

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 7/13/2015**

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.

Others Present: Bob Plumb, Sharon Shumaker, Lou Fleury, Betty Binder, Ethan Webb, Carson Gardner, John Gardner, Julie Webb, Madeline Webb, Ron Webb, Ron Schultz, Steve Shumaker, Spencer McLaughlin, Brenda McLaughlin, Karen Guenther, Harley Guenther, Joe Perreault.

**APPROVAL OF MINUTES**

**Resolution No. 150713-01**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Shumaker

**I Move** the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday, June 22, 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. 150713-02**

**(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 July 13, 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. 150713-03**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council accept the City Manager's Report of July 13, 2015, to be circulated and placed on file.

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

## **MEETING OPENED TO THE PUBLIC**

Todd Beady, 3445 Morrish Road, spoke on behalf of the DDA. Mr. Beady stated that the DDA is very excited to have all of the commissions; DDA, Planning Commission and City Council, come together for discussion in a public workshop.

## **COUNCIL BUSINESS**

### **Orienteering Project Donation Acceptance**

Ethan Webb described his Eagle Scout Orienteering Course that will be placed in Elms Park.

### **Resolution No. 150713-04**

**(Carried)**

Motion by Councilmember Hicks  
Second by Councilmember Gilbert

**I Move** the City of Swartz Creek accept the donation of Ethan Webb's Eagle Scout Orienteering Course, including instructional plaque and installation, said course to be placed in Elms Park as outlined in the proposal included in the July 13, 2015 city council packet.

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

### **Wireless Lease Extension**

**(Discussion)**

City Manager Zettel spoke about the cell tower near the Public Safety Building stating that the cell company would like to extend the lease.

**Rental Inspection Ordinance**

**Resolution No. 150713-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Shumaker

**WHEREAS**, the Public Act 167 of 1917, the Housing Law of Michigan, as amended, enables municipal inspections of rental properties, and

**WHEREAS**, the Swartz Creek City Council recognizes a need and subsequent public benefit to regularly inspecting rental housing for compliance with building and property maintenance codes, and

**WHEREAS**, a program including registration, inspection, and follow up has been created, along with applicable fees and forms, to enable a comprehensive rental inspection program in the city, and

**WHEREAS**, the City Council, finding that a compliance-based interval of inspection is in the best interest of the public, renters, and landlords within the city,

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

**CITY OF SWARTZ CREEK  
ORDINANCE NO. 421**

An ordinance to amend Chapter 4 of the Code of Ordinances to add thereto a new Article IV for inspections of rental properties.

**THE CITY OF SWARTZ CREEK ORDAINS:**

**Section 1. Amendment of Chapter 4 of the Code of Ordinances of the City of Swartz Creek.**

Chapter 4 of the Code of Ordinances of the City of Swartz Creek is hereby amended to add thereto a new Article IV entitled "Rental Property Inspections" to read as follows:

**ARTICLE IV. RENTAL PROPERTY INSPECTIONS**

**Sec. 4-31. Purpose of standards.**

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the city as an important factor for the general health, safety and welfare of all of its citizens. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values.

This article supplements and augments the existing International Property Maintenance Code in protecting and promoting the health, safety and welfare of the citizens of the City of Swartz Creek by requiring the registration of all rental dwelling units in the city. This registration, combined with regular systematic inspections, will help prevent overcrowding, the incidence of communicable diseases, and will aid in the enforcement of the International Property Maintenance Code, which sets minimum allowable standards for adequate maintenance of habitable dwellings. This article is not intended nor shall it be used for the purpose of including the city in civil disputes between rental owners and tenants involving, but not limited to, non-payment of rent, evictions and/or personal disputes.

**Sec. 4-32. Definitions.**

“Dwelling unit” means a building, or portion thereof, designed for occupancy for living purposes and having cooking facilities and sanitary facilities, including single family residences.

“Landlord” means any person who owns or controls a dwelling, Dwelling Unit, or Rental Unit and rents such unit, either personally or through a designated agent, to any person.

“Owner” means the legal title holder of a Rental Unit or the Premises within which the Rental Unit is situated.

