

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 10/26/2015**

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, Shumaker.

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, City Clerk Juanita Aguilar, DPS Director Tom Svrcek, Deputy Chief Rick Clolinger, Lieutenant Matt Bade, Chief Dan Atkinson, Attorney Kevin Kilby, Officer Nick Paul & K9 Rosco.

Others Present: Sharon Shumaker, Bob Plumb, Tommy Butler, Steve Shumaker, Ron Schultz, Paul Spaniola, John Knickerbocker, Chris Treiger, Mike Ortiz, Fred Ortiz, Lou Fleury, James Barclay, Kal Nemer.

APPROVAL OF MINUTES

Resolution No. 151026-01

(Carried)

Motion by Councilmember Porath
Second by Mayor Pro Tem Abrams

I Move the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday, October 12, 2015 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 151026-02

(Carried)

Motion by Mayor Pro Tem Abrams
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Agenda as amended for the Regular Council Meeting of October 26, 2015, to be circulated and placed on file.

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

City Manager's Report

Resolution No. 151026-03

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of October 26, 2015, including reports and communications, to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC

Kal Nemer, Woodside Builders, they successfully signed an agreement for an assisted living complex west of Kroger with about 45 units, they are also continuing work that was not completed in 2008 on the roads and they are also planning to open another phase of Springbrook to the west. The Miller Road office building is almost complete.

COUNCIL BUSINESS

K9 Donation from Sons of American Legion

Presentation

Members Paul Spaniola, John Knickerbocker, Fred Ortiz, Mike Ortiz and Chris Treiger presented money raised through a taco dinner, from all three partners, Sons of American Legion, Auxillary & American Legion, in the amount of \$1600.00 for the K9 program.

AMEND 2016 DDA BUDGET

Resolution No. 151026-04

(Carried)

Motion by Councilmember Hicks
Second by Mayor Pro Tem Abrams

WHEREAS, Act 621 of P.A. of 1978 provides for a uniform budgeting system for local units of government; and

WHEREAS, Act 275 of P.A. of 1980 further prohibits deficit spending by local units of government; and

WHEREAS, Act 197 of P.A. of 1980 further requires municipal approval of budget amendments proposed by their respective Downtown Development Authorities; and

WHEREAS, the City Council has reviewed a request for a DDA budget amendment as included in the City's 2015 - 2016 Fiscal Year Budget.

THEREFORE BE IT RESOLVED, the Swartz Creek City Council hereby authorizes amendments to Fund 248 (Downtown Development Authority) in accordance with the following:

10/21/2015

REVENUE AND EXPENDITURE REPORT FOR CITY OF SWARTZ CREEK
PERIOD ENDING 09/30/2015

GL NUMBER	DESCRIPTION	2015-16	
		CURRENT BUDGET	AMENDED BUDGET
Fund 248 - Downtown Development Fund			
Revenues			
Dept 000.000-General			
248-000.000-402.000	Current Tax Revenue	44,530.00	44,530.00
248-000.000-664.000	Interest Income	20.00	20.00
Total Dept 000.000-General		44,550.00	44,550.00
Dept 728.004-Family Movie Night			
248-728.004-597.000	Grants from Private Entities	1,200.00	1,200.00
Total Dept 728.004-Family Movie Night		1,200.00	1,200.00
TOTAL Revenues		45,750.00	45,750.00
Expenditures			
Dept 173.000-DDA Administration			
248-173.000-726.000	Supplies	100.00	100.00
248-173.000-745.000	Postage	60.00	60.00
248-173.000-805.000	Bank Fees	20.00	20.00
248-173.000-825.000	Admin Services	2,500.00	2,500.00
248-173.000-960.000	Education and Training	250.00	250.00
248-173.000-961.000	Miscellaneous	100.00	100.00
Total Dept 173.000-DDA Administration		3,030.00	3,030.00
Dept 728.000-Economic Development			
248-728.000-801.000	Contractual Services	0.00	8,000.00
248-728.000-961.000	Miscellaneous	0.00	500.00
Total Dept 728.000-Economic Development		0.00	8,500.00
Dept 728.004-Family Movie Night			
248-728.004-726.000	Supplies	250.00	250.00
248-728.004-801.000	Contractual Services	3,200.00	3,200.00
248-728.004-900.000	Printing and Publishing	500.00	500.00
Total Dept 728.004-Family Movie Night		3,950.00	3,950.00

