

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 02/27/2017**

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: Cramer, Florence, Gilbert, Hicks, Krueger, Pinkston, Porath.

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, City Clerk Connie Eskew, Director of Public Services Tom Svrcek.

Others Present: Bob Plumb, Lania Rocha, Steve Shumaker, Tommy Butler, Faye Porath, Lou Fleury, Jim Barclay, Connie King, Troy Medore, Jeff Aronoff, Tom Traciak.

APPROVAL OF MINUTES

Resolution No. 170227-01

(Carried)

Motion by Councilmember Porath
Second by Councilmember Gilbert

I Move the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held Monday February 13, 2017 to be circulated and placed on file.

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

APPROVAL OF CLOSED SESSION MINUTES

Resolution No. 170227-02

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Florence

I Move the Swartz Creek City Council hereby approve the Minutes of the Closed Session Council Meeting held Monday February 13, 2017, to be placed on file.

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

APPROVAL OF AGENDA

Resolution No. 170227-03

(Carried)

Motion by Councilmember Florence
Second by Councilmember Cramer

I Move the Swartz Creek City Council approve the Agenda as presented, printed for the Regular Council Meeting of February 27, 2017, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 170227-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of February 27, 2017, including reports and communications to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

STREET BOND RESOLUTION

Resolution No. 170227-05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Porath

WHEREAS, the City of Swartz Creek, County of Genesee, State of Michigan (the "City") intends to issue general obligation limited tax bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), for the purpose of paying part of the costs of certain capital improvements in the City, consisting of (i) road preservation and replacement including street milling, crack and pavement repair, concrete curb and gutter, ADA upgrades, sidewalk replacement, storm sewer replacement, aggregate base, asphalt paving, permanent signing and pavement markings; and (ii) watermain replacement including replacement of main, individual service leads, valves, and hydrants; including all

related equipment, site improvements, appurtenances and attachments (the "Project"); and the costs of issuance of such bonds (the "Project"); and

WHEREAS, the costs of the Project, including costs of issuance, are estimated to be not less than One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000); and

WHEREAS, to finance part of the cost of the Project, the City deems it necessary to borrow the principal amount of not to exceed One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) and issue bonds pursuant to Act 34; and

WHEREAS, a notice of intent for bonds was published in accordance with Act 34 which provides that the capital improvement bonds may be issued without a vote of the electors of the City unless a proper petition for an election on the question of the issuance of the bonds is filed with the City Clerk within a period of forty-five (45) days from the date of publication, and such period has expired with no petition having been filed with the Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Bonds; Bond Terms. Bonds of the City designated General Obligation Limited Tax Bonds, Series 2017 (the "Bonds") are authorized to be issued in the aggregate principal sum of not to exceed One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) for the purpose of paying all or part of the costs of the Project and the costs of issuance of the Bonds. The issue shall consist of bonds in fully-registered form not exceeding for each maturity the maximum principal amount of that maturity, numbered consecutively in order of registration. The Bonds will be dated as of the date of delivery (or such other date as determined at the time of sale thereof), be payable on May 1 or such other date and in such years as determined at the time of sale thereof, in the annual amounts determined at the time of sale and be subject to mandatory redemption in the manner and at the times to be determined at the time of sale by the City Manager or Treasurer (each, an "Authorized Officer" and collectively, the "Authorized Officers"). The Bonds shall not be subject to optional redemption.

The Bonds shall bear interest at a rate or rates to be determined at the time of sale thereof, subject to the parameters stated herein, first payable on the date as shall be finally determined at the time of sale and semiannually thereafter each May 1 and November 1, by check or draft mailed by the Transfer Agent (hereinafter defined) to the registered owner of record as of the 15th day of the month prior to the payment date for each interest payment. The record date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future. The principal of the Bonds shall be payable at a bank or trust company as a registrar and transfer agent for the Bonds to be selected by an Authorized Officer (the "Transfer Agent"); provided, that in the event the Bonds are privately placed with a Purchaser (hereinafter defined), the City Treasurer may be designated by an Authorized Officer to serve as Transfer Agent.

2. Execution of Bonds; Book-Entry-Only Form. The Bonds of this issue shall be executed in the name of the City with the manual or facsimile signatures of the Mayor and City Clerk and shall have the seal of the City, or a facsimile thereof, printed or impressed

on the Bonds. No Bond shall be valid until authenticated by an authorized officer or representative of the Transfer Agent.

The Bonds may be issued in book-entry-only form through the Depository Trust Company in New York, New York ("DTC") and any Authorized Officer is authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Bonds in book-entry-only form and to make such changes in the Bond form within the parameters of this resolution as may be required to accomplish the foregoing.

