

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 10/08/2018**

The meeting was called to order at 7:03 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, Porath.

Councilmembers Absent: Pinkston.

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

Others Present: Lania Rocha, Bob Plumb, Steve Shumaker, Jentery Farmer, Boots Abrams, Sandi Brill, Steve Long, Chris Dobek, Justin Sprague, Erik & Dawn Jamison, Andy Harris.

EXCUSE COUNCILMEMBER

Resolution No. 1801008-01

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Florence

I Move the Swartz Creek City Council excuse Mayor Pro Tem Pinkston.

YES: Unanimous Voice Vote.
NO: None. Motion declared carried.

APPROVAL OF MINUTES

Resolution No. 181008-02

(Carried)

Motion by Councilmember Porath
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday September 24, 2018, to be circulated and placed on file.

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

APPROVAL OF AGENDA

(Carried)

Resolution No. 181008-03

Motion by Councilmember Cramer
Second by Councilmember Florence

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of October 8, 2018, to be circulated and placed on file.

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

MEETING OPENED TO THE PUBLIC:

Sandi Brill, GFWC Swartz Creek, request authorization to utilize the Holland Square on November 30th for the annual Christmas Tree Lighting.

CITY MANAGER'S REPORT

Resolution No. 181008-04

(Carried)

Motion by Councilmember Florence
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of October 8, 2018, including reports and communications as updated to be circulated and placed on file.

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

COUNCIL BUSINESS:

RESOLUTION TO APPROVE THE INITIAL SALE INSTRUMENT FOR 5256 DON SHENK

Resolution No. 181008-05

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Cramer

WHEREAS, the city has acquired a residential structure located at 5256 Don Shenk Drive from the county via the tax reversion process in 2017 for the purpose of blight removal and restoration to improve neighborhood conditions; and

WHEREAS, the city restored the home, including updates to roofing, HVAC, flooring, basement finishing, landscaping, appliances, various fixtures, and other components, with said services now being complete; and

WHEREAS, the city may recover invested costs upon sale of the residence, but additional proceeds must be turned over to the appropriate county agency; and

WHEREAS, the city invited public offers for purchase in July of 2018, and after subsequent reviews by the city council and negotiations, approved a purchase agreement with a buyer on September 5, 2018 for the price of \$134,900; and

WHEREAS, the resulting purchase agreement has been available for public inspection for more than 30 days, and no comments have been received; and

WHEREAS, required inspections, underwriting, and title work are all approved and prepared for a closing between the buyer and seller.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek City Council approves the final sale of 5256 Don Shenk Drive as outlined in the purchase agreement included in the October 8, 2018 city council packet.

BE IT FURTHER RESOLVED, the Swartz Creek City Council authorizes and directs the Mayor to execute any and all documents related to the sale, including the deed, disclosures, and related documents as required by the title company, state law, and related entities.

BE IT FURTHER RESOLVED, the City Treasurer shall make a final accounting of revenues and expenses related to the 5256 Don Shenk acquisition, rehabilitation, and sale, and surplus proceeds are to be paid to the Genesee County Treasurer in accordance with applicable law.

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

NO: None. Motion Declared Carried.

A RESOLUTION TO APPROVE ORDINANCE 434 TO AMEND THE ZONING ORDINANCE

Resolution No. 181008-06

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

WHEREAS, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

WHEREAS, the city, in pursuing certification as a Redevelopment Ready Community, performed a zoning audit that revealed the need for incremental changes to the zoning ordinance and;

WHEREAS, the planning commission, with the assistance of staff, a professional planner, and input by the public, reviewed specific changes to the zoning ordinance at their regular meeting on October 2, 2018, and;

WHEREAS, the planning commission, at a public hearing at their meeting on October 2, 2018 and in reviewing the criteria in Zoning Ordinance Section 31.04, found the proposed zoning ordinance amendments to be in the best interest of the public.

