

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 10/13/2014**

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 Adam Zettel, City Clerk Juanita Aguilar, Attorney Mike Gildner.

Others Present: Tommy Butler, Bob Plumb, Jim Florence, Denny Pinkston, Craig Culinski, Joe Perreault, Gary Hicks, Kevin Fritsch, Roberta Diaz-Cobb.

APPROVAL OF MINUTES

Resolution No. 141013-01

(Carried)

Motion by Councilmember Hurt
Second by Councilmember Gilbert

I Move the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday, September 22, 2014 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 141013-02

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the Agenda as presented, for the Regular Council Meeting of October 13, 2014, to be circulated and placed on file.

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

REPORTS AND COMMUNICATIONS:

City Manager's Report

Resolution No. 141013-03

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of October 13, 2014, to be circulated and placed on file.

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

MEETING OPENED TO THE PUBLIC

Tommy Butler, 40 Somerset, spoke about the proposed shared services. Mr. Butler asked what would be divided next to take away the city's identity.

Mike Olivo, 5243 Don Shenk, asked the short term goals and the long term liabilities of merging police departments with Mundy Township.

COUNCIL BUSINESS

Adoption of Genesee County Hazard Mitigation Plan

Resolution No. 141013-04a

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek is vulnerable to a wide range of natural, technological and human-related hazards, and has experienced repetitive disasters that have caused loss of life, damaged commercial, residential and public properties, displaced citizens and businesses, closed streets and presented general public health and safety concerns; and

WHEREAS, Genesee County has prepared a Genesee County Hazard Mitigation Plan Update that provides an understanding of those threats, identifies the hazards affecting the area, discusses the County's vulnerability to the identified hazards, and outlines the community's options and strategies to reduce overall damage and impact from natural and technological hazards, and;

WHEREAS, the Genesee County Hazard Mitigation Plan Update represents the interests and needs of the City of Swartz Creek.

NOW THEREFORE, BE IT RESOLVED the City of Swartz Creek hereby adopts the

Genesee County Hazard Mitigation Plan Update as an official plan of the City of Swartz Creek.

Resolution No. 141013-04b

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the words “Genesee County” be added to the first “whereas” in the second line right after “hazards”.

YES: Krueger, Shumaker, Gilbert, Hurt.

NO: Porath, Abrams, Hicks. Motion Declared Carried.

Resolution No. 141013-04c

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek is vulnerable to a wide range of natural, technological and human-related hazards, and Genesee County has experienced repetitive disasters that have caused loss of life, damaged commercial, residential and public properties, displaced citizens and businesses, closed streets and presented general public health and safety concerns; and

WHEREAS, Genesee County has prepared a Genesee County Hazard Mitigation Plan Update that provides an understanding of those threats, identifies the hazards affecting the area, discusses the County’s vulnerability to the identified hazards, and outlines the community’s options and strategies to reduce overall damage and impact from natural and technological hazards, and;

WHEREAS, the Genesee County Hazard Mitigation Plan Update represents the interests and needs of the City of Swartz Creek.

NOW THEREFORE, BE IT RESOLVED the City of Swartz Creek hereby adopts the Genesee County Hazard Mitigation Plan Update as an official plan of the City of Swartz Creek.

Discussion Took Place.

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

NO: None. Motion Declared Carried.

Supervisors Agreement Amendment

Resolution No. 141013-05

(Carried)

Motion by Mayor Pro-Tem Abrams
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek entered into a labor agreement with the Swartz Creek City Supervisor's Association on August 27, 2012, amended April 7, 2014, for the purpose of setting terms and conditions of employment and to promote orderly and productive labor relations between the Employer and the Association, and;

WHEREAS, the Supervisors Association has requested the addition of a certain Section 16.I of this agreement to fulfill intended post-retirement benefits before a member of the bargaining unit retires, and;

WHEREAS, the employer found the request to be reasonable and within the intent of the current and previous administration.

NOW THEREFORE, I Move the City of Swartz Creek approve the amended 2012-2016 Collective Bargaining Labor Agreement between the City and the Swartz Creek Supervisor's Association, a copy of which is attached hereto.

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

NO: None. Motion Declared Carried.

Lease Renewal, Fine Arts Association

Resolution No. 141013-06

(Carried)

Motion by Councilmember Porath
Second by Councilmember Hurt

I Move the Swartz Creek City Council enter into a ten year renewal lease, as follows, with the Swartz Creek Fine Arts Association, for the lease of certain property that the City owns, description and uses provided within, and further, direct the Mayor and City Clerk to execute the lease in behalf of the City.

