

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 04/11/2016**

The meeting was called to order at 7:01 p.m. by Mayor Krueger in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Invocation and Pledge of Allegiance.

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

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, City Clerk Connie Eskew, City Attorney Mike Gildner.

Others Present: Tommy Butler, Jim Barclay, Steve Shumaker, Bob Plumb, Trudy Plumb, Dennis Cramer, Boots Abrams, Sharon Shumaker, Walter Melen, Eric Melen, Ryan Melen, Brent Cole, Ron Schultz, Debra Williams.

**APPROVAL OF MINUTES**

**Resolutions No. 160411-01**

**(Carried)**

Motion by Councilmember Florence  
Second by Councilmember Porath

**I Move** the Swartz Creek City Council hereby approve the Minutes as amended of the Regular Council Meeting held Monday March 28, 2016 to be circulated and placed on file.

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

**APPROVAL OF AGENDA**

**Resolution No. 160411-02**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council approve the Agenda as presented for the Regular Council Meeting of April 11, 2016, to be circulated and placed on file.

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

## **City Manager's Report**

### **Resolution No. 160411-03**

**(Carried)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council accept the City Manager's Report of April 11, 2016, including reports and communications, to be circulated and placed on file.

Discussion Ensued.

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

Mike Gildner, City Attorney, spoke in regards to the councilmember position that will need to be filled and candidate will need to run in August election as a partial term ending in 2018.

## **MEETING OPENED TO THE PUBLIC**

Ryan & Eric Melen from Boy Scout Troop #122 spoke in regards to their Eagle Scout Projects at the Elms Park Dog Park. Eric will be in charge of the exercise equipment and benches for the owners. Ryan will be in charge of the waste stations and black chain link fence.

Barbara Villarreal resides at 7096 Yarmy, commented she wanted more information for the street proposal on the May ballot. Mr. Zettel responded and informed her of literature in the lobby and invited her to meet with him for more information

## **COUNCIL BUSINESS**

### **DOG PARK DONATION ACCEPTANCE**

#### **Resolution No. 160411-04**

**(Carried)**

Motion by Councilmember Hicks  
Second by Mayor Pro Tem Abrams

**WHEREAS**, the City of Swartz Creek owns operates and maintains a system of parks; and

**WHEREAS**, the Eagle Scout candidates has offered to donate materials and labor sufficient to install a dog park of approximately 16,000 square feet in the southwest corner of Elms Park; and

**WHEREAS**, the Park Board, after rigorous review and comment, found the dog park to be in the best interests of the park and approved the donation at their meeting on January 13, 2016 subject to conditions.

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council hereby accepts the Eagle Scout donation of a dog park enclosure in Elms Park, conditioned upon the following:

1. The enclosure shall be ~16,000 square feet, as mapped, with overall dimensions of 140' x 140' less a 70' x 70' square that creates the "L" shape.
2. The fence will be 4' tall black chain link, with a tension wire and closed loops.
3. Double entrances will be provided for safety.
4. A mowing entrance will also be provided.
5. The project shall be overseen by the Director of Public Works and not commence until the ability to ensure project completion is evidenced.

**BE IT FURTHER RESOLVED**, the City of Swartz Creek hereby directs the park board to work with city staff to formulate a set of rules for use of the dog park that could be integrated in the existing park rules.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

## **FIRE CHIEF SALARY**

**Resolution No. 160411-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Porath

**WHEREAS**, the City of Swartz Creek entered into the Swartz Creek – Clayton Township Amended and Restated 2013-2016 Fire Department Agreement on August 12, 2013, for the purpose of providing joint fire protection services, and

**WHEREAS**, the board employs a fire chief, as budgeted by the city and township, that currently receives a salary and supplemental hourly compensation package for attendance to fire runs, and

**WHEREAS**, the fire board, at the recommendation of a standing committee, requests the salary be set and stabilized to include an average of previous years hourly compensation, as set forth by resolution of the fire board on March 21, 2016, and

**WHEREAS**, the fire board resolution requires affirmation of the city council and township board,

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek affirms the restated salary and total compensation package of \$33,628, as outlined by the fireboard resolution of March 21, 2016.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

## **APPRAISAL SERVICE AFFIRMATION**

**Resolution No. 160411-06**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Mayor Pro Tem Abrams

**WHEREAS**, the City of Swartz Creek, on January 11, 2016, allocated \$10,000 for appraisal and legal fees for the purpose of contesting a tax appeal by Shkreli Investments, for real identified as parcel number 58-32-100-004 (Genesee Valley Meadows Golf Course) , and