Dept 965.000-Transfers Out			
248-965.000-998.101	Transfer Out to Gen Fd	29,738.00	21,238.00
Total Dept 965.000-Transfers Out		29,738.00	21,238.00

TOTAL Expenditures		36,718.00	36,718.00

Fund 248 - Downtown Development Fund:			
TOTAL REVENUES		45,750.00	45,750.00
TOTAL EXPENDITURES		36,718.00	36,718.00
NET OF REVENUES & EXPENDITURES		9,032.00	9,032.00

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

MEDICAL MARIJUANA ORDINANCE

Discussion

City Manager, Adam Zettel spoke of the options that can be taken, including rescinding the ordinance completely, take the risk and watch state legislation and take action quickly, or establish another moratorium. Councilmember Hicks is concerned with having nothing in place. Councilmember Porath commented on the pressure that will come because of not doing anything. Mayor Pro Tem Abrams feels more secure with a new moratorium presented at next council meeting. Mayor Krueger took a poll and majority agreed that City Manager, Adam Zettel draft a resolution for a moratorium to be presented at the next council meeting.

2017-2020 TRAFFIC IMPROVEMENT PROGRAM APPLICATIONS

Resolution No. 151026–05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Hicks

WHEREAS, the City of Swartz Creek is a Local Governmental Unit and recognized Street Authority eligible to receive funding from the Michigan Department of Transportation and the Federal Highway Administration; and,

WHEREAS, the City of Swartz Creek is a member of the Genesee County Metropolitan Planning Alliance, an urban transportation planning cooperative charged with allocating funds to eligible street authorities in Genesee County; and

WHEREAS, the City of Swartz Creek has identified a need to make repairs and improvements to a number of streets in its Major Street System and has considered the making of such repairs and improvements in open session following the review of documents and the hearing of comments on the need from the city’s engineer & staff, and desires to submit applications for such repairs and improvements to the Genesee County Metropolitan Alliance Traffic Improvement Program; and

WHEREAS, the Genesee County Transportation Surface Management Committee will be creating a 2017-2020 Traffic Improvement Program (TIP) schedule to be recommended to the Technical Advisory Committee that ranks projects throughout the County, inclusive of projects submitted by the City; and

WHEREAS, the city’s pre-qualified engineers cannot make application to the TIP without creating a potential conflict of interest as it relates to any future design and/or construction engineering needs for TIP projects; and

WHEREAS, after review, the City has determined that the following streets in its Major Street category are in need of, and meet, the criteria for repair:

<u>Road</u>	<u>Point of Beginning</u>	<u>Point of End</u>	<u>Length (Miles)*</u>	<u>Lanes</u>	<u>Lane Feet</u>	<u>Width (Feet)</u>	<u>ADT</u>
Miller Road	Morrish	NB Seymour	1	4	21120	48	13444
Cappy Lane	Fairchild	Worcester	0.36	2	3801.6	28	1085
Worcester	Cappy	Winston	0.1	2	1056	28	691
Fairchild	Cappy	Miller	0.28	2	2956.8	44	2456
Seymour	S City Limit	Chesterfield	0.8	2	8448	36	2675

*Miller is a four lane to three lane w/two bike lane conversion

NOW, THEREFORE, BE IT RESOLVED, that the City of Swartz Creek submit applications for the repair of said streets to the Genesee County Metropolitan Planning Organization.

BE IT FURTHER RESOLVED, that the City designate source funding for all construction local match, Design Engineering and Construction Engineering fees from Major Streets Fund 202, and further, direct the City Staff to create the necessary additions to the City’s accounting system.