LEASE AGREEMENT

Between

THE CITY OF SWARTZ CREEK

And

THE SWARTZ CREEK FINE ARTS ASSOCIATION

THIS AGREEMENT, is made this ____ day of _____, 2014, between the City of Swartz Creek, a Michigan Municipal Corporation, with principal offices at 8083 Civic Drive, Swartz Creek, Michigan 48473 (the "Lessor"), and the Swartz Creek Fine Arts Association, Inc., a Michigan non-profit corporation, with principal offices at 8099 Civic Drive, P.O. Box 98, Swartz Creek, Michigan 48473 (the "Lessor").

WHEREAS, the Lessor owns certain land (the "Property") in the City of Swartz Creek ("City") which is used for public purposes; and

WHEREAS, the Lessee is a charitable organization recognized as such pursuant to Section 501 (c) (3) of the Internal Revenue Code and is engaged in the promotion of fine arts performances and education in the City; and

WHEREAS, the Lessee has constructed at its own expense and with the Lessor's permission certain improvements on the Property which improvements are used for theatrical presentations and programs staged by the Lessee and/or by other public, educational and theatrical organizations with the permission of the Lessee; and

WHEREAS, the Lessor finds that the use of the Property by the Lessee and the construction buy the Lessee at its own expense of the improvements thereon inures to the benefit of the City and its citizens and helps reduce the burden of government;

NOW, THEREFORE, the Lessor and the Lessee, acting by and through their duly authorized agents, hereby agree as follows:

1. LEASE

The Lessor does this day lease unto the Lessee, and said Lessee does hereby hire and take as Lessee under said Lessor the following described premises (the "Property") situated in the City of Swartz Creek, County of Genesee and State of Michigan, to-wit:

Part of Lot 45 of "Supervisor's Plat of Swartz Creek" as recorded in Liber 17 on page 42, of the Genesee County Plat records, described as beginning at a point on the West line of said Lot 45 which is North along said West line, 329.59 feet from the Northwest corner of Lot 37 of said plat; thence continuing North along said West line of Lot 45, 223.0 feet; Thence South 89 Deg 54 Min East, 293.35 feet; thence South 0 Deg 06 Min West, 223.00 Containing 1.50 acres of land more or less.

The Property is to be used and occupied by the Lessee for the purpose of presenting musical concerts and other purposes reasonable related thereto and in keeping with its own charitable and the City's public purposes and for no other purposes or uses whatsoever.

2. TERM AND RENT

The term of this lease shall be ten (10) years, commencing on November 1, 2014 and ending October 31, 2024, unless sooner terminated as herein provided. The rent payable for said ten (10) year period shall be One Dollar (\$1.00) payable on or before the date hereof.

3. ADDITIONAL RENT

As additional rent hereunder, the Lessee shall at its one sole expense maintain the improvements it has constructed on the Property and may, with the advance written permission of the Lessor, construct such other improvements as the Lessor shall deem appropriate for the public functions of the property.

4. REMOVAL OF IMPROVEMENTS

Any improvements constructed by the Lessee, whether constructed prior to the date of the agreement or at any time thereafter, shall, upon termination of this agreement for any reason, become the sole property of the City. If, prior to the termination of this agreement for any reason, the City determines that it needs the property, or any portion thereof, for any other public purpose, it may terminate this lease and may, at its sole expense remove the improvements from the Property or from that portion of the Property as determined by the City.

5. ASSIGNMENT

The Lessor shall not assign this lease, nor permit the same or any part thereof, to be used for any other purpose than as above stipulated, without the written consent of the Lessor.

6. PERSONAL PROPERTY

All personal property placed or moved on the Property, shall be placed or moved there at the risk of the Lessee or owner thereof, and Lessor shall not be liable for any damage to said personal property, or to the Lessee from any act of negligence of any other person whomsoever.

7. COMPLIANCE WITH ALL LAWS

The Lessee at its sole expense shall comply with all laws, orders, and regulations of Federal, State and Municipal authorities, and with any direction of any public officer,

pursuant to the law, which shall impose any duty upon the Lessor or the Lessee with respect to the Property. The Lessee, at its sole expense, shall obtain all licenses or permits which may be required for the conduct of its business within the terms of this lease, or for the making of repairs, alterations, improvements, or additions, and the Lessor, where necessary, will join the Lessee in applying for all such permits or licenses.