“Rental unit” means any Dwelling Unit or a unit containing sleeping quarters, including but not limited to hotels, motels, bed and breakfast establishments, boarding houses, sleeping rooms, residential, commercial or industrial property, including structures which are leased or rented by the Owner or other Person in control of such units, to any tenant, whether by day, week, month, year or any other term, except for jails, hospitals, nursing homes, convalescent homes, foster homes or temporary group shelters provided by legal nonprofit agencies which are inspected, certified and/or licensed by the state.

**Sec. 4-33. Registration.**

An Owner or Landlord shall register their Rental Unit at least once every three years, in accordance with the applicable inspection cycle, as follows:

- (1) All existing Rental Units shall be registered within ninety (90) days of the effective date of this ordinance.
- (2) All newly constructed Rental Units shall be registered prior to any use or occupancy as a rental dwelling unit.
- (3) A new Owner or Landlord shall register a Rental Unit, which is sold, transferred or conveyed, within thirty (30) days of the date of the closing of such sale, transfer or conveyance.

- (4) All existing non-rental dwelling units, which are converted to Rental Units, shall be registered prior to the date on which the property is first occupied for rental purposes.

#### **Sec. 4-34. Applications.**

Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the building inspector designated by the city manager and shall include at least the following information:

- (1) The name, address and telephone number of the Owner and/or Landlord (no post office box shall be accepted).
- (2) The name, address and telephone number of the Owner's representative, if the rental property owner has opted to appoint a representative. This representative must be located within 40 miles of the premises.
- (3) Upon registration, the Owner shall be responsible for notifying the building inspector of any change of address of either the Owner or Owner's representative.

Included with the registration application shall be an agreement, signed by the Owner, permitting inspections of his/her rental properties by officials or agents of the city and affirming that all tenants of the subject properties have been informed of the regulations contained in this article and of inspections of the rental properties, including common areas, by authorized City officials. All leases executed after the effective date of this article shall contain a provision requiring the tenant(s) to consent to such inspection upon notice as provided in this article.

An authorized City official may, with written notice, require additional information of any or all registrants in order to reasonably further the purposes of this Article.

At the time of registration of the Rental Unit, there will be a prescribed fee for registration and the initial inspection, as adopted by resolution. Any unpaid registration fees shall become a lien on the property immediately and collected as an assessment pursuant to city ordinance.

#### **Sec. 4-35. Inspections.**

The building official shall cause a periodic inspection to be made of every Rental Unit at least once every three years, with more frequent inspections for Rental Units that are found to have deficiencies, said inspection frequency to be in accordance with the procedural rules adopted by the city council. Such inspection shall include a thorough examination of all parts of such Rental Unit and the premises connected therewith.

The Owner shall be notified of the date and time of a rental inspection via first class mail at least 30 days prior to the inspection date. Owners shall be required to provide all notices of inspection to the tenant(s) as required by law.

Any Rental Unit, even though not previously scheduled for inspection, may be inspected without prior notice to the Owner and/or tenant if an authorized city official has probable cause to believe that there exists on the property any condition which makes it or any portion thereof substandard or unsafe, or there is evidence that a violation of a code may exist.

If access to a structure, premises or area for the purpose of inspection authorized by this section is refused, an authorized city official, upon showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this article with respect to such rental dwelling or rental unit, may petition and obtain such order from a court which has jurisdiction.

Except for probable cause inspections, a Rental Unit may only be inspected during reasonable hours upon presentation of proper identification by an authorized city official.

#### **Sec. 4-36. Standards.**

The standards used to determine Rental Unit and Dwelling Unit compliance with city codes and ordinances shall be the International Property Maintenance Code, as adopted and amended by the city council.

The building official is hereby empowered to make such rules and regulations as shall be necessary for the enforcement of this article, subject, however, to the approval of the city council. When the rules and regulations made under this article have been adopted and promulgated by the building official and approved by the city council, they shall be deemed to be as complete and binding a part of the article as if such rules were specifically set forth in this article. The violation of any of such regulations so adopted shall be deemed a violation of this article. Copies of such rules and regulations shall be placed on file in the office of the city clerk for inspection by interested parties at any reasonable time.