**WHEREAS**, the approval indicated that the professional service company preferred for selection was Cook, Pray, Rexroth & Associates, and

**WHEREAS**, the city manager and city assessor, after seeking references and pricing, discovered that Valbridge Property Advisors are better positioned to conduct the appraisal within the financial limits set, and

**WHEREAS**, the timeline for the appraisal as quoted on March 29, 2016, being approximately 50 days, placed the completion and delivery of the service close to the due date required by the Michigan Tax Tribunal, thereby requiring expedited execution of the agreement prior to April 11, 2016,

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek affirms the retention of Valbridge Property Advisors for the purpose of contesting the tax appeal by Shkreli Investments for the Genesee Valley Meadows Golf Course, costs to include an appraisal and related expenses for tax years 2015 and 2016 in the amount of \$8,500, as selected by the city manager with the authority of the city council under Section 2-402(a)(2) of the city ordinances.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

## **ASSESSMENTS: DELINQUENT WATER, SEWER, WEEDS & SIDEWALKS**

**Resolution No. 160411-07**

**(Carried)**

Motion by Councilmember Porath  
Second by Councilmember Hicks

**I Move** the City of Swartz Creek direct the Treasurer to prepare an audit of all outstanding debts owed to the City for delinquent water, sewer, mowing, sidewalk repairs, sidewalk snow removal, and further, to cause such debts to be assessed against the property owner of record, in accordance with City Ordinance and State Statute, said debts to be placed against the summer 2016 tax collection roll.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

## **INVESTMENT POLICY AND DESIGNATION DEPOSITORY LIST**

**Resolution No. 160411-08**

**(Carried)**

Motion by Councilmember Florence  
Second by Councilmember Hicks

**WHEREAS**, the city maintains a policy to manage invested public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City of Swartz Creek and conforming to all State statutes and local ordinances governing the investment of public funds; and

**WHEREAS**, the policy includes a listing of eligible banking institutions that may change from time to time based upon the rating of such institutions; and

**WHEREAS**, the city treasurer has updated the designation of depository list to reflect the current ratings; and

**WHEREAS**, there are no changes to the investment policy at this time.

**NOW, THEREFORE, BE IT RESOLVED**, the Swartz Creek City Council accept the Investment Policy and Designation of Depository for City Funds as follows:

### **I. POLICY**

It is the policy of the City of Swartz Creek to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City of Swartz Creek and conforming to all State statutes and local ordinances governing the investment of public funds.

### **II. SCOPE**

This investment policy applies to all short term operating funds of the City of Swartz Creek and any new fund created by the local unit, unless specifically exempted by the City Council. These assets are accounted for in the City of Swartz Creek's annual financial report.

### **III. INVESTMENT OBJECTIVES**

The following investment objectives, in priority order, will be applied in the management of the City of Swartz Creek's funds.

#### **Safety**

The primary objective of the City of Swartz Creek's investment activities is the preservation of capital in the overall portfolio and the protection of investment principal.

The authorized investment staff will employ mechanisms to control risks and diversify investments regarding specific security types or individual financial institutions.

#### **Liquidity**

The investment portfolio will remain sufficiently liquid to enable the City of Swartz Creek to meet operating requirements, which might be reasonably anticipated.

#### **Return on Investment**

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow characteristics of the portfolio. Return on investments shall be of secondary importance compared to the safety and liquidity objectives above.

### **IV. PRUDENCE**

In managing its investment portfolio, City of Swartz Creek officials shall avoid any transaction that might impair public confidence. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The above standard is established as the standard for professional responsibility and shall be applied in the context of managing the overall portfolio. Investment officers of the City of Swartz Creek, acting in accordance with State statute, this Investment policy, written procedures as may be established, and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit

risk or market price changes, provided that deviations from expectations are reported in a timely fashion, and appropriate action is taken to control adverse developments.

## **V. DELEGATION OF AUTHORITY**

Authority to manage the City of Swartz Creek's investment program is derived from State statutes.

Responsibility for the investment program is hereby delegated to the City Manager, or his designated representative hereinafter referred to as investment officer, who shall establish written procedures for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken, and shall establish a system of controls to regulate the activities of subordinate officials.

## **VI. ETHICS AND CONFLICTS OF INTEREST**

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair--or create the appearance of an impairment on--their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Manager any material financial interests in financial institutions that conduct business with the unit, and they shall further disclose any large personal financial investment positions that could be related to the performance of the City of Swartz Creek's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the City of Swartz Creek, particularly with regard to the time of purchases and sales.

