

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 9/28/2015**

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, Deputy City Clerk Deanna Korth, DPS Director Tom Svrcek.

Others Present: Sharon Shumaker, Boots Abrams, Bob Plumb, Tommy Butler, Steve Shumaker, Jim Florence, Ron Schultz, James Barclay, Todd Beedy.

**APPROVAL OF MINUTES**

**Resolution No. 150928-01**

**(Carried)**

Motion by Mayor Pro-Tem Abrams  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday, September 14, 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. 150928-02**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council approve the Agenda as presented and printed, for the Regular Council Meeting of September 28, 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. 150928-03**

**(Carried)**

Motion by Councilmember Hicks  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council accept the City Manager's Report of September 28, 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**

Steve Shumaker, 7446 Country Meadow, spoke about the new rental inspection ordinance. Mr. Shumaker mentioned the apartments that are above some of the businesses in the downtown area. Mr. Shumaker questioned why residential apartments are allowed in business areas when businesses are not allowed in residential areas and inquired as to whether a special permit should be required.

City Manager Zettel stated that there are some apartments above businesses in the downtown areas. Mr. Zettel stated that they were "grandfathered in" and would fall under the rental definition so they would have to register and be inspected. Mr. Zettel stated that the mixed use would have a special land use permit.

### **Elms Park Land Conversion**

#### **PUBLIC HEARING**

Open at 7:08 p.m.

Steve Shumaker, 7446 Country Meadow, stated that he thinks it is good that the City is doing this, however he sees one issue; with it being restricted property, income from the tower should be used for the parks and recreation department.

City Manager Zettel stated anecdotally, that tower rentals plus the pavilion rentals are about half of what is budgeted for that park. General fund allocations are put in to cover regular park operating costs.

Councilmember Shumaker asked if park dollars come out of the general fund. Mr. Zettel responded that there are no funds spent in the parks other than from the general fund.

This includes income from pavilion rentals, at times CDBG funds, pass through funds & donations.

Public Hearing Closed at 7:11 pm.

## **COUNCIL BUSINESS**

### **Elms Park Conversion**

**Resolution No. 150928-04**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Mayor Pro-Tem Abrams

**WHEREAS**, the city acquired the 24 acres of land currently known as Elms Park in October of 1972 with the assistance of the Federal Land and Water Conservation Trust Fund ; and

**WHEREAS**, the acquisition requires use of the park in perpetuity for recreational purposes and was based on a site plan, currently held by the Department of Natural Resources; and

**WHEREAS**, the city entered into a leasehold with a wireless communications provider for 2,128 square feet of land area in 2005; and

**WHEREAS**, DNR, after reviewing a request for additional grant assistance in Elms Park, notified the city that this encumbrance requires the addition of replacement park land through a process commonly referred to as “conversion”; and

**WHEREAS**, the city owns 2.76 acres of vacant land on the east side of the Consumers Power property, said property being connected to Elms Park via an easement held with Consumers Power; and

**WHEREAS**, this property is not technically part of the city’s park system, but was conceptually planned for a trail and passive recreational use; and

**WHEREAS**, the National Park Service, acting through the DNR, has approved moving forward with the conversion of this property as outlined in the Procedures for Conversion of Grant Assistance Properties guidance sheet; and

**WHEREAS**, the city may still retain grant eligibility if this process is completed by November 1, 2015, making time of the essence; and

**WHEREAS**, the city gave notice of a September 28, 2015 public hearing on the matter in a newspaper of general circulation on August 20, 2015; and

**WHEREAS**, the public hearing was held on September 28, 2015 and the following comments were received:

1. with it being restricted property, income from the tower should be used for the parks and recreation department; and,

**WHEREAS**, the city council finds the conversion as proposed to be the best course of action,

**NOW, THEREFORE BE IT RESOLVED** the City of Swartz Creek hereby approves the conversion of a parcel of land referred to as parcel number 58-31-100-019 to be used as recreational property in lieu of the leasehold for wireless communications as noted on the attached maps.

**BE IT FURTHER RESOLVED** the council hereby directs the city manager to finalize application of this conversion to the Michigan Department of Natural Resources.