#### **Sec. 4-37. Noncompliance with code.**

*Violations not imminently dangerous.* Upon inspection by an authorized city official, if a violation of a code is discovered, but the violation is deemed by the official not to be immediately dangerous to health, welfare or safety, a violation notice shall be issued to the owner. The owner shall be advised of the time period to correct the violation.

*Violations that threaten life, limb or property.* If upon inspection of a rental property the authorized city official determines that a violation is of such serious nature so as to immediately threaten the health, safety or welfare of the public or the occupants thereof, the official shall demand that the violation(s) be corrected immediately and/or the rental property be vacated immediately.

#### **Sec. 4-38. Notices.**

The building inspector shall issue a written report in accordance with Section 107 of the International Property Maintenance Code, noting any violations of this article or any

other provision of the city's ordinances and shall provide a copy of the report to the owner or owner's representative.

The building inspector shall direct the owner or owner's representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the building inspector in light of the nature of the violations and all relevant circumstances, which shall not exceed sixty (60) days, unless correction of the violation within a 60-day period is impossible due to seasonal considerations.

Upon request of the person responsible for correcting violations, the building inspector may extend the time for correcting violations, but not to exceed an additional thirty (30) days.

Re-inspections of a rental property shall occur on the date specified on the violation notice, or sooner if requested by the owner and city scheduling permits such inspection. It shall be the owner's responsibility to coordinate the access to all areas of their rental properties. A fee as established by resolution of the City Council shall be charged for each re-inspection after the first re-inspection.

#### **Sec. 4-39. Violations.**

A violation of any provision of this ordinance shall be punished as a municipal civil infraction, subject to fines and costs identified in Section 1-21 of Article II of the City of Swartz Creek Code of Ordinances.

Any structure not in compliance with this article is deemed a nuisance per se.

The building inspector, building official, code enforcement officer and any other person designated by the city manager is hereby designated as the authorized individual to issue municipal civil infraction citations or pursue any other lawful remedy for violations of this Article.

In addition to any penalties imposed by law, upon a finding of responsibility by the court for a violation of this Article, the City may immediately revoke the registration and order the immediate eviction of all persons and property upon the premises until a certificate of compliance is issued by the city.

#### **Sec. 4-40. Fees.**

The City shall, by resolution, establish the fees for registration and inspections of Rental Units and the City Clerk shall make the fee schedule available to the public during regular office hours. Any unpaid inspection fees shall become a lien on the property and collected as delinquent property taxes as allowed by law.

#### **Sec. 4-41. Appeals.**

Any person aggrieved by an order or decision of any official charged with the enforcement of this Article may appeal that order or decision to the city council provided that appeal is taken no later than twenty (20) days from the date of the order or decision

being appealed. The appellant shall file with the official from whose decision such appeal is taken and with the city clerk, a notice of appeal specifying the ground therefor. The official from whom the appeal is taken shall forthwith transmit to the city clerk a summary report of all previous action taken. The city council may at its discretion call upon the official from whom the appeal is taken, to explain his/her action. The final disposition of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or the determination appealed from. To this end, the city council shall have all the powers of the official from whom the appeal is taken.

**Sec. 4-42. Hearings.**

The city council acting as the board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to interested parties and decide the same within a reasonable time.

**Sec. 4-43. Cost.**

The cost of the demolition, making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by the city to bring the property into compliance with this article shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

**Sec. 4-44. Lien.**

The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the costs of the demolition, making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost to the city, the city shall have a lien for the cost incurred to bring the property into conformance with this article. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Act No. 206 of the Public Acts of Michigan of 1893 (MCL 211.1 et seq.), as amended.

**Sec. 4-45. Separate legal action; judgment.**

In addition to other remedies under this article, the city may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The city shall have a lien on the property for the amount of a judgment obtained pursuant to this section. The lien provided for in this section shall not take effect until notice of the lien is filed or recorded as provided by law.

**Section 2. Effective Date.**

This Ordinance shall take effect 30 days following publication.