## **VII. SAFEKEEPING AND CUSTODY**

1. Authorized Financial Dealers and Institutions - The Investment Officer will maintain a list of financial institutions. In addition, a list will also be maintained of approved security broker/dealers selected by credit-worthiness, who maintain an office in the State of Michigan or who are "primary" dealers or regional dealers that qualify under Securities and Exchange Commission rule 15C3-1 (uniform net capital rule.) No public deposit shall be made except in a qualified public depository as established by State law.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Investment Officer with the following: audited financial statements for the most recent fiscal year; certification of having read and agreeing to abide by the City of Swartz Creek's investment policy and the

pertinent State statutes; proof of National Association of Security Dealers certification; and proof of State registration, where applicable.

An annual review of the financial condition and registration of qualified bidders will be conducted by the Finance Director. Information indicating a loss or prospective loss of capital on existing investments must be shared with the City Manager of the City of Swartz Creek immediately upon notification.

2. Internal Controls - The Investment Officer shall establish a system of internal controls, documented in writing, which is designed to prevent losses of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the City. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefit likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management.

All securities purchased by the City of Swartz Creek under this section shall be properly designated as an asset of the City and held in safekeeping by a third party custodial bank or other third party custodial institution, chartered by the United States government or the State of Michigan, and no withdrawal of such securities, in whole or in part, shall be made from safekeeping except by the Investment Officer as authorized herein, or by respective designees.

Internal controls will also encompass at a minimum the additional issues:

separation of functions including transaction authority from accounting and record-keeping, delegation of authority to subordinate staff members written confirmation of telephone transactions, specific guidelines regarding securities losses and remedial action, documentation of decisions made at the committee level and avoidance of physical delivery securities. Further all confirming written transactions shall be signed by the Investment Officer or Finance Director.

3. Delivery vs. Payment – all trades will be executed by delivery vs. payment to ensure that securities are deposited in an eligible financial institution prior to release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

The City of Swartz Creek will execute third party custodial agreement(s) with its bank(s) and depository institution(s). Such agreements will include letters of authority from the City of Swartz Creek, details as to responsibilities of each party, notification of

security purchases, sales, delivery, repurchase agreements and wire transfers, safekeeping and transactions costs, procedures in case of wire failure or other unforeseen mishaps including liability of each party.

### **VIII. AUTHORIZED AND SUITABLE INVESTMENTS**

1. The City of Swartz Creek is empowered by State statute (1988 Public Act 239, M.C.L. 129.91) to invest in the following types of securities:

a. Bond, securities, and other obligations of the United States, or an agency or instrumentality of the United States including securities issued or guaranteed by the Government National Mortgage Association;

b. Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a bank which is a member of the federal deposit insurance corporation or a savings and loan which is a member of the federal savings and loan insurance corporation or a credit union which is insured by the national credit union administration, but only if the bank, savings and loan or credit union is eligible to be a depository of surplus funds belonging to the state under section 5 or 6 of Act No. 105 of the Public Acts of 1855, as amended;

c. In United States government of federal agency obligation repurchase agreements.

d. In banker's acceptances of United States banks;

e. Mutual funds registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, with the authority to purchase only investment vehicles that are legal for direct investment by the City. This authorization is limited to securities whose intention is to maintain a net asset value of \$1.00 per share.

f. Investment pools through an interlocal agreement under the urban cooperation act of 1967, 1967 (Excess) PA 7, MCL 124.501 to 124.512. All of the pools are limited to investments described in Sections a-f.

g. Investment pools organized under the surplus funds investment pool act, 1982 PA 367, 129.111 to 129.118. All of the pools are limited to investments described in Sections a-f.

2. The Investment Officer is restricted to investments which meet the statutory restrictions above and limitations on security issues and issuers as detailed below:

a. Repurchase agreements shall be negotiated only with dealers or financial institutions with whom the City has negotiated a Master Repurchase Agreement or with the City of Swartz Creek's primary bank. Repurchase Agreements must be signed with the bank or dealer and must continue provisions similar to those outlined in the Public Security Association's model Master Repurchase Agreement.

b. Certificates of Deposit shall be purchased only from financial institutions, which qualify under Michigan law and are consistent with Opinion No. 6168, Opinions of the Attorney General (1982).