3. Transfer of Bonds. The Transfer Agent shall keep the books of registration for this issue on behalf of the City. Any Bond may be transferred upon such registration books by the registered owner of record, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Transfer Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer.

Unless waived by any registered owner on behalf of Bonds to be redeemed, official notice of redemption shall be given by the Transfer Agent on behalf of the City. Such notice shall be dated and shall contain at a minimum the following information, if applicable: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers (and in the case of partial redemption) the called amounts of each certificate; the place where the Bonds called for redemption are to be surrendered for payment; and that interest on the Bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed herein.

4. Limited Tax Pledge; Defeasance of Bonds. The City hereby pledges its limited tax full faith and credit for the prompt payment of the principal and interest on the Bonds. The City shall, each year budget the amount of the debt service coming due in the next fiscal year on the principal of and interest on the Bonds and shall advance as a first budget obligation from its general funds available therefor, or, if necessary levy taxes upon all taxable property in the City subject to applicable constitutional, statutory and charter tax rate limitations, such sums as may be necessary to pay such debt service in said fiscal year. The City Treasurer is authorized and directed to open a separate fund to be known as the GENERAL OBLIGATION LIMITED TAX BONDS, SERIES 2017 DEBT RETIREMENT FUND (the "Debt Retirement Fund"), the moneys to be deposited into the Debt Retirement Fund to be specifically earmarked and used solely for the purpose of paying principal of and interest on the Bonds as they mature. Into said fund there shall be placed the accrued interest, if any, received at the time of delivery of the Bonds.

In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier mandatory redemption, the principal of and interest on the Bonds, shall be deposited in trust, this resolution shall be defeased and the owners of the Bonds shall have no further rights under this resolution except to receive payment of the principal of, premium, if any, and interest on the Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Bonds as provided herein.

5. Construction Fund; Proceeds of Bond Sale. The Treasurer is authorized and directed to open a separate depository account with a bank or trust company designated by the City Commission, to be designated GENERAL OBLIGATION LIMITED TAX BONDS, SERIES 2017 CONSTRUCTION FUND (the "Construction Fund") and deposit into said Construction Fund the proceeds of the Bonds less accrued interest, if any, which shall be deposited into the Debt Retirement Fund. The moneys in the Construction Fund shall be used solely to pay the costs of the Project and the costs of issuance of the Bonds.

6. Bond Form. The Bonds shall be in substantially the following form with such changes as may be approved by an Authorized Officer and Bond Counsel:

[SUBJECT TO MODIFICATION AS A SINGLE INSTRUMENT BOND, IF APPLICABLE]

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF GENESEE

CITY OF SWARTZ CREEK
GENERAL OBLIGATION LIMITED TAX BOND, SERIES 2017

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
Registered Owner:	_____, 20____	_____, 2017	
Principal Amount:		Dollars	

The City of Swartz Creek, County of Genesee, State of Michigan (the "City"), acknowledges itself to owe and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, on the Maturity Date specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon (computed on the basis of a 360-day year consisting of twelve 30-day months) from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, first payable on May 1, 2017 and semiannually thereafter. Principal of this bond is payable at the corporate trust office of _____, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable to the registered owner of record as of the 15th day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed by the Transfer Agent to the registered owner of record at the registered address.

This bond, including the interest thereon, is payable as a first budget obligation from the general funds of the City, and the City is required, if necessary, to levy ad valorem taxes on all taxable property in the City for the payment thereof, subject to applicable constitutional, statutory and charter tax rate limitations.

This bond is one of a series of bonds of even Date of Original Issue aggregating the principal sum of \$_____, issued pursuant to the provisions of Act 34, Public Acts of Michigan, 2001, as amended and pursuant to a resolution of the City Council of the City adopted December 12, 2016 for the purposes of paying part of the costs of certain capital improvements in the City and paying the costs of issuance of the bonds.

The Bonds shall not be subject to optional redemption prior to maturity.

[Insert Term Bond provisions, if applicable.]

In case less than the full amount of an outstanding bond is called for redemption, the Transfer Agent, upon presentation of the bond called in part for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption, whether presented for redemption or not, provided funds are on hand with the Transfer Agent to redeem said bond or portion thereof.

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner of record in person, or by the registered owner's attorney duly authorized in writing,

upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the resolution authorizing this bond and upon the payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done, precedent to and in the issuance of this bond and the series of bonds of which this is one, exist and have been done and performed in regular and due form and time as required by law, and that the total indebtedness of the City, including this bond and the series of bonds of which this is one, does not exceed any constitutional, statutory or charter debt limitation.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City, by its City Council, has caused this bond to be signed in the name of the City by the facsimile signatures of its Mayor and City Clerk and a facsimile of its corporate seal to be printed hereon, all as of the Date of Original Issue.

