

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 10/12/2015**

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.

Councilmembers Present: Abrams, Gilbert, Hicks, Krueger, Pinkston, Porath.

Councilmembers Absent: Shumaker.

Staff Present: City Manager Adam Zettel, City Attorney Mike Gildner, City Clerk Juanita Aguilar, DPS Director Tom Svrcek, Code Official Marty Johnson, Deputy Chief Rick Clolinger.

Others Present: Bob Plumb, Tommy Butler, Steve Shumaker, Ron Schultz, Lou Fleury, Brent Cole.

**EXCUSE COUNCILMEMBER SHUMAKER**

**Resolution No. 151012-01**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Hicks

**I Move** the Swartz Creek City Council hereby excuse councilmember Shumaker due to a speaking engagement on behalf of the Historical Society.

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

**APPROVAL OF MINUTES**

**Resolution No. 151012-02**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday, September 28, 2015 to be circulated and placed on file.

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

## **APPROVAL OF AGENDA**

### **Resolution No. 151012-03**

**(Carried)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council approve the Agenda as presented for the Regular Council Meeting of October 12, 2015, to be circulated and placed on file.

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

## **City Manager's Report**

### **Resolution No. 151012-04**

**(Carried)**

Motion by Councilmember Hicks  
Second by Mayor Pro Tem Abrams

**I Move** the Swartz Creek City Council accept the City Manager's Report of October 12, 2015, including reports and communications, to be circulated and placed on file.

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

## **MEETING OPENED TO THE PUBLIC**

No Comments.

## **COUNCIL BUSINESS**

### **ADOPT 2016 FY FIRE BUDGET**

#### **Resolution No. 151012-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Hicks

**I Move** the City of Swartz Creek approve the 2016 Fiscal Year Swartz Creek Area Fire Department Budget, a copy of which is attached hereto, gross maximum total not to exceed \$270,000, and further, appropriate an amount not to exceed \$135,000 from the City General Fund, to be paid consummate of the agreement between the City of Swartz Creek and the Township of Clayton, payment being the City's obligation of one-half of the proposed total budget of \$270,000.

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

## **FIREBOARD 2015 FY BUDGET AMENDMENT**

### **Resolution No. 151012-06**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Mayor Pro Tem Abrams

**I Move** the City of Swartz Creek amend the 2015 Fiscal Year Swartz Creek Area Fire Department Budget to reflect the purchase of mobile data terminals, including an adjustment to line item 4978 in the amount of \$10,000.00, such funds to be carried over from the 2014 operating budget of the SCAFD.

Discussion Ensued.

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

## **APPROPRIATION – BID AWARD, ROAD PAINT/STRIPING SERVICES**

### **Resolution No. 151012-07**

**(Carried)**

Motion by Councilmember Porath  
Second by Mayor Pro Tem Abrams

**WHEREAS**, the city finds it necessary to properly and adequately mark its streets with paint for lane delineation and related purposes; and

**WHEREAS**, this process requires approximately 107,555 lineal feet of various pavement markings to be applied to the city streets to complete this process; and

**WHEREAS**, the City's Purchasing Ordinance, Chapter 2, Article VI, Section 2-406 provides for and encourages cooperative government purchasing practices; and

**WHEREAS**, the Genesee County Road Commission accepts and awards bids for the purchase of pavement markings to public rights of way; and

**WHEREAS**, bids received on September 2, 2015 indicate that M&M Pavement Marking, Inc is the successful low bidder; and

**WHEREAS**, the unit costs bid to the GCRC have been made available to the City and the city council finds that the lineal foot costs listed cannot be matched if attempts were made to bid on the open market or through private sources.

**NOW, THEREFORE, I MOVE** the City of Swartz Creek City accept the Genesee County Road Commission's cooperative purchasing extension and appropriate an amount not to exceed \$4,638.20, plus 20% contingency, for the purchase of pavement marking services from M&M Pavement Marking, Inc., expenses to be distributed to the Local and Major Street funds proportionate to use at the direction of the City's Finance Director.