c. To the extent possible, the investing officer will attempt to match investments with anticipated cash flow requirements. Specific City Council approval is necessary for investments exceeding eighteen months. Unless matched to a specific cash flow requirement, the City of Swartz Creek will not directly invest in securities maturing more than 10 years from the date of purchase. No more than 25 percent of the City of Swartz Creek's total investment portfolio shall be placed in securities maturing in more than 10 years. No more than 50 percent of investment vehicles maturing in any given month shall be of non-liquid nature (non-negotiable CD's, commercial paper, etc.)

d. No more than 50 percent of any one fund's surplus operating cash may be invested in commercial paper rated at the time of purchase within the 2 highest classifications established by not less than 2 standard rating services and which matures not more than 270 days after the date of purchase; Commercial Paper held in the portfolio which subsequently receives a reduced rating shall be closely monitored and sold immediately if the principal invested may otherwise be jeopardized.

e. Investments will be diversified by security type and institutions. With the exception of U.S. treasury securities and authorized investment pools (as a long term investment program), no more than 50 percent of the total investment portfolio will be invested in a single security type or with a single financial institution. With the exception of using affiliates of the major Banking Institute and upon receipt of written confirmation that funds are fully insured when held by the affiliates.

Excluding the Property Tax Bank Account, with 100 percent of funds being deposited with the City of Swartz Creek's major Banking Institute with monies in the checking and Municipal Governmental Cash Investment Fund to be liquid and transferable to the respective taxing agencies on a biweekly basis during the tax collection period.

Excluding amounts pooled in the Commercial Sweep Account and held for less than 91 days which will remain liquid and transferable to meet financial obligations associated with daily operations.

## **IX. CASH MANAGEMENT**

The City of Swartz Creek's Policy regarding cash management is based upon the realization that there is a time-value to money. Temporarily idle cash may be invested for a period of one day to an excess of one year depending upon when the money is needed. Accordingly, the Finance Director shall prepare a written cash management procedure which shall include, but not be limited to, the following:

**Cash Forecast:** At least annually, a cash forecast shall be prepared using expected revenue sources and items of expenditure to project cash requirements over the fiscal year. The forecast shall be updated from time to time to identify the probable investment balances that will be available.

**Pooled Cash:** Except for cash in certain restricted and special accounts, the investment officer may pool cash of various funds to maximize investment earnings. Investment income shall be allocated to the various funds based upon their respective participation.

## **X. INVESTMENT PERFORMANCE AND REPORTING**

All investment transactions shall be recorded in the various funds of the City of Swartz Creek in accordance with Generally Accepted Accounting Principles as declared by the Government Accounting Standards Board.

The Investment Officer shall submit a semi-annual investment report to the City Manager that provides the principal and type of investment, annualized yield, earnings for the period, market price and a summary report of cash and investments maintained in each financial institution.

Performance of the portfolio shall be reported periodically and submitted to the City Manager. Reports shall include details of the characteristics of the portfolio as well as its performance for that period. Reports shall be submitted at a minimum on an annual basis. Material deviations from projected investment strategies shall be reported immediately to the city manager.

## **XI. INVESTMENT POLICY ADOPTION**

The City of Swartz Creek investment policy shall be adopted by resolution of the City of Swartz Creek legislative authority. Modifications made at any time or when necessitated by State

statutory revision must be approved by the legislative authority of the City of Swartz Creek. Investments conforming to the investment policy guidelines prior to any amendatory act are hereby validated.

### **Designation of Depository**

The Swartz Creek City Council designates the following banking-financial institutions and their affiliates as depositories for City funds:

- Bank of America
- Bank of Holland (Michigan)
- Bank of Northern Michigan
- Blissfield State Bank
- Chelsea State Bank
- Chemical Bank
- Comerica Bank
- Dart Bank
- Fifth Third Bank
- Federated Investors
- Financial Plus Federal Credit Union
- FirstMerit Bank
- Flagstar Bank – Troy
- H & R Block Financial Services
- Huntington Bank
- Independent Bank
- JP Morgan Chase
- MBIA “Class” Client Services
- Mercantile Bank
- Merrill Lynch
- Morgan Stanley Wealth Management
- Multi-Bank Securities
- PNC Bank
- Sagelink Credit Union
- Talmar Bank and Trust
- West Michigan National Bank & Trust
- Wolverine Bank

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

NO: None. Motion Declared Carried.

### **COMMISSION APPOINTMENTS**

**Resolution No. 160411–09**

**(Carried)**

Motion by Mayor Pro Tem Abrams  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council concur with the Mayoral appointment as follows, said terms subject to provisions of the city charter, code of ordinances, state law, and various bylaws (rules and procedures):