THEREFORE, I MOVE the City of Swartz Creek ordains:

ORDINANCE NO. 434

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF SWARTZ CREEK TO BRING SAID ORDINANCE INTO COMPLIANCE WITH THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED; TO AMEND THE ZONING MAP.

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Add the following definition to Zoning: Appendix A Section 2.08.

Outdoor Dining: Outdoor dining is permitted in Swartz Creek only as accessory uses to the main use of a property as a restaurant. As such, the outdoor dining area must be adjacent to the main use, either on private property or on a public sidewalk. Outdoor cafés consist of tables and chairs, placed for the consumption of food by customers. Service may be self-service or by a waiter.

Section 2. Add the following definition to Zoning: Appendix A Section 2.09.

Restaurant, pick-up window: A standard restaurant with an additional method of operation involving the delivery of prepared food to the customer in a motor vehicle, through a pick-up window, for consumption off premises. Outdoor menu boards, ordering capabilities, speakers, and/or electronic or remote communication with restaurant staff from outside the building are not permitted. All orders shall be placed by phone or ordered on-line in advance of window pick-up.

Section 3. Add the following Principle Uses Permitted to Zoning: Appendix A Section 13.01

P. Residential dwellings

3. Upper floor residential dwellings including apartments and/or condominium units provided they meet the minimum room size requirements of Michigan Construction Code.
 - a. Ground floor use must be commercial or office use.

R. Restaurants and other establishments with open front window service or pick-up window service, and outdoor eating areas in accordance with Article 20.

S. Outdoor cafés, outdoor eating areas and open front restaurants, with annual outdoor restaurant permit.

Section 4. Repeal of Zoning: Appendix A Section 13.02E Special land Uses.

E. Outdoor cafes, outdoor eating areas and open front restaurants.

Section 5. Repeal of Zoning: Appendix A Section 13.03 and replace it with Section 13.03.

Section 13.03. - Site development requirements.

All permitted uses and special land uses are subject to the following setbacks, height, area, and lot dimensions are required as noted below:

CBD District Regulations	Requirements
Minimum Lot Area	0
Minimum Lot Width	0
Maximum Front Yard Setback	0 feet
Minimum Side Yard Setback	0 (a)
Minimum Rear Yard Setback	(a) (b)
Maximum Lot Coverage	100%
Maximum Building Height	50 feet or 4 stories

Notes:

- a) No side yards are required along the interior side lot lines, except as otherwise specified in the Building Code. A four (4) foot high obscuring wall, fence, or greenbelt strip shall be provided on those sides of property abutting land zoned for residential.
- b) Loading space shall be provided in the rear calculated as five (5) square feet per front foot of building.

Section 6. Add the following Principle Uses Permitted to Zoning: Appendix A Section 14.01

X. Restaurants and other establishments with drive-in or drive-through facilities, open front window service or pick-up window service, and outdoor eating areas in accordance with Article 20 and applicable special requirements of Article 30.

Section 7. Repeal of Zoning: Appendix A Section 26.02.A.1. and replace it with Section 26.02.A.1.

A. Location.

- 1. Proximity to building or use being served. Off-street parking for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use being served or within 500 feet of the building it is intended to serve, measured from the nearest public building entrance to the nearest parking space, except as otherwise permitted for collective use of off-street parking. Ownership shall be shown on all lots or parcels intended or used as parking by the applicant.

Section 8. Add the following to Zoning: Appendix A Section 26.03

H. Central Business District: All uses within the Central Business District shall calculate parking (residential and commercial) to require four (4) parking spaces per 1,000 square feet of gross floor area.