BE IT FURTHER RESOLVED, that the City of Swartz Creek appropriate an amount not to exceed \$3,000 to Ryan P. Doyle, P.E., for engineering fees associated with the preparation of street repair funding applications for the 2017-2020 TIP Program, funds to be appropriated from 202 Major Streets, and further direct the Mayor to execute the agreement as included in the city council packet of October 26, 2015.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

APPROVING AN INTERLOCAL AGREEMENT, WHICH ESTABLISHES A JOINT POLICE AUTHORITY WITH THE CHARTER TOWNSHIP OF MUNDY PURSUANT TO THE MICHIGAN CONSTITUTION OF 1963, ARTICLE 7, § 28, AND THE URBAN COOPERATION ACT OF 1967, BEING ACT NO. 7 OF THE MICHIGAN PUBLIC ACTS OF 1967, EX. SESS.

Resolution No. 151026-06

(Carried)

Motion by Councilmember Pinkston
Second by Mayor Pro Tem Abrams

WHEREAS, the City of Swartz Creek (“City”) operates a police department to provide public safety to the residents and visitors to the City; and

WHEREAS, the Charter Township of Mundy (“Township”) operates a police department to provide public safety to the residents and visitors to the Township; and

WHEREAS, in September 2014, the City and Township executed an **AGREEMENT TO OVERSEE POLICE DEPARTMENT**, whereas the Township’s Police Chief would oversee the City’s Police Department; and

WHEREAS, the **AGREEMENT TO OVERSEE POLICE DEPARTMENT** included the officers of the City and Township being sworn in as officers of both the City and Township police departments; and

WHEREAS, as the City and Township have been exploring whether it would be in the best interest of the City and Township to jointly establish a Police Authority (“Police Authority”); and

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, Act No. 7 of the Michigan Public Acts of 1967, Ex. Sess., being MCL § 124.501, *et seq.*, permit governmental units to exercise jointly with other governmental units any power, privilege or authority which such governmental units share in common which each might exercise separately; and

WHEREAS, the City and Township are both a “public agency” as that term is defined under Act 7 of the Michigan Public Acts of 1967, Ex. Sess., being MCL § 124.501, *et seq.* The Township and City both possess the power, privilege, and authority under State law to provide police protection to the residents and visitors to their respective municipalities; and

WHEREAS, the City and Township have agreed to execute the agreement attached hereto as Exhibit A (“Agreement”) whereby establishing the Police Authority, pursuant to the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, Act No. 7 of the Michigan Public Acts of 1967, Ex. Sess., being MCL § 124.501, *et seq.*; and

WHEREAS, pursuant to Section 1.02(3) of the Agreement, the Agreement Date will be October 26, 2015, or the date on which all of the following are satisfied:

- (i) The Agreement is approved and executed by the City Council of the City of Swartz Creek; and
- (ii) The Agreement is approved and executed by the Township Board of the Charter Township of Mundy; and

(iii) The Agreement is filed with the county clerk of Genesee County, Michigan.

WHEREAS, pursuant to Section 1.02(6) of the Agreement, the Effective Date of the Agreement shall be on the one hundredth and eighty-first (181st) day after the Agreement Date and after the City and Township have adopted a resolution affirming their participation in the Police Authority after the City and Township receive the proposed budget from the Police Authority that clearly states the allocation that is required by the City and the Township; and

WHEREAS, the City and Township shall each pay fifty percent (50%) of any debts incurred by the Police Authority after the Agreement Date and before the Effective Date of the Agreement; and

WHEREAS, pursuant to Section 4.01 of the Agreement, the City Council shall appoint three (3) individuals to the Police Authority Board and at least one (1) of the individuals appointed by the City Council shall be a City Council member; and

WHEREAS, pursuant to Section 4.01 of the Agreement, the Township Board shall also appoint three (3) individuals to the Police Authority Board and at least one (1) of the individuals appointed by the Township Board shall be a Township Board member; and