Discussion Ensued

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

## **WINSTON AND MILLER WATER MAIN ENGINEERING PROPOSAL**

**Resolution No. 151012-08**

**(Carried)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Hicks

**WHEREAS**, the city executed a scrap tire grant agreement with the State of Michigan Department of Environmental Quality to provide \$62,000 towards funding street work at the intersections of Fairchild Street & Miller Road, as well as Winston Drive and Miller Road; and,

**WHEREAS**, the Director of Public Works, in consultation with the city's engineer, finds that that water main beneath Winston Drive, including the Miller Road and Winston Drive sections, is at a high risk for breaks, potentially compromising any street repair; and,

**WHEREAS**, the city received estimated pricing to replace these sections of main concurrently with the paving project, including engineering services; and

**WHEREAS**, the City Council finds replacement of this main to be in the best long-term interests of the public.

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek approve the design engineering proposal by Rowe Professional Services in the amount of \$8,924 for design engineering services related to the Winston Drive water main, including bidding, with funds to be appropriated out of Fund 590 (Water Fund).

Discussion Ensued.

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

## **COMMISSION APPOINTMENT**

**Resolution No. 151012-09**

**(Carried)**

Motion by Councilmember Hicks  
Second by Mayor Pro Tem Abrams

**I Move** the Swartz Creek City Council accept the resignation of Mr. Gardner from the Swartz Creek Park Board, affirm the nomination of the Mayor and appoint Mr.

Reno, 5345 Seymour Road, to the Swartz Creek Parks and Recreation Advisory Board for the duration of existing vacant term ending on December 31, 2018.

Discussion Ensued.

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

## **FENCE ORDINANCE**

### **Resolution No. 151012-10**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Porath

**WHEREAS**, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

**WHEREAS**, changes were proposed to the city's fence zoning ordinance by a city resident, and

**WHEREAS**, after numerous meetings and a public hearing, the city planning commission, finding such changes to meet zoning text amendment criteria, recommend such changes at their regular meeting on October 6, 2015.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

### **ORDINANCE NO. 422**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF SWARTZ CREEK TO BRING SAID ORDINANCE INTO COMPLIANCE WITH THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED; TO AMEND THE REGULATIONS REGARDING FENCES AND HEDGES.**

#### **THE CITY OF SWARTZ CREEK ORDAINS:**

**Section 1. Repeal of Section 4 of Ordinance 400, Fences & Hedges, City Code of Ordinances and replace it with Section 20.10, Fences.**

Section 20.10 of the City of Swartz Creek Zoning Ordinance is hereby to read as follows:

#### **Section 20.10. FENCES AND HEDGES.**

- (A) A fence is defined as any partition, structure or gate that is erected as a dividing marker, barrier or enclosure (excluding hedges as defined below).
- (B) A hedge is defined as any bush, shrub or any living green screen of any nature that serves as a dividing marker, barrier or enclosure.
- (C) Regulations applicable to R-1, R-2, R-3, R-4, RM-1, PMSHDD, PUD, O-1, CBD, NBD, and GBD.

1. A fence shall not exceed six (6) feet in height in the rear or side lot of any parcel;
2. Front yard fences or hedges must be less than fifty percent (50%) solid, impervious, or of an obscuring nature above a height of 30" above the curb or centerline of the street, and not exceed four (4) feet in total height. Front yard fences may not be constructed of chain link fence unless such fence is coated or sealed to prevent rusting, such as vinyl coated fencing;
3. Fences and hedges in front yards that function as exterior side yards must follow front yard height restrictions unless the fence or hedge is installed or planted in the following manner:
  - a) The fence is at least 25 feet back from the intersection of the front yard and side yard right-of-way lines, and
  - b) The fence is at least 20 feet back from the intersection of any driveway or alley with that of a street, and
  - c) The fence is at least 10 feet back from the intersection of any driveway or alley with that of a sidewalk.
4. No fence or hedge shall extend across property lines;
5. The finished side of any fence shall face away from the property on which the fence is located;
6. No portion of any fence shall be constructed with or contain barbed wire, electric current or charge of electricity, glass, spikes or other sharp protruding objects;
7. Fences must be maintained so as not to endanger life or property. Any fence which, through lack of maintenance or type of construction which will obstruct vision so to create a hazard to vehicular traffic or pedestrians upon the public streets and/or sidewalks shall be deemed a nuisance.
8. Fences shall not be constructed, in whole or in part, with any of the following materials:
  - a) Junk or other debris
  - b) Scrap building materials or metals
  - c) Organic materials known to be poisonous or hazardous to human or animal life
  - d) Materials which may be deemed unsafe to person or property by the Zoning Administrator or Building Official.
9. No hedge shall be constructed with noxious weeds or grasses, as defined by PA 359 of 1941, being MCL 247.62.