CITY OF SWARTZ CREEK
County of Genesee
State of Michigan

By: _____
Its: Mayor

(SEAL)

By: _____
Its: City Clerk

(Form of Transfer Agent's Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned resolution.

Transfer Agent

By: _____

Authorized: _____

DATE OF REGISTRATION:

[Bond printer to insert form of assignment]

7. Negotiated Sale. The City Council has considered the option of selling the Bonds through a competitive sale and a negotiated sale and, pursuant to the requirements of Act 34, determines that a negotiated sale of the Bonds will result in the most efficient and expeditious means of selling the Bonds and will result in the lowest interest cost to the City.

8. Placement or Sale of Bonds; Delegation to Authorized Officer. Each Authorized Officer is hereby authorized to approve the sale of the Bonds through a private placement with a qualified bank or other sophisticated institutional investor as purchaser thereof (the "Purchaser"). Each Authorized Officer is individually authorized to negotiate and execute a purchase agreement with the Purchaser and a placement agreement with the placement agent for the Bonds if necessary, and to award the sale of the Bonds to the Purchaser, subject to the parameters set forth in this Resolution. Alternatively, if deemed appropriate by an Authorized Officer, the City is authorized to sell the Bonds to an underwriter (the "Underwriter") pursuant to a bond purchase agreement. In either case, the interest rate per annum of the Bonds shall not exceed 5.00%, and the purchase price of the Bonds shall not be less than 99.75% of the par amount thereof.

9. Adjustment of Bond Terms; Sale Order. In pursuance of either of the alternatives described in Section 8, each Authorized Officer is individually authorized, without further direction from the City Council, to execute a sale order establishing the final terms of the Bonds, adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to Section 315(1)(d) of Act 34, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, designation of series, and other matters, within the parameters established by this resolution.

10. Tax Covenant; Qualified Tax-Exempt Obligations. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds. The Bonds are hereby designated as "qualified tax exempt obligations" for purposes of deduction of interest expense by financial institutions pursuant to the Code.

11. Authorization of Other Actions. The Mayor, City Manager, Clerk, and Treasurer are each hereby authorized and directed to cause the preparation and circulation of a preliminary and final official statement with respect to the Bonds, if applicable; to procure a policy of municipal bond insurance with respect to the Bonds or cause the qualification of the Bonds therefor if the acquisition of such insurance would be of economic benefit to the City; to obtain ratings on the Bonds; and to take all other actions necessary or advisable, and make such other filings with the Michigan Department of Treasury or with other parties, to enable the issuance, sale and delivery of the Bonds as contemplated herein.

12. Continuing Disclosure Undertaking. In the event the Bonds are sold to an Underwriter, the City agrees to enter into a continuing disclosure undertaking for the benefit of the holders and beneficial owners of the Bonds in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, and the Authorized Officers are each hereby authorized to execute such undertaking prior to delivery of the Bonds. If the Bonds are placed with a Purchaser, the City will not enter into a continuing disclosure undertaking.

13. Appointment of Financial Advisor. The City hereby appoints H.J. Umbaugh & Associates to act as financial advisor with respect to the Bonds.

14. Bond Counsel. Miller, Canfield, Paddock and Stone, P.L.C. is hereby appointed as bond counsel for the Bonds, notwithstanding its periodic representation in unrelated matters of the Purchaser or Underwriter and parties or potential parties to the transaction contemplated by this resolution.

15. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

2017 STREET PREVENTATIVE MAINTENANCE BIDS

Resolution No. 170227-06

(Carried)

Motion by Mayor Pro Tem Pinkston
Second by Councilmember Florence

WHEREAS, the City of Swartz Creek owns, operates, and maintains a system of major streets, local streets, and water main, and

WHEREAS, the city has a twenty year asset management plan on file that is funded in part by a twenty year street levy, and

WHEREAS, this plan, which includes various levels of preventative maintenance, preservation, and reconstruction on city streets was assessed by the Street Project Selection Committee at its meeting on July 12, 2016, and

WHEREAS, the city subsequently bid numerous preventative maintenance projects, with said bids opened on February 16, 2017, and

WHEREAS, two bids were received, with the low bid being recommended by the city's engineer for approval.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek City Council affirms the recommendation of the city engineer and approves the low bid by

Pavement Maintenance Systems, as filed with the city, in the amount of \$104,341.25 for preventative maintenance on city streets.