Section 9. Add the following to Zoning: Appendix A Section 26.04

Central Business District	
All uses (residential and commercial)	4 spaces per 1,000 square feet of floor area

Restaurant—Fast food with drive-through window	22.0 spaces per 1,000 sq. ft. of gross leasable floor area, plus 5.0 spaces between the pick-up window and the order station, plus 10.0 stacking spaces which do not conflict with access to required parking spaces per order pick-up station, plus spaces for employees of a peak shift plus at least 2.0 longer spaces designated for recreational vehicles and semi-trucks if site is within ½ mile of expressway
Restaurant—with pick-up window	22.0 spaces per 1,000 sq. ft. of gross leasable floor area, plus 3.0 stacking spaces which do not conflict with access to required parking spaces per order pick-up station, plus spaces for employees of a peak shift plus at least 2.0 longer spaces designated for recreational vehicles and semi-trucks if site is within ½ mile of expressway

Section 10. Add the following to Zoning: Appendix A Section 20.00

- G. Outdoor dining as accessory to otherwise allowed restaurants, subject to the following requirements:
- A. Within public right of way or on easements for public use. Outdoor dining is allowed by permit, between April 1 and October 31 subject to approval by the Zoning Administrator, when located outside of public rights-of-way or easements for public use and comply with the following:

1. Outdoor dining areas in the public right of way or on an easement for public use, must apply and receive an outdoor dining permit. Outdoor dining permits must be re-applied for annually.
2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum sidewalk width of five (5) feet along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor café area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.
3. The seating area on the public sidewalk shall only be limited to the area directly in front of the permitted restaurant use to which the seating area is accessory and shall not extend into adjoining sites. Seating may also be permitted within the front, side and rear yard area of the lot.
4. The seating area shall be kept free of debris and litter. Written procedures for cleaning and trash containment and removal must be submitted.
5. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other street furniture shall be compatible with the architectural character of the principal building.
6. Outdoor dining, including any canopies or covers associated with such dining, shall be permitted within the required setback. Said canopies or covers may be affixed to the ground.
7. Except as provided above, all fixtures and furnishings in the outdoor dining area including, but not limited to, tables, chairs, bar, server stations, and sources of heat shall be portable and not affixed to the ground, building, or other permanent structures. Permanent railings or fences may be permitted only where and to the extent that the building code requires an affixed fence for safety purposes. Permanent attachment of railings must be approved by the Building Department and permit emergency egress.
8. The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.
9. No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9 am or after 11 pm on Fridays and Saturdays and before 9 am or after 10 pm on Sundays through Thursdays.
10. Outdoor amplification is not permitted.
11. Outdoor dining areas shall not have permanent fixtures, tables or seating.
12. Tables, seating, barriers, and other furniture may be required to be removed at the end of every business day, if identified as a condition of the outdoor dining permit.
13. Heating is permitted in outdoor dining areas. Heaters must be portable and be removed at the end of every business day.
14. Outdoor grills are not permitted in outdoor dining areas.
15. Outdoor dining areas shall follow any other applicable zoning regulations, such as signs, etc.
16. Outdoor cafés provide an alternative to sitting inside but are not intended to be permanent expansions of a restaurant's capacity.
17. Additional signage may not be permitted.
18. Lighting in the outdoor dining area must meet lighting standards as specified in Article 27.
19. Requests for outdoor dining shall include submission of a sketch plan to determine compliance with the above requirements. The request may be administratively approved by the Zoning Administrator and Building Department. At the time of approval, a performance guarantee is required that provides liability coverage in an amount determined by the City.

B. Outdoor Dining on Private Property

1. Outdoor dining is allowed by permit subject to approval by the Zoning Administrator
2. Permanent fences or barriers may be installed where safety is a concern or where such permanence is required by building code. They shall be shown on all applications and permits.
3. The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.

4. Outdoor dining located in side or rear yards, abutting or across from a residential district, shall not operate before 9 am or after 11 pm.
5. No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9 am or after 11 pm on Fridays and Saturdays and before 9 am or after 10 pm on Sundays through Thursdays.
6. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor dining area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.

Lighting in the outdoor dining area must meet lighting standards as specified in Article 27.

Section 11. Penalties; Sanctions.

