if it would present a problem that the parks are perceived as County parks rather than City parks. Mr. Schultz stated that it would be a benefit that the City parks have more of a regional draw.

Councilmember Shumaker asked what the cost would be to maintain the trailways year round. Mr. Schultz stated that he would have to figure the exact cost; there are many variables.

City Manager Bueche spoke about the variables for maintenance costs. Mr. Bueche stated that he is unsure if the recurring maintenance costs are significant.

Mr. Shumaker asked if the State and Federal Government will be taking into consideration that the park is being used more as a regional park and non city residents are allowed to use it. Mr. Schultz explained again that it would be a benefit. Mr. Shumaker asked if City Manager Bueche had applied for County Park grant money in the past. Mr. Bueche stated that he has but has not received a good response.

Councilmember Hicks asked if there is any better opportunity to receive the grant if replacing something that is already there. Mr. Schultz advised that there are different types of grants that can be utilized. Ms. Hicks asked if the City could work with another municipality to receive grants.

Mayor Pro-Tem Abrams spoke about the proposed trail at Winshall Park, asking what the rationale was for it being there. Mr. Abrams stated that he thinks it will provide access for kids to hang out down there. Mr. Bueche stated that the park is highly used by walkers who have created their own trail in that area.

Mayor Krueger asked if the trails in Swartz Creek connected to any other trails, and if not are there any plans to connect them. Mr. Bueche stated that it is set up to adjust and match up at some points. Mr. Krueger asked if there was a plan to replace some of the Ash trees that were cut down. Mr. Schultz stated that there was no plan but that it would be addressed. Mr. Krueger stated that the Swartz Creek Chamber of Commerce has volunteered to pay for some of the trees. Mr. Svrcek stated that there are a lot of service groups in and around the City that also want to volunteer services.

Public Comments:

Jim Florence, 4296 Springbrook, stated that very little had been accomplished from the last 5 year park plan until last year when the local service groups supported the renovation of a pavilion. Mr. Florence stated that the Park Board's plan is to get together in February and go through the plan and contact different service organizations and volunteer groups to take on different aspects of renovations and improvements. Mr. Florence stated that the City received a grant for trees last year. Mr. Florence stated that Pat Williams, the writer of the grant, is now a member of the Park Board and is expected to apply for more grants this year.

Mr. Krueger suggested that individuals in the community also be utilized as volunteers.

Public Hearing Closed.

### **Set Election Worker Compensation Rates**

**Resolution No. 130114-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Hurt

**I Move** the City of Swartz Creek approve new rates of compensation for the City's Election Staff, in accordance with the following table:

	Inspector	Co-Chairperson	Chairperson	Training
Current Rate	\$ 135/day	\$ 135/day	\$ 160/day	\$15/class
Proposed Rate	\$ 145/day \$ 9/hour	\$ 160/day	\$ 180/day	\$15/class
Proposed Rate for Receiving Board	\$15/election			

Discussion Took Place.

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

### **Boards & Commissions, Appoint Surface Water Representatives**

#### **Resolution No. 130114-06a**

**(Amended)**

Motion by Councilmember Hurt  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council concur with the Mayors appointment of Tom Svrcek to representative of the City for all matters pertaining to storm and surface water management with the Genesee County Drain Commissions Office or the State of Michigan, including, but not limited to, the Genesee County Drain Commissions SWM Division Storm Water Advisory Representative and Public Education Sub-Committee Representative.

Discussion Took Place.

#### **Resolution No. 130114-06b**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council add Councilmember Hicks as alternate for all matters pertaining to storm and surface water management with the Genesee County Drain Commissions Office or the State of Michigan, including, but not limited to, the Genesee County Drain Commissions SWM Division Storm Water Advisory Representative and Public Education Sub-Committee Representative.

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

#### **Resolution No. 130114-06c**

**(Carried)**

Motion by Councilmember Hurt  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council concur with the Mayors appointment of Tom Svrcek to representative and Rae Lynn Hicks as Alternate, of the City for all matters pertaining to storm and surface water management with the Genesee County Drain Commissions Office or the State of Michigan, including, but not limited to, the Genesee County Drain Commissions SWM Division Storm Water Advisory Representative and Public Education Sub-Committee Representative.

Discussion Took Place.

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

NO: None. Motion Declared Carried.