At a regular meeting of the City Council of Swartz Creek held on the 13th day of July, 2015, Councilmember Gilbert moved for adoption of the foregoing ordinance and Councilmember Shumaker supported the motion.

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

Voting against: None.

The Mayor declared the ordinance adopted.

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David Krueger  
Mayor

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Juanita Aguilar  
City Clerk

### **CERTIFICATION**

The foregoing is a true copy of Ordinance No. 421 which was enacted by the Swartz Creek City Council at a regular meeting held on the 13th day of July, 2015.

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Juanita Aguilar  
City Clerk

**BE IT FURTHER RESOLVED** that the following forms, as included in the July 13, 2015 city council packet, shall be hereby incorporated into the rental inspection program of the City of Swartz Creek, with future fees subject to resolution by the city council:

Rental Registration & Inspection Procedural Rules & Policies  
Occupant Information Form.  
Rental Registration Form  
Rental Inspection Certificate of Compliance  
Rental Inspection Report  
Rental Registration Letter  
Flowchart of Rental Registration Process

Discussion Ensued.

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

## Storm Water Agreement

**Resolution No. 150713-06**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Councilmember Hicks

**WHEREAS**, the County of Genesee and City of Swartz Creek are subject to the requirements of the Phase II Storm Water Regulations published by the United States Environmental Protection Agency in the Federal Register on December 8, 1999; and

**WHEREAS**, the County established the Genesee County Storm Water Management System to provide storm water management services to county municipalities, including Swartz Creek, in accordance with the provisions of Public Act 342 of 1939 to enable the county and municipalities to comply with the requirements of Phase II regulations; and

**WHEREAS**, the Genesee County Drain Commission is the agency designated to establish, manage, and operate the System; and

**WHEREAS**, the County and municipalities, including Swartz Creek, entered into the Genesee County Phase II Regulations Storm Water Management System Contract, dated May 1, 2001 to enable the following activities:

Public education and outreach on storm water impacts,  
Public participation/involvement,  
Illicit discharge detection and elimination  
Construction site storm water runoff control,  
Post-construction storm water runoff control,  
Pollution prevention/good housekeeping for municipal operations; and

**WHEREAS**, the County and Municipalities desire to proceed with the foregoing implementation activities and related sub-committee activities required by the Phase II Regulations and to provide for a method for allocating costs of such activities,

**NOW, THEREFORE BE IT RESOLVED** the City of Swartz Creek hereby approves the Third Amendment to Genesee County Phase II Regulations Storm Water Management System Contract to be dated as of October 1, 2015, among the County of Genesee, acting through its Drain Commissioner, as County Agency, and the Municipalities (the "Amendment"), which Amendment provides, among other things, for the provision by the Genesee County Storm Water Management System of services for implementation activities required by the Phase II Regulations, the allocation of the costs of such activities among the County and the Municipalities, and the payment by the County and the Municipalities of their respective share of the cost of the services as set forth in the Amendment.

**BE IT FURTHER RESOLVED** the City of Swartz Creek and Clerk are authorized and directed to execute and deliver the Amendment for and on behalf of the City of Swartz Creek.

**BE IT FURTHER RESOLVED** a copy of the Amendment presented on this date and herein approved and authorized to be executed and delivered shall be attached to the minutes of this meeting and made a part thereof and shall be placed on file with the Clerk and made available for examination by any interested person during normal business hours.

**BE IT FURTHER RESOLVED** that all resolutions and parts of resolutions, insofar as they may be in conflict herewith, are hereby rescinded.

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

NO: None. Motion Declared Carried.