Any person who violates any provision of this Ordinance is subject to the penalties and sanctions provided for in Article 32 of the Zoning Ordinance.

Section 12. Effective Date.

This ordinance shall be effective 20 days after publication.

At a regular meeting of the City Council of the City of Swartz Creek held on October 8, 2018, adoption of the foregoing ordinance was moved by _____ and supported by _____.

Voting for:
Voting against:

The Mayor declared the ordinance adopted.

David Krueger
Mayor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 434 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on October 8, 2018.

Connie Eskew, City Clerk

Publish Date: _____
Swartz Creek View

Discussion Ensued.

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

RESOLUTION TO APPROVE PETITION BY TAXPAYERS AND AGENTS TO THE BOARD OF REVIEW VIA LETTER

Resolution No. 181008-07

(Carried)

Motion by Councilmember Porath
Second by Councilmember Gilbert

WHEREAS, the City of Swartz Creek has a standing practice to enable the submission of protests to the Board of Review in person or by letter, by the taxpayer or their agent, and

WHEREAS, the Michigan Compiled Laws Section 211.30 enable this procedure by ordinance or resolution of the local city; and

WHEREAS, the city wishes to continue this practice without interruption.

NOW, THEREFORE, BE IT RESOLVED that the Swartz Creek City Council hereby enables the submission of a protest to the Board of Review to be done in person or by letter, by the taxpayer or their agent.

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE THE SUBMISSION OF THE SWARTZ CREEK PARK AND RECREATION ACTION PLAN TO GENESEE COUNTY AND TO OPT-IN TO THE COUNTY PARK PLAN

Resolution No. 181008-08

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Cramer

WHEREAS, the City of Swartz Creek continues to seek collaboration in providing recreational amenities and services to meet the future needs of area residents; and

WHEREAS, the city has a state approved five year parks and recreation master plan on file that provides for the implementation and investment strategies to enable the community's park and recreation goals, and

WHEREAS, the Genesee County Parks and Recreation Commission has offered to include recreation action plan items of the City of Swartz Creek in its five year plan, enabling future opportunities for cooperation, and

WHEREAS, the Swartz Creek Park Board recommended participation of the city at their regular meeting on October 3, 2018,

NOW, THEREFORE BE IT RESOLVED, the Swartz Creek City Council authorizes inclusion of the City of Swartz Creek in the Genesee County Parks and Recreation Commission Parks, Recreation Open Space and Greenway Plan, for submittal to the State of Michigan, said plan to be developed in calendar year 2018-2019.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

Sandi Brill, 5352 Greenleaf Drive, one of the GFWC Swartz Creek Women's Club members was appointed to the steering committee for the Holland Square, Tammy Parenteau. She as of date has not been contacted for a meeting and Women's Club is concerned.

Mr. Zettel responded that there hasn't been any meetings. Andy Harris commented steering committee meetings will probably start in the next couple weeks.

Chris Dobek, 5256 Don Shenk, new owner of property as of tomorrow, he wanted to thank the board and Adam for the smooth process and the beautiful home. He is excited to raise his family in Swartz Creek.

REMARKS BY COUNCILMEMBERS:

Councilmember Gilbert commented that Frontier hasn't been out and pole is still there.

Councilmember Hicks reminded everyone that the Park Board meeting is Wednesday, November 7th, @ 5:30 p.m. and is planned to be at the pavilion by the tot lot at Abrams Park.

Councilmember Florence remember to vote November 6th.

Councilmember Cramer had opportunity to attend 4 fundraisers over the weekend. He thought the last couple of town hall meetings for the school millage have been very successful.

Councilmember Porath questions why so much money is being spent on advertising for the Genesee County Health Plan.

Mayor Krueger recommended in next council meeting we add the Holland Square request for the GFWC Swartz Creek.

ADJOURNMENT

Resolution No. 181008-09

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

I Move the Swartz Creek City Council adjourn the regular meeting at 7:37 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Eskew, City Clerk