### **Easement Approval, Meijer Inc.**

**Resolution No. 130114-07**

**(Carried)**

Motion by Councilmember Porath

Second by Councilmember Hurt

**I Move** the City of Swartz Creek approve and endorse an easement with Meijer Inc., of Grand Rapids Michigan, language in the easement pertaining to indemnification to be stricken, a copy of the easement as follows:

**GENERAL EASEMENT AND RIGHT OF WAY GRANT FOR WALKWAY  
CONSTRUCTION AND MAINTENANCE  
GENESEE COUNTY, MICHIGAN**

S-Permit # \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That **MEIJER, INC.**, a Michigan corporation ("Grantor"), of 2929 Walker Avenue, N.W., Grand Rapids, Michigan 49544, for and in consideration of the sum of One (\$1.00) dollar and other good and valuable consideration paid to it by **THE CITY OF SWARTZ CREEK**, whose address is 8083 Civic Drive, Swartz Creek, Michigan 48473 ("Grantee"), does hereby grant, convey and release to said Grantee, a permanent nonexclusive pedestrian walkway easement (the "Walkway") over, across, under and through the following parcels of land situated in the City of Swartz Creek, County of Genesee, Michigan and described as follows:

Tax Parcel No. 58-36-100-001

The West 1/2 of the Northwest 1/4 of Section 36, Township 7 North, Range 5 East, Except that part thereof lying South of the North line of Highway M-78 (I-69 Freeway), as set forth in Deed Liber 1355, Page 201 Genesee County Records and further described as: Beginning at the Northwest corner of said Section 36; thence North 89 degrees 14 minutes 47 seconds East, 1299.70 feet along the North line of said Section 36; thence South 00 degrees 01 minute 18 seconds East 2112.80 feet along the occupied West 1/8 line to its intersection with the North right of way of I-69 Freeway; thence South 87 degrees 12 minutes 50 seconds West, 673.90 feet along the North right of way of I-69 Freeway; thence North 71 degrees 28 minutes 24 seconds West, 543.06 feet along the Northerly right of way of I-69 Freeway; thence North 00 degrees 04 minutes 10 seconds West, 299.01 feet; thence South 89 degrees 55 minutes 50 seconds West, 35.00 feet; thence North 00 degrees 04 minutes 10 seconds West, 528.00 feet; thence South 89 degrees 55 minutes 50 seconds West, 75.00 feet to the West line of Section 36; thence North 00 degrees 04 minutes 10 seconds West, 1129.03 feet along the West line of Section 36 to the Point of Beginning.

In a public easement and right of way thereon (the "Easement Area"), legally described as follows:

A parcel of land located in the Northwest quarter of Section 36, Town 7 North, Range 5 East, City of Swartz Creek, Genesee County, Michigan further described as: Commencing at the Northwest Corner of Section 36, Town 7 North, Range 5 East; thence along the west line of said Section, South 00° 04' 10" East, 1283.31 feet; thence North 89° 55' 50" East, 75.00 feet, to the easterly right of way line of Morrish Road and the point of beginning; thence South 10° 09' 03" East, 60.82 feet; thence Southerly 27.14 feet along the arc of a curve to the left with a radius of 99.00 feet, a central angle of 15° 42' 27", and a chord which bears South 18° 00' 17" East, 27.06 feet; thence South 25° 51' 30" East, 93.60 feet; thence Southeasterly 49.06 feet along the arc of a curve to the right with a radius of 109.00 feet, a central angle of 25° 47' 21", and a chord which bears South 12° 57' 50" East, 48.65 feet; thence South 00° 04' 10" East, 201.88 feet; thence South 86° 27' 52" West, 10.02 feet; thence North 00° 04' 10" West, 202.48 feet; thence Northerly 44.56 feet along the arc of a curve to the left with a radius of 99.00 feet, a central angle of 25° 47' 21", and a chord which bears North 12° 57' 50" West, 44.19 feet; thence North 25° 51' 30" West, 93.60 feet; thence Northwesterly 29.88 feet along the arc of a curve to the right with a radius of 109.00 feet, a central angle of 15° 42' 27", and a chord which bears North 18° 00' 17" West, 29.79 feet; thence North 10° 09' 03" West, 4.58 feet to said easterly right of way line; thence along said easterly right of way line, North 00° 04' 10" West, 57.13 feet, to the point of beginning. Containing 0.093 acres, more or less.