(D) Regulations applicable to industrial districts.

1. Fences, walls and screens are permitted in the required front, side and rear lots provided they do not exceed six (6) feet in the front yard and eight (8) feet in the side and rear lots. To preserve open space and aesthetic character in the front yard, fences higher than four (4) feet must be setback two (2) feet for each additional foot above four (4) feet and all front yard fences must be black vinyl chain link or decorative in nature.

2. In the I-2 zoning district, barbed wire strands are permitted on fences six (6) feet or higher on industrial parcels with the barbed wire tilted in toward the fenced parcel.
  3. On any corner lot, no fence, wall or screen, whether structural or botanical, shall be more than thirty (30) inches above the curb or the centerline of the street pavement within twenty-five (25) feet of the intersection of the two (2) right-of-way lines, so as to interfere with motorists' vision across the corner.
- (E) The Zoning Administrator or Building Official may require removal, reconstruction, or repair of any fence or wall which, in their judgment is dilapidated, unsafe, or a threat to the health, safety and welfare of the residents of the City of Swartz Creek.
- (F) A permit shall be required for new fence construction, with a fee to be prescribed by resolution of the council.

**Section 2. Repeal of Inconsistent ordinances.**

Section 4 of Ordinances No. 400 and any other ordinances of the City of Swartz Creek which are in conflict with the provisions of this ordinance are hereby repealed.

**Section 3. Penalties; Sanctions.**

Any person who violates any provision of this Ordinance is subject to the penalties and sanctions provided for in Article 32 of the Zoning Ordinance.

**Section 4. Effective Date.**

This ordinance shall be effective 20 days after publication.

At a regular meeting of the City Council of the City of Swartz Creek held on October 12, 2015, adoption of the foregoing ordinance was moved by Councilmember Gilbert and supported by Councilmember Porath.

Voting for: Krueger, Pinkston, Porath, Abrams, Gilbert, Hicks.  
Voting against: None.

The Mayor declared the ordinance adopted.

\_\_\_\_\_  
David Krueger  
Mayor

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 422 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on October 12, 2015.

\_\_\_\_\_  
Juanita Aguilar, City Clerk

**Publish Date:** \_\_\_\_\_  
**Swartz Creek View**

Discussion Ensued.

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

## ZONING MAP AMENDMENT – 5017 THIRD STREET

**Resolution No. 151012-11**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Councilmember Gilbert

**WHEREAS**, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

**WHEREAS**, changes were proposed to the city's zoning ordinance map to update zoning of a newly created parcel split for the north half of 5017 Third Street from Downtown Residential to Central Business District per request of the city council, and

**WHEREAS**, after numerous meetings and a public hearing, the city planning commission, finding such changes to meet zoning map amendment criteria, recommend such changes at their regular meeting on October 6, 2015.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

### **ORDINANCE NO. 423**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF SWARTZ CREEK TO BRING SAID ORDINANCE INTO COMPLIANCE WITH THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED; TO AMEND THE ZONING MAP.**

**THE CITY OF SWARTZ CREEK ORDAINS:**

**Section 1. Amendment of the Zoning Map of the City of Swartz Creek.**

The official Zoning Map of the city shall be amended to reflect Central Business District Zoning for the new parcel split identified as the north half of 5017 Third Street, 2015 parcel ID 58-01-502-077.