8. LESSOR'S REMEDIES

The prompt payment of the rent for the Property upon the dates named, and the faithful observance of the rules and regulations printed upon this lease, and which are hereby made a part of this covenant, are the conditions upon which the lease is made and accepted and any failure on the part of the Lessee to comply with the terms of said lease, or any of said rules and regulations now in existence, the option of the Lessor, work a forfeiture of this lease, and all of the rights of the Lessor hereunder, and the Lessor, his agents or attorneys, shall thereupon have the right to enter said premises, and remove all persons therefrom forcibly or otherwise, and the Lessee thereby expressly waives any and all notice required by laws to terminate tenancy, and also waives any and all legal proceedings to recover possession of said premises, and expressly agrees that in event, of a violation of any of the terms of this lease, or of said rules and regulation, now in existence, or which may hereafter be made, said Lessor, his agent or attorneys may immediately re-enter said premises and dispossess Lessee without legal notice or the institution of any legal proceedings whatsoever.

9. ABANDONMENT OF LEASE

If the Lessee shall abandon or vacate the Property before the end of the term of this lease, or shall suffer the rent to be in arrears, the Lessor may, at his option, forthwith cancel this lease, and, if the Lessor so requests the Lessee shall, at its sole expenses, remove the improvements or any portion thereof from the Property.

10. UTILITIES

The Lessee agrees that it will pay all charges for gas, electricity, water, sewer or other utilities on the Property.

11. LIABILITY AND INSURANCE

The Lessor shall not be liable for injury or damage to person or property occurring upon the Property, unless caused by or resulting from the negligence of the Lessor or any of the Lessor's agents, servants, or employees in the operation or maintenance of the Property, it being the specific intent of the Lessee to hold the Lessor harmless from any

and all claims arising from the Lessee's operation and maintenance of the Property and/or the improvements thereon. To that end, the Lessee shall obtain and at all times maintain in full force and effect a policy of general public liability insurance covering its use of the Property and naming the Lessor as an additional insured thereon. Said policy shall be in such amount as shall be determined by the Lessor, but in no event less than \$1,000,000 (one-million dollars), and further, shall provide that the Lessor will be given ten (10) days written notice of termination of the policy for any reason. The Lessee shall pay all premiums due thereon.

12. INSOLVENCY OF LESSEE

If the Lessee shall become insolvent or if bankruptcy proceeding shall be begun by or against the Lessee, before the end of the term of this lease, the Lessor is hereby irrevocably authorized at its options, to forthwith terminate this lease, as for a default. Lessor may elect to accept rent from such receiver, trustee, or other judicial officer during the term of their occupancy in their fiduciary capacity on behalf of the Lessee without affecting Lessor's rights as contained in this lease, but no receiver, trustee, or other judicial officer shall never have any right, title or interest in or to the Property by virtue of this lease.

13. TIME IS OF THE ESSENCE

It is understood and agreed between the Lessor and the Lessee that time is of the essence of this lease.

14. NOTICES

Written notice send by first class mail or delivered to either party at the address for each party as set forth in the first paragraph of this lease shall constitute sufficient notice to such party, in comply with the terms of this lease.

15. CUMULATIVE RIGHTS

The rights of the Lessor under the lease shall be cumulative, and failure on the part of the Lessor to exercise promptly any rights given hereunder shall not operate to forfeit any of said rights.

16. SIGNS

Any sign or advertising to be used in connection with the Lessee's use of the Property shall be first submitted to the Lessor for approval before installation of the same.

Motion by Councilmember Gilbert
Second by Councilmember Hurt

I Move the City of Swartz Creek enter into an agreement with Mundy Township to supply professional administrative police services in the form of the Chief of Police to the City of Swartz Creek, said agreement to read as follows:

AGREEMENT FOR POLICE DEPARTMENT ADMINISTRATION SERVICES

This Agreement is made between the Charter Township of Mundy ("Township") and the City of Swartz Creek ("City"), and is effective November 1, 2014.

Recitals

WHEREAS, both the Township and City presently supply police protection services to their respective municipalities with each Police Department employing their own Chief of Police;

WHEREAS, the Township and City have been exploring ways to reduce the costs and expenses of maintaining two separate Police Departments that are located in close proximity to each other while not compromising the competency and extent of police protection services that they presently provide their residents;

WHEREAS, Rick Clolinger, the City's current Chief of Police, is retiring later this year and both municipalities see the resulting vacancy as an opportunity for them to share administrative services.