The Easement Area is located approximately as depicted on attached **Exhibit A**.

Grantee acknowledges that this easement is subject to all existing easements, restrictions and encumbrances affecting the Easement Area. Grantee further acknowledges that Grantor may grant other encumbrances over the Easement Area which do not interfere with the uses permitted to Grantee hereunder. Grantor and its lessees, successors or assigns may use the Easement Area for parking and access to its property and for any other purpose which would not unreasonably interfere with the uses permitted to Grantee hereunder, including, without limitation, landscaping, construction of driveways, curbing, paved parking areas and related improvements; provided that no buildings shall be constructed within the Easement Area.

Grantee agrees that in the event the Grantor desires to relocate the Walkway to any other location on Grantor's Property, Grantee will cooperate with Grantor in connection with such relocation, provided that the new area can be effectively utilized by Grantee for its purposes, and further provided that any such relocation requested by Grantor shall be performed by Grantee at Grantor's expense and in accordance with all of Grantee's requirements for construction of similar municipal facilities. In the event of any such relocation, the parties agree to amend the legal description and exhibit attached hereto, as required, in order to reflect of record the new location of the Walkway.

~~To the extent not otherwise prohibited or limited by law, Grantee agrees to defend, indemnify and save harmless Grantor, its parent, subsidiary and affiliated entities and their respective officers, directors, shareholders, partners, agents and employees (hereafter collectively "Related Parties"), from and against any and all liability or claim thereof (including but not limited to reasonable actual attorney fees and costs) whether for injury to persons, including death, or damage to property, which may be imposed upon, incurred by or asserted against Grantor or its Related Parties: (i) allegedly or actually arising in connection with or resulting from the operation and/or use of the Walkway; (ii) arising out of any default by Grantee under this Easement; or (iii) arising out of any negligent act or omission to act by Grantee, its agents, employees, contractors or subcontractors. The foregoing indemnity from Grantee shall not extend to liability resulting from the negligence or willful misconduct of Grantor or its Related Parties.~~

This instrument shall be binding upon and inure to the benefit of the parties hereto, their representatives, successors and assigns.

This easement is exempt from real estate transfer taxes pursuant to MCLA §207.505(a) and (f), and §207.526(a) and (f), being a transfer of personal property, and where the value of the consideration is less than \$100.

IN WITNESS WHEREOF, The Grantor hereunto affixed its signatures (s) this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2012.