**Section 2. Penalties; Sanctions.**

Any person who violates any provision of this Ordinance is subject to the penalties and sanctions provided for in Article 32 of the Zoning Ordinance.

**Section 3. Effective Date.**

This ordinance shall be effective 20 days after publication.

At a regular meeting of the City Council of the City of Swartz Creek held on October 12, 2015, adoption of the foregoing ordinance was moved by Councilmember Pinkston and supported by Councilmember Gilbert.

Voting for: Pinkston, Porath, Abrams, Gilbert, Hicks, Krueger.

Voting against: None.

The Mayor declared the ordinance adopted.

\_\_\_\_\_  
David Krueger  
Mayor

### CERTIFICATION

The foregoing is a true copy of Ordinance No. 423 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on October 12, 2015.

\_\_\_\_\_  
Juanita Aguilar, City Clerk

**Publish Date:** \_\_\_\_\_  
**Swartz Creek View**

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

### ZONING MAP AMENDMENT – DYE ROAD

**Resolution No. 151012-12**

**(Failed)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Porath

**WHEREAS**, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

**WHEREAS**, changes were proposed to the city's zoning ordinance map to amend zoning of four parcels on Dye Road, identified as parcels 58-29-551-025, 58-29-551-026, 58-29-551-027, 58-29-551-028 to Light Industrial from General Business District, and

**WHEREAS**, after numerous meetings and a public hearing, the city planning commission, finding such changes did not satisfy zoning map amendment criteria, recommend against such amendment at their regular meeting on October 6, 2015.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

#### ORDINANCE NO. 424

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF SWARTZ CREEK TO BRING SAID ORDINANCE INTO COMPLIANCE WITH THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED; TO AMEND THE ZONING MAP.**

**THE CITY OF SWARTZ CREEK ORDAINS:**

**Section 1. Amendment of the Zoning Map of the City of Swartz Creek.**

The official Zoning Map of the city shall be amended to reflect Light Industrial Zoning for the 2015 parcels identified as:

1. 58-29-551-025,
2. 58-29-551-026
3. 58-29-551-027
4. 58-29-551-028

**Section 2. Penalties; Sanctions.**

Any person who violates any provision of this Ordinance is subject to the penalties and sanctions provided for in Article 32 of the Zoning Ordinance.

**Section 3. Effective Date.**

This ordinance shall be effective 20 days after publication.

At a regular meeting of the City Council of the City of Swartz Creek held on October 12, 2015, adoption of the foregoing ordinance was moved by Mayor Pro Tem Abrams and supported by Councilmember Porath.

Voting for: None.

Voting against: Porath, Abrams, Gilbert, Hicks, Krueger, Pinkston.

The Mayor declared the ordinance adopted.

\_\_\_\_\_  
David Krueger  
Mayor

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 424 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on October 12, 2015.

\_\_\_\_\_  
Juanita Aguilar, City Clerk

**Publish Date:** \_\_\_\_\_  
**Swartz Creek View**

Discussion Ensued.

YES None.

NO: Porath, Abrams, Gilbert, Hicks, Krueger, Pinkston. Motion Declared Failed.

**CELL TOWER AGREEMENT AMENDMENT**

**Resolution No. 151012-13**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Hicks

**WHEREAS**, the city entered into a 30 year agreement with Omnipoint Holdings, Inc., a Delaware Corporation, in December of 2005 for the purposes of leasing land at 8100 Civic Drive for the purpose of erecting and operating a wireless communication tower; and

**WHEREAS**, the city has provided access to the tower for placement of telecommunications equipment under the terms of the lease; and

**WHEREAS**, the tenant, now T-Mobile USA Tower LLC and CCTMO LLC, desires to assert a thirty year extension on the lease in order to make future investments and possible co-locators more predictable and desirable; and

**WHEREAS**, the tenant further requests certain options and rights to expedite any such co-location addition and permitting; and

**WHEREAS**, the city has negotiated an additional lump-sum payment, an increase in the annual lease amount, and rent securities payable upon exercise of the aforementioned option in order to effect said changes; and,

**WHEREAS**, the City of Swartz Creek City Council approved the execution of the letter agreement to affect these changes at its regular meeting on August 10, 2015, with said letter being executed and payment received for said execution.