WHEREAS, it is the responsibility of the City Council and Township Board to determine how they select the three (3) individuals to serve on the Police Authority Board and the length of term that the individuals selected shall serve; and

WHEREAS, neither the City nor the Township shall appoint alternates to the Police Authority Board; and

WHEREAS, pursuant to Section 4.01 of the Agreement, the three (3) individuals appointed by the City Council and the three (3) individuals appointed by the Township Board shall appoint one (1) additional individual to the Police Authority Board who shall have a background in law enforcement and knowledge of the geographic area where the police services are being provided by the Police Authority; and

WHEREAS, pursuant to Section 8.01 of the Agreement, the Agreement shall remain in effect until either the City or the Township provides the Police Authority with one (1) fiscal year's written notice to the Police Authority or pursuant to Section 8.02 of the Agreement, the City and Township execute a written addendum to the Agreement providing for a shorter or longer period of time; and

WHEREAS, pursuant to Section 8.04 of the Agreement, in the event that the City or Township provide written notice that it is withdrawing from the Police Authority, the assets contributed by the City or Township shall be returned to the City and Township upon the dissolution of the Police Authority. Additionally, the Police Authority Board shall, in its sole discretion, determine how any assets acquired by the Police Authority shall be distributed and any cash shall be prorated and

distributed back to the City and Township after the Police Authority has been dissolved and all of the final liabilities of the Police Authority have been paid in full.

NOW, THEREFORE, Be It Resolved that the City of Swartz Creek hereby approves the Interlocal Agreement attached hereto as Exhibit A and authorizes the Mayor to execute the Interlocal Agreement.

Discussion Ensued

Break taken 8:55 p.m. to 9:00 p.m.

YES Shumaker, Abrams, Krueger, Pinkston, Porath.
NO: Gilbert, Hicks. Motion Declared Carried.

APPOINTMENTS

Resolution No. 151026-07

(Carried)

Motion by Mayor Pro Tem Abrams
Second by Councilmember Shumaker

I Move the Swartz Creek City Council affirm the nominations of the Mayor and appoint the following individuals to serve as representatives to the Police Authority for terms commencing immediately and expiring upon the effective date of the Interlocal Agreement:

David Krueger
Curt Porath
Dennis Pinkston

YES Abrams, Krueger, Pinkston, Porath, Shumaker.
NO: Gilbert, Hicks. Motion Declared Carried.

APPROPRIATION – WATER SYSTEM GENERAL PLAN

Resolution No. 151026-08

(Carried)

Motion by Councilmember Porath
Second by Mayor Pro Tem Abrams

WHEREAS, the city owns, operates, and maintains a public water distribution system that services more than 2,000 accounts and provides for fire flows; and

WHEREAS, Public Act 399 of 1976, The Safe Water Drinking Act, as amended, requires operators of such systems to complete and submit a General Plan to the State of Michigan Department of Environmental Quality; and

WHEREAS, the city finds such a general plan, including capital needs for the next five and twenty years, to be in the best interest of proper asset management; and

WHEREAS, Rowe Professional Services has already completed much of the work necessary to submit said plan and has offered a proposal to complete this work; and

WHEREAS, such plan should be under contract and substantially complete by January 1, 2016,

NOW, THEREFORE, BE IT RESOLVED THAT the City of Swartz Creek City Council accept the proposal of Rowe Professional Services Company dated October 6, 2015 and appropriate an amount not to exceed \$4,015, plus 10% contingency, for a water system General Plan, expenses to be distributed to the Water Fund, Fund 590, and further direct the Mayor to execute said proposal on behalf of the city.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

STREET USAGE PERMIT, ANNUAL FIRE DEPARTMENT CHRISTMAS PARADE

Resolution No. 151026-09

(Carried)

Motion by Councilmember Shumaker

Second by Councilmember Gilbert

I Move the City of Swartz Creek accept the Chief of Police's recommendation and approve the Swartz Creek Area Fire Department's Street Usage Application to hold an annual Christmas Parade on Saturday, December 5, 2015 from 6:00 PM to 7:00 PM, route, stipulations and conditions as set forth in the application packet, a copy of which is attached hereto, under the direction and control of the office of the Chief of Police.