**MEIJER, INC.**

By: \_\_\_\_\_  
Michael L. Kinstle  
Its: Vice President-Real Estate

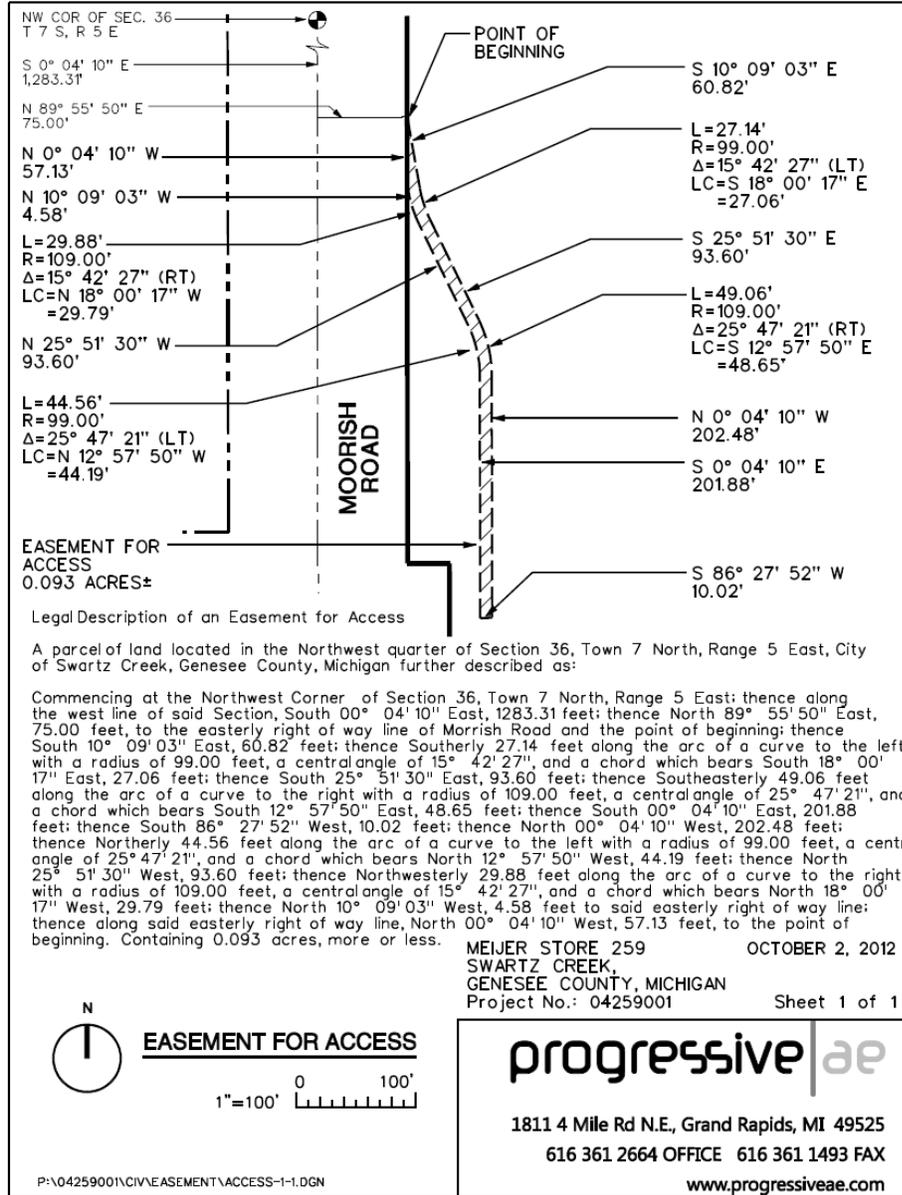
STATE OF MICHIGAN        }  
COUNTY OF GENESSEE    }

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Michael L. Kinstle, the Vice President – Real Estate of Meijer, Inc., a Michigan corporation, for and on behalf of said corporation.

\_\_\_\_\_  
Notary Public  
State of Michigan, County of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Acting in the Count of Kent

DRAFTED BY AND WHEN  
RECORDED RETURN TO:  
Aaron Morrissey, Esq.  
Meijer  
2929 Walker Ave., N.W.  
Grand Rapids, MI 49544  
(616) 791-3002

EXHIBIT A  
TO  
GENERAL EASEMENT AND RIGHT OF WAY GRANT FOR PEDESTRIAN WALKWAY



Discussion Ensued.

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

**Rates and Fees, Water & Sewer**

**(Discussion)**

City Manager Bueche briefly discussed long-term abandoned commercial buildings and the outstanding water bills and sewer units associated with them.

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

None.

## **REMARKS BY COUNCILMEMBERS:**

Councilmember Porath asked if the Council would be receiving a report from the Shared Services Committee. City Manager Bueche responded that Adam Zettel is assembling some figures at this time. Mr. Porath asked if the I-69 overpass would be changed anytime soon.

Councilmember Gilbert spoke about the Veteran's Memorial. Mr. Gilbert stated that the committee met and decided that they would like to put a statue of a service dog at the memorial. Mr. Gilbert mentioned a dedication ceremony on June 14<sup>th</sup>, including a small parade.

Mayor Pro-Tem Abrams asked if there was any progress on the agreement between the City and Clayton Township for fire services. Councilmember Hurt advised that the Board had just met and they had proposed to follow through with the current money at hand and possibly borrow the remainder needed for purchasing new equipment, specifically a squad and a pumper. Mr. Abrams asked if the capital improvement plan would be maintained in the agreement. Mr. Hurt advised that the plan was to maintain it.

Mayor Krueger stated that Supervisor Gehringer has been after him to meet and suggested a combination meeting with the shared services committee.

Mayor Pro-Tem Abrams mentioned the retirement of Lt. Deshano and expressed his sadness at his leaving.

## **Adjournment**

**Resolution No. 130114-08**

**(Carried)**

Motion by Mayor Pro-Tem Abrams  
Second by Councilmember Shumaker

**I Move** the City of Swartz Creek adjourn the Regular Session of the City Council meeting at 8:33 p.m.

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

David A. Krueger, Mayor

Juanita Aguilar, City Clerk