BE IT FURTHER RESOLVED, that appropriations to the projects shall be made to Fund 202 (Major Streets), Fund 203 (Local Streets), and Fund 204 (Municipal Streets) as directed by the Treasurer. Including the following: Jenny Lane, McLain Street, Brady Avenue, Ford Street, and Hayes Street north of Ingalls, First Street, Second Street, Third Street and Wade Street.

BE IT FURTHER RESOLVED, that the City Council directs the City Manager to execute any and all contracts, permits, agreements, and related documentation to said project award on behalf of the city.

Discussion Ensued.

YES: Porath, Cramer, Florence, Gilbert, Hicks, Krueger.

NO: Pinkston. Motion Declared Carried.

SEE CLICK FIX, INC SERVICE PROPOSAL

Resolution No. 170227-07

(Carried)

Motion by Councilmember Porath
Second by Councilmember Florence

WHEREAS, the City of Swartz Creek identifies strongly as a residential community that strives to provide an ever-increasing quality of life for its residents and visitors that support local businesses; and

WHEREAS, the city desires to provide amenities and services that the general public can directly access to enhance their quality of life; and

WHEREAS, SeeClickFix, Inc. has been found to provide a product that has the potential to quicken governmental response to issues in the community, while making the response of government more transparent.

NOW, THEREFORE, BE IT RESOLVED, the Swartz Creek City Council hereby approves the one year service proposal submitted by SeeClickFix, Inc. in the amount of \$3,240, dated January 13, 2017.

BE IT FURTHER RESOLVED, the Swartz Creek City Council hereby directs the Mayor to execute said agreement and for the city Treasurer to apportion the expense of the service to the city's various impacted funds.

YES: Cramer, Florence, Hicks, Krueger, Pinkston, Porath.

NO: Gilbert. Motion Declared Carried.

OPEB REPORT

Discussion

City Manager, Adam Zettel commented the OPEB report is in. Our auditors declared this to be approaching nearly 2 million dollars during our last city audit. The report came in at about just 1/3 of that at about \$550,000 in accrued liabilities, which is great news. Most important implication is we don't need to make changes in how we conduct our routine annual budget for installments, savings and payments. He also doesn't see this turning into some type of debt balloon down the road.

CITY LEGAL SERVICE AGREEMENT

Resolution No. 170227-08

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Gilbert

WHEREAS, the City Charter of Swartz Creek, Section 7.7 indicates that the city council shall be served by and retain the services of a municipal attorney; and

WHEREAS, Simen, Figura, & Parker, P.L.C., a Michigan professional liability corporation located at 5206 Gateway Centre, Suite 200, Flint, Michigan 48507, currently services as corporate counsel for the City; and

WHEREAS, SFP and the City have never before had a written Legal Services Agreement in place inasmuch as both sides acknowledge that SFP provides services at the pleasure of the City Council; and

WHEREAS, the parties now wish to memorialize their understanding of the terms of SFP's retention.

NOW, THEREFORE, BE IT RESOLVED, the Swartz Creek City Council hereby approve the Legal Services Agreement as included in the February 22, 2017 City Council Packet and direct the Mayor to execute said document on behalf of the city.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC

Steve Shumaker resident at 7446 Country Meadow Driver commented about an article he read in regards to DigOnce. He also commented if the council would ever consider a city antenna.

James Barclay resident at 8420 Cappy Lane commented Saturday, March 4th the Art Guild will be painting all the vintage swings from Winshall Park. He invited everyone to come take a look.

REMARKS BY COUNCILMEMBERS:

Councilmember Porath thanked Tom Traciak and Jeff Aronoff for speaking tonight on the bonds. He also commented that he remembered the day, early in his years on council is when Figura was hired. He also wanted to recommend to the street committee that he would like the sidewalks be done on both sides of the streets. He commented on Comcast Franchise fees.

Councilmember Cramer questioned when the city last issued a bond. Mayor Pro Tem responded that is was in 1970.

Councilmember Florence thanked the city for letting him attend the MML meeting. He learned a lot. He also commented on the Wahlburg restaurant chain and would like to see them come to our city.

Councilmember Gilbert commented on old utility poles that have never been taken out when new ones were put in. He also commented he questioned members at the GCMA on why the county doesn't use pvc in water mains and no one could answer.

Mayor Pro Tem Pinkston commented on a police officer who raised money to purchase a K9 because the funding was turned down.

Mayor Krueger reminded everyone that there is a street committee meeting Wednesday, March 1st. He also commented that everything at the police authority was looking good.

Adjournment

Resolution No. 170227-09

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

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

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Eskew, City Clerk