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

NO: None. Motion Declared Carried.

### **Downtown Development Authority Development Proposal**

**Resolution No. 150928-05**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Mayor Pro-Tem Abrams

**WHEREAS**, the city acquired vacant land on Morrish Road in 2004, parcel ID 58-35-576-001, and a house located at 4438 Morrish Road in 2007, parcel ID 58-35-576-002, both for the purpose of either locating a potential senior center or spurring development that would complement downtown.

**WHEREAS**, the senior center chose not to relocate but add an addition at their current location in 2009; and

**WHEREAS**, the city recently acquired vacant land across the street from these properties, between the post office and cemetery, identified as parcel 58-35-576-032; and

**WHEREAS**, the City of Swartz Creek and its Downtown Development Authority have invested in a community master plan, target market analysis, downtown development plan, and the demolition of structures pertaining to these sites; and

**WHEREAS**, in accordance with these plans, the DDA and with the assistance from a professional architect, developed a conceptual plan to develop the properties; and

**WHEREAS**, a well-attended workshop was held on August 31, 2015 to ascertain interest and recommendations for future use of these sites; and

**WHEREAS**, the findings from this workshop indicated, among other things, a need for parking in this area, a need for a safer intersection for this location, and a desire

to add to the vitality of downtown through the addition of new residential and/or commercial uses at this site; and,

**WHEREAS**, the DDA has funds to further conceptualize multiple options for the future use of these properties; and

**WHEREAS**, the final decision on any site plan, investment, or sale must be made by the city council,

**NOW THEREFORE, BE IT RESOLVED**, the City of Swartz Creek hereby authorizes the DDA to investigate the development potential of the three properties owned by the city near the corner of Morrish Road and Paul Fortino Drive, including the hiring of professional designers, engagement of builders, and the application for site plan and related reviews, provided they do so with their own funds and report their findings and recommendations back to the city council for final review and approval.

Discussion Took Place.

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

### **Sewer Lining Projects**

**Resolution No. 150928-06**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Hicks

**WHEREAS**, the city selected Liqui-Force Services Inc., to perform certain sewer inspections and repairs in December 2008 based upon a competitive request-for-proposal process that included fixed unit costs for services; and

**WHEREAS**, the scope of work was to span four years and terminate in December 2012, but circumstances resulted in the delay of specific work items; and

**WHEREAS**, Liqui-Force has agreed to extend their unit costs through June of 2017 for the purpose of completing work on the sanitary sewer system; and

**WHEREAS**, the city council agreed to extend said units prices at their regular meeting on January 26, 2015; and

**WHEREAS**, additional sewer rehabilitation work has been identified by staff and the city engineer based upon 2015 inspections and consultation with the 20 year sewer plan,

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek hereby approves the proposal to perform rehabilitation on the sanitary sewer system as outlined on

the updated proposal dated September 23, 2015, in the amount of \$143,720, plus a 10% contingency, funds to be appropriated to the Sewer 591 fund.

Discussion Ensued.

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

### **Crack Filling Proposals**

**Resolution No. 150928-07**

**(Carried)**

Motion by Mayor Pro-Tem Abrams  
Second by Councilmember Porath

**WHEREAS**, the city's major streets are in need of surface treatments as part of the recognized need to apply proper asset management practices to infrastructure assets; and

**WHEREAS**, one of the more fundamental and affordable forms of surface treatment is overband crack sealing, which is applied to those street segments that are not in need for more intensive forms of rehabilitation; and

**WHEREAS**, the city did not bid such services early in the construction season, pending a forecast of actual costs incurred by the 2015 Miller Road rehabilitation project; and

**WHEREAS**, the city has been soliciting cost-per-pound proposals for this treatment since unit costs for Miller Road were recognized as within cost parameters, being mid-August; and

**WHEREAS**, the response to active proposal solicitation has been remarkably low, making a sealed bid process unlikely to be competitive or timely; and

**WHEREAS**, the city still desires to invest in crack filling this year, recognizing the importance of timely surface treatments; and

**WHEREAS**, the city council may, at the request of the city manager, authorize the city manager to negotiate a contract for the purchase of any product, material or service with a provider of such product, material or service without regard to the requirements of this section relative to purchases where the city council finds:

- i. Due to circumstances beyond the control of the city, the market for such product, material or service is not competitive even though such product, material or service is normally competitive in nature; and
- ii. The economic interests of the city are best served by negotiating a contract with a provider of the product, material or service without requesting sealed bids; and,

**WHEREAS**, the city council finds the availability of these services, given the unusually high demand for construction related services generally and at this point of the season, as well as the need for timely application of the repair, hereby satisfy the above requirements,

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek hereby approves the proposal submitted by Scodeller Construction to perform overband crack sealing on major streets, including Seymour Road (Miller to Norbury), Morrish Road (Bristol – I-69), and Bristol (Elms to Miller), in an amount not to exceed 14,200 pounds (\$19,880), plus a 10% contingency, with surplus material, if any, to be applied to Morrish Road south of I-69 or otherwise at the discretion of Mr. Svrcek, funds to be appropriated to the Major Street (202) fund.

Discussion Took Place.

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

### **Family Farm & Home Special Land Use Review**

**Resolution No. 150928-08**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Gilbert

**WHEREAS**, the City of Swartz Creek approved a special land use for outdoor sales in storage for 4315 Elms Road (Family Farm & Home), in accordance with the site plan dated November 17, 2010; and,

**WHEREAS**, the site has been noted to be in noncompliance with the site plan as it relates to this special land use, by virtue of numerous complaints, and;

**WHEREAS**, prior efforts to engage the owner and business were unsuccessful at effecting change; and,

**WHEREAS**, the city council, per Zoning Ordinance Section 30.06, began the process to revoke the special land use for outdoor sales and storage at their regular meeting on June 8, 2015; and,

**WHEREAS**, the owner and site manager have responded to the notice of revocation and have made a good faith effort to bring the site into compliance; and,

**WHEREAS**, upon review by the city council on July 27, 2015, a sixty day extension was granted to resolve improvements relating to pallet storage, lighting repairs, and a dumpster enclosure were still pending; and,

**WHEREAS**, these outstanding items have been adequately addressed by the holder of the special land use permit,

**NOW, BE IT RESOLVED** that the City of Swartz Creek City Council hereby ceases current efforts to revoke the special land use.

Discussion Ensued.

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

**MEETING OPEN TO THE PUBLIC:**

None.

**REMARKS BY COUNCILMEMBERS:**

Councilmember Pinkston stated that he is glad to see the DDA moving forward with their new ideas.

Councilmember Gilbert asked if the Taco Bell sign was going to stay that large. He was advised that it was supposed to be for all three business on that corner. Mr. Gilbert asked about the grass seed that was used when Miller Road was paved.

Councilmember Hicks stated that she will be interested in watching what the DDA does.

Councilmember Shumaker spoke about the Small Cities meeting. Mr. Shumaker spoke about a state program to capture any increases in property tax from the neighborhood improvement. Mr. Zettel stated that he looked into it and we have too much of the city in a TIF district. Mr. Shumaker asked about the new street lights on Fortino Drive, asking if they have been straightened. Mr. Shumaker asked about signs at the city limits, wondering why new signs were not installed and the old ones which were over ten years old were left up. Mr. Zettel advised that as long as there was room for all of them, they could remain unless council wants them removed.

Councilmember Porath mentioned the “special weeds” on Miller Road after the resurfacing. Mr. Porath questioned if Seymour Road was falling apart faster than it should.

Mayor Pro-Tem Abrams spoke about the Fire Board meeting, and concerns Clayton Township has over a 1999 resolution for “mutual aid” vs “automatic mutual aid”, and the discussion that ensued. Mr. Abrams encouraged others to come to the meetings.

Mayor Krueger stated that he is happy to see Boots Abrams back. Mr. Krueger stated that he is looking forward to seeing better grass on Miller Road.

**Adjournment**

**Resolution No. 150928-09**

**(Carried)**

Motion by Councilmember Shumaker  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council adjourn the regular meeting at 8:18 pm.

Unanimous Voice Vote.

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**David A. Krueger, Mayor**

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**Deanna Korth, Deputy City Clerk**