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

NO: None. Motion Declared Carried.

COUNTY SEWER BOND OBLIGATIONS

Resolution No. 151026-10

(Carried)

Motion by Councilmember Hicks

Second by Mayor Pro Tem Abrams

WHEREAS, the City of Swartz Creek has a need to pay to the County of Genesee, the sum of \$58,294.49 to meet the bond and principal requirements on all bond obligations for water and sewer facilities in calendar year 2016; and

WHEREAS, the City of Swartz Creek has such an obligation for the retirement of a western trunk sewer extension bond through approximately 2026, and

WHEREAS, there are several means by which the funds can be secured to meet this payment; and

WHEREAS, all various means of securing these funds have been reviewed and considered;

NOW, THEREFORE, BE IT RESOLVED by the City of Swartz Creek that the monies to meet the principal and interest requirements and all bond obligations for water and sewer facilities will be secured from the following funds:

SOURCE OF FUNDS

Funds Already Available	<u>\$58,294.49</u>
Sewer Fund Total	\$58,294.49
Grand Total	\$58,294.49

Discussion Ensued.

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

NO: None. Motion Declared Carried.

MEETING OPEN TO THE PUBLIC:

Steve Shumaker, 7446 Country Meadow Drive, regarding Interlocal Agreements he read that it's creating a shared department and that is what that law is made for, not creating an authority that the budgets don't come back to the member municipalities like the Fire Dept. He wants the shared services to go forward but are we looking at other control, you still need some sort of material control. He feels we need to tweak what we have with correct controls and they aren't short circuited in the Interlocal agreement. He is surprised with the authority being so independent what will stop them from going out for a millage. Attorney Kevin Kilby responded that the authority cannot go out for a millage. Mr. Kilby also commented that there is a standing finance committee formed that can meet as much as needed to go over day to day financial operations.

REMARKS BY COUNCILMEMBERS:

Councilmember Gilbert wants to know if a light or four way stop is going to be put up on Morrish/Bristol Roads. He commented he almost had an accident there. City Manager Adam Zettel, commented he can check to see if it meets signal warrants.

Councilmember Shumaker commented that people don't understand who has the right of way. He feels a traffic camera may be needed and he feels traffic warrants a signal at Morrish/Bristol Roads at certain times of day.

Councilmember Hicks commented about lights downtown are all on. She also wanted to know if minutes will be taken during the Authority meetings. City Manager, Adam Zettel responded that they will have to take minutes and publish when meetings will be held and they will be open to the public.

Councilmember Porath wanted to thank the gentlemen for coming tonight and answering questions and wanted to remind everyone that we just started this process and we have 180 days. He is excited to see how all this works out and feels we all need to have an open mind.

Mayor Pro Tem Abrams commented he has difficulty crossing Bristol/Morrish Roads. He would also like a left turn light at Morrish/Miller Road. He remarked the sign for the roundabout on Hill and Elms Road isn't far enough out to warn for the speed decrease and he feels it needs better lighting. His November meeting will start his 32nd year on city council.

Mayor Krueger wanted to thank everyone for the effort put in tonight, it was a great discussion he is looking forward to seeing how all the things will work out. Mayor Krueger questioned how the process works other than the budget with the board. Attorney Kevin Kilby responded the final step for the council before the 180 days expire before you're presented with a budget, you need to adopt a resolution affirming you're moving forward with the Police Authority.

Mayor Pro Tem Abrams commented about the pencils put out for use are not American made.

Mayor commented about time change Sunday, and bills are at senate to do away with daylight savings time.

Adjournment

Resolution No. 151026-11

(Carried)

Motion by Councilmember Shumaker
Second by Mayor Pro Tem Abrams

I Move the Swartz Creek City Council adjourn the regular meeting at 9:39 pm.

Unanimous Voice Vote.

David A. Krueger, Mayor

Juanita, City Clerk