**NOW, THEREFORE, BE IT RESOLVED**, per the Letter of Agreement, the City of Swartz Creek City Council hereby approves the subsequent First Amendment to Communications Site Lease Agreement (BU 826779) and related Memorandum of First Amendment to Communications Site Lease Agreement as included in the city manager report and further directs the Mayor to execute said agreement & memorandum.

YES Abrams, Gilbert, Hicks, Krueger, Pinkston, Porath.

NO: None. Motion Declared Carried.

#### **MEETING OPEN TO THE PUBLIC:**

Steve Shumaker, 7446 Country Meadow Drive, commented on Public Authority draft agreement that there is no length of term for members of the board besides the addition of the seventh member and then the seventh member's term only a year. Mayor Krueger responded township and city were not on the same page at that time they may be deciding on that tonight. Mr. Shumaker also commented about the Fire Board budget of the \$450.00 for keys. He also commented about a property on Bristol Road with a fence in the front yard.

Mayor Krueger stated the Police Authority committee set up now is to get it started. Looks like this will be in effect for less than a year and is a temporary committee. Actually three committees are working on this all together, the current committee before passing authority, committee putting in plan and budget and committee once authority is in place.

Councilmember Hicks remarked about the mini station in the city, she wanted to know definition of what this mini station is. Adam Zettel, City Manager responded that policies,

procedures will be worked out in the 180 days and he can develop a critical path flowchart but nothing can happen for at least 180 days.

Tommy Butler, 40 Somerset, stated he has seen more get done in the last two meetings than in a long time and more information flowing out and keep it up. Planning Commission is doing a great job.

#### **REMARKS BY COUNCILMEMBERS:**

Councilmember Porath commented, "critical path" he hasn't heard that word before and on this Interlocal Agreement he doesn't think everyone should get to wrapped up because it's going to take 180 days before we start getting anything constructive done at all. The committee is a temporary committee and the intent is to get the public on board. Hopefully the budget comes in the right price and right way and we will go forward with it.

Councilmember Hicks commented the "critical path" if we can't put in dates at least we will know the first thing is we are going to accomplish in the 180 days.

Councilmember Pinkston asked Deputy Chief about the Elms Road roundabout and fatal accident this weekend.

Deputy Chief Clolinger responded the accident had nothing to do with the roundabout. He believes it opened Friday night and thinks it will work well. The idea of it is to slow the traffic down.

Councilmember Porath noted the Interlocal Agreement is similar to the one we have with Clayton Township regarding the Fireboard. We are hoping Mundy Township will agree to the staggered people on the board so we can't have a complete turnover.

Deputy Chief Rick Clolinger, stated on the agreement, the act forces 180 days so everybody understands, the unions won't talk to us, the retirement system won't talk to us, all this stuff has to have an authority board or committee in place before they will ever do that. We can't present anything to either city council or the township board without being able to do those negotiations, the retirement system. So if you see where there is attachments those are things we have to come up with, the biggest is the contract and the other assets of both departments. Those things all have to be done and it's going to take a lot of time.

Mayor Pro Tem Abrams commented the county board has eliminated the senior citizens advisory committee and reduced funding for senior operations. Tomorrow at 10am Richard Thompson and his alternate education students will be putting up scarecrows in town.

Councilmember Hicks commented she wondered how the funding can be eliminated.

Mayor Krueger asked for suggestions for the Police Authority name and a vote will be put up in two weeks.

#### **Adjournment**

**Resolution No. 151012-14**

**(Carried)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council adjourn the regular meeting at 8:17 pm.

Unanimous Voice Vote.

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**David A. Krueger, Mayor**

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**Juanita, City Clerk**