Agreement

NOW, THEREFORE, the Township and City agree as follows:

1. Upon Rick Clolinger's retirement as Chief of Police for the City, the City shall not fill the resulting vacancy in that office, but the Township Chief of Police, or his/her designee, shall function as the Chief of Police of the City instead, said individual to serve in that capacity as an official of the city and observe all city policies, charter, procedures, and ordinances.
2. To be eligible to serve as Chief of Police, a person shall be a certified police officer with adequate education and experience sufficient to fulfill the duties of the Chief of Police as outlined in the job description attached as Exhibit A.
3. In the event of a vacancy in the Township's Chief of Police position, the Township shall be solely responsible for filling that vacancy with a person holding the necessary qualifications.
4. The Township shall be solely responsible for all liability insurance, worker's compensation insurance, disability insurance, payroll, medical benefits, pension,

unemployment, social security, withholding, and any and all other expenses related to compensation or benefits paid or owed to the Chief of Police.

5. As consideration, the City shall pay the Township Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) per year, in quarterly payments of Nine Thousand Three Hundred Seventy Five Dollars (\$9,375.00) per quarter. The City shall make the first such payment on or before February 1, 2015, with all subsequent payments being due the first day of the month on which it is due.

6. Either party may terminate this Agreement on sixty (60) days written notice to the other.

Dated: September ____, 2014

CHARTER TOWNSHIP OF MUNDY
BY ITS SUPERVISOR
DAVID GUIGEAR

Dated: September ____, 2014

CITY OF SWARTZ CREEK
BY ITS CITY MANAGER
ADAM ZETTEL

Discussion Took Place.

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

NO: Abrams, Gilbert. Motion Declared Carried.

MEETING OPEN TO THE PUBLIC:

Mike Olivo, 5243 Don Shenk, asked for clarification on when Chief Clolinger will be going to Mundy Township. Mr. Olivo stated that he feels the process is being rushed.

Tommy Butler, 40 Somerset, stated that things that were said in the past are not what was said at the meeting tonight. Mr. Butler stated that he believes the city is "jumping the gun" with the process of moving the police chief to Mundy Township. Mr. Butler stated that he feels as if Mundy Twp will be looking out for their own best interests and not the city's.

Jim Florence, 4296 Springbrook, spoke about a letter to the editor in the paper recently. Mr. Florence stated that he is personally very happy with the city administration and the city council and feels that people should come to the meetings and be informed before they make remarks in the paper.

REMARKS BY COUNCILMEMBERS:

Councilmember Porath spoke about the letter to the editor in the newspaper. Mr. Porath spoke about the council being a representative government and that their job is to make some decisions for the people. Mr. Porath stated that he is more than willing to handle that chore, but if people don't like it then they should run for council and be a part of the decisions. Mr. Porath stated that he is willing to talk to anybody about it. Mr. Porath spoke about an email he received from a constituent. Mr. Porath asked the status of the medical marijuana dispensary that went to Planning Commission. Mr. Porath stated that he will fight to not allow a dispensary in the city.

Councilmember Shumaker spoke about a neighbor speaking highly of Officer McFadden. Mr. Shumaker spoke about needing qualified people on council.

Councilmember Hicks asked about the lack of overhead street lighting at the corner of Fairchild and Miller. Ms. Hicks asked when Bigbee coffee would be starting construction.

Councilmember Gilbert asked how long the police dog has been on duty. Mr. Gilbert asked what happens when Ike is no longer able to perform. Mr. Gilbert also stated that the corner of Miller and Fairchild is a dangerous corner.

Councilmember Hurt spoke about how the people seem to want to vote on everything and that being the case, why is a city council needed? Mr. Hurt stated that people don't realize the amount of time that goes into the decisions that the council makes. Mr. Hurt stated that if people have strong opinions and want to have a voice, then run for city office.

Mayor Pro-Tem Abrams wanted to make it clear that he is not against the idea of a regional police department. Mr. Abrams stated that he thought the resolution tonight was superfluous and not needed. Mr. Abrams stated that he assumes there will be town hall meetings regarding the possible consolidation. Mr. Abrams spoke about seeing political signs in the rights of way in some locations.

Mayor Krueger spoke about the amount of parking tickets that have been issued lately. Mr. Krueger thanked Mr. Florence for bringing up the letter to the editor that was in the paper.

Adjournment

Resolution No. 141013-09

(Carried)

Motion by Councilmember Hurt
Second by Mayor Pro-Tem Abrams

I Move the City of Swartz Creek adjourn the Regular Session of the City Council meeting at 9:00 p.m.

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

David A. Krueger, Mayor

Juanita Aguilar, City Clerk