### **Bikes on the Bricks**

**Resolution No. 150713-07**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council hereby authorize Bikes on the Bricks to make application to the Genesee County Road Commission on behalf of the City of Swartz Creek in the county of Genesee, Michigan for the permitting of a motorcycle motorcade on September 12, 2015, which is planned to make use of right of ways of Seymour and Miller Roads approaching and within the City of Swartz Creek. The council further indemnifies and agrees to hold harmless all persons employed by or serving the permitting agency from claims of every kind arising out of operations authorized by such permit as may be issued.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

### **Dedication of City Hall**

**Resolution No. 150713-08**

**(Carried)**

Motion by Mayor Pro-Tem Abrams  
Second by Councilmember Porath

**WHEREAS**, Paul Daniel Bueche, born March 11, 1956, began his career in law enforcement with Swartz Creek in 1977; and

**WHEREAS**, Mr. Bueche was subsequently promoted to the rank of Sergeant in 1985, to Chief of Police in 1995, and to City Manager in 2002; and

**WHEREAS**, Mr. Bueche served on numerous boards including the 911 Board, Planning Commission, Chief of Police Association, and Downtown Development Authority; and

**WHEREAS**, Paul's positive contributions and impact in the community as a city employee, businessman, and family man are too numerous to account; and

**WHEREAS**, Paul passed away on May 15, 2014,

**NOW, THEREFORE BE IT RESOLVED** that the City of Swartz Creek hereby approves the official naming of city hall as the "PAUL D. BUECHE MUNICIPAL BUILDING" and directs the city manager to prepare new signage and a dedication ceremony for August 24, 2015.

Discussion Took Place.

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

NO: None. Motion Declared Carried.

### **Police Vehicle Auction**

**Resolution No. 150713-09**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Mayor Pro-Tem Abrams

**I Move** the City of Swartz Creek, finding the 2009 Dodge Charger police cruiser to be beyond its useful life for the execution of safe and efficient police activities, hereby direct and authorize the Chief of Police to auction this vehicle and related appurtenances (listed below) by means of the Bidcorp.com service.

1. 2009 Dodge Charger, VIN #2B3KA43V59H519401, 95,000 miles
2. Whelen "Edge" series light bar model #LL288000 Serial #5347

Discussion Ensued.

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

NO: None. Motion Declared Carried.

### **Commission Appointments**

**Resolution No. 150713-10**

**(Carried)**

Motion by Councilmember Hicks  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council concur with the Mayor and City Council appointment as follows:

**MAYOR RE-APPOINTMENT:**

Board of Review

Three-Year Term Expiring June 30, 2018

**ROBERT BROWN**

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

NO: None. Motion Declared Carried.

**Fire Board**

**(Discussion)**

Mayor Pro-Tem Abrams spoke about the June Fire Board meeting stating that Clayton Township announced that their Board was going to remove their 2015 participation in the Capital Improvement Fund because of overages and expenditures in the Fire Department and their budget process.

**MEETING OPEN TO THE PUBLIC:**

None.

**REMARKS BY COUNCILMEMBERS:**

Councilmember Shumaker spoke about the road construction on Miller Road stating that he felt that they have good traffic control. Mr. Shumaker thanked City Manager Zettel for doing the advance investigation on mosquito control.

Councilmember Hicks stated that it is looking “crappy” in front of Dr. Goldfein’s old office, by St. Mary’s on Morrish Road. Ms. Hicks requested that someone write down the information on the Fire Board issue so that she can better understand the ins and outs. City Manager Zettel stated that he will go over the budget with her.

Councilmember Gilbert spoke about how the lights are activated at Miller and Morrish Roads stating that it is much safer to cross the road with that light configuration.

Mayor Pro-Tem Abrams remarked that it is a challenge to be on the Fire Board. Mr. Abrams spoke about the signs in front of Syring school leaning again.

Mayor Krueger thanked the council for their willingness and good efforts at reading the resolutions every meeting. Mr. Krueger spoke about meetings that he has attended at Genesee County stating that they just read the resolution number with no explanation as to what the resolution is about.

Mayor Pro-Tem Abrams spoke about the State Representative, stating that he doesn’t even know who it is. Councilmember Shumaker volunteered to contact the representative and invite him to a council meeting.

**Adjournment**

**Resolution No. 150713-11**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Mayor Pro-Tem Abrams

**I Move** the City of Swartz Creek adjourn the Regular Session of the City Council meeting at 9:12 p.m.

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

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**David A. Krueger, Mayor**

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**Juanita Aguilar, City Clerk**