

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 12/03/2018**

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, Farmer, Gilbert, Hicks, Krueger, Pinkston, Porath.

Councilmembers Absent: None.

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

Others Present: Lania Rocha, Bob Plumb, Steve Shumaker, Angie Root, Faye Porath, Erik Jamieson, Jim Barclay, Pam Hill, Mike Machala.

APPROVAL OF MINUTES

Resolution No. 181203-01 **(Carried)**

Motion by Councilmember Porath
Second by Councilmember Farmer

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday November 26, to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 181203-02 **(Carried)**

Motion by Councilmember Cramer
Second by Councilmember Hicks

I Move the Swartz Creek City Council approve the Agenda as, presented and printed for the Regular Council Meeting of December 03, 2018, to be circulated and placed on file.

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

NO: None. Motion Declared Carried.

CITY MANAGER'S REPORT

Resolution No. 181203-03

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Cramer

I Move the Swartz Creek City Council accept the City Manager's Report of December 03, 2018, including reports and communications to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

COUNCIL BUSINESS:

COMMISSION APPOINTMENT

Resolution No. 181203-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Cramer

WHEREAS, the laws of the State of Michigan, the Charter and Ordinances of the City of Swartz Creek, interlocal agreements in which the City of Swartz Creek is a member, and previous resolutions of the city council require and set terms of offices for various appointments to city boards and commissions, as well as appointments to non-city boards and commissions seeking representation by city officials; and

WHEREAS, there exists a vacancy on the planning commission; and

WHEREAS, said appointment is a Mayoral appointment, subject to affirmation of the city council.

NOW, THEREFORE, BE IT RESOLVED, the Swartz Creek City Council concur with the Mayor and City Council appointment as follows:

#181203-04 **MAYOR APPOINTMENT:**
Planning Commission, Citizen

Angie Root

Discussion Ensued.

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

Audit Presentation

Pam Hill & Mike Machala, Plante Moran Representatives, presented the City's audit for year ended June 30, 2018. This included the financial statement, which included the audit opinion letter. The audit letter opinion was an unmodified opinion, highest level assurance received from the auditors. They reviewed several graphs on governmental fund revenue (2015-June 2018), taxable value (2008-2036 based on assumed 2% rate of inflation), governmental fund expenditures (2015-June 2018), general fund-fund balance (2014-June 2018), components of governmental funds fund balance (2015-June 2018), governmental activities long-term liabilities (2016-June 2018), business-type activities long-term activities (2016-June 2018). Items to consider looking ahead is strategic planning for general capital outlay, plan for fire department capital needs.

RESOLUTION TO ACCEPT THE 2017-2018 FISCAL YEAR AUDIT BY INDEPENDENT AUDITOR PLANTE-MORAN

Resolution No. 181203-05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Hicks

WHEREAS, Section 8.13 of the City Charter requires an audit of all accounts of the city government; and

WHEREAS, independent auditors, retained by the city per a qualified bidding selection process, have completed said audit for the most recent fiscal year, 2018; and

WHEREAS, said audit contains financials for related public utilities, enterprise accounts, and the Downtown Development Authority; and

WHEREAS, the audit, as presented to the city council on December 3, 2018, has been found to meet generally accepted accounting standards and required reporting provisions of state and local law.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek approve the 2017-2018 Fiscal Audit Report prepared by Plante-Moran, a copy of which is attached hereto, and further, direct such to be published, distributed, circulated and placed on file in a manner prescribed by law.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

Break 7:54 p.m. to 8:04 p.m.

Energy Reduction Coalition

Discussion

Mr. Zettel, introduced Robert Florka who will speak on the program his company offers. The city is looking at saving ongoing energy costs by switching to LED.

Mr. Florka, General Consul & Director of Development for Energy Reduction Coalition. This is a Michigan nonprofit organization that's been in business for eight years. Their mission is to accelerate the adoption of energy saving technology and the focus has been on LED lighting. They partner with municipalities and prepare an assessment of lighting and prepare a plan to convert to LED.

A RESOLUTION TO APPROVE ORDINANCE 436 TO AMEND THE PURCHASING POLICY

Resolution No. 181203-06

(Carried)

Motion by Mayor Pro Tem Pinkston
Second by Councilmember Cramer

WHEREAS, the City of Swartz Creek maintains ordinances that provide guidance, predictability, transparency, and equal treatment for similarly situated parties as it relates to finance and purchasing, and

WHEREAS, the City finds public value in developing and promoting local businesses in the community and is willing to put additional, limited resources into said businesses in its routine purchases, and

WHEREAS, the City finds that preference for purchases are desirable to varying degrees for businesses based upon their geography as city based or area based businesses, as well as participation in the local chamber of commerce.

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

**CITY OF SWARTZ CREEK
ORDINANCE NO. 436**

An ordinance to amend Article II and II of Section 15 to establish fees for permitting of sidewalk works and activities in the right of ways, as well as Article III of Chapter 18 of the Code of Ordinances to establish fines, fees, and the penalties for violations thereof.

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Article VI of Chapter 2 of the Code of Ordinances of the City of Swartz Creek by amending Section 2-402.

The City Council hereby amends Article VI of Chapter 2 of the Code of Ordinances of the City of Swartz Creek by amending Section 2-402, to include the following addition:

Sec. 2-402. General Purchasing Policy.

(c) The term "transaction amount," as used in this division, shall mean the lowest quote or bidder having qualifications to perform the work which are satisfactory to the council. The lowest quote or bidder shall be determined based on an adjusted bid or quote tabulation which shall be prepared in the following manner:

- (1) To the bid or quote of any bidder which is neither a Swartz Creek-based business nor an Area-based business shall be added an amount equal to five (5) percent of the bid or two thousand five hundred dollars (\$2,500.00), whichever is less.
- (2) To the bid or quote of any bidder which is an Area-based business shall be added an amount equal to three (3) percent of the bid or quote or two thousand five hundred dollars (\$2,500.00), whichever is less; provided, however, that if no bid or quote is received from a Swartz Creek-based business, no additional amount shall be added to the bid or quote of an Area-based business.
- (3) "Swartz Creek-based business" shall be interpreted to mean a business registered with the county clerk or a corporation registered with the state having a business address within the city limits which pays real and/or personal property taxes levied by the city.
- (4) The term "Area-based business" shall be interpreted to mean a business other than a Swartz Creek-based business registered with the county clerk or a corporation registered with the state having a business address within the Swartz Creek School District which pays real and/or personal property taxes levied by the Swartz Creek Community Schools.
- (5) If twenty-five (25) percent or more of a contract for construction or other services is to be subcontracted by an Swartz Creek-based business bidder to a non-city-based business or businesses, or by an Area-based business bidder to a non-Area-based business or businesses, the adjusted bid or quote shall be calculated by applying the provisions of subsections (1) and (2) within this section separately to each portion of the contract based on the status of the contractor or subcontractor performing that portion of the contract as an Swartz Creek-based or Area-based business.
- (6) Preference shall be given to registered members of the Swartz Creek Area Chamber of commerce for all products and services that do not require bids or quotes. Preference for such membership shall also be given in the event of bids or quotes within 1% or \$1,000, whichever is less.

Section 2. Effective Date.

This Ordinance shall take effect twenty (20) days following publication.

At a regular meeting of the City Council of Swartz Creek held on the 3rd day of December, 2018, Mayor Pro Tem Pinkston moved for adoption of the foregoing ordinance and Councilmember Hicks supported the motion.

Voting for: Porath, Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston.

Voting against: None.

The Mayor declared the ordinance adopted.

David Krueger, Mayor

Connie Eskew, City Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 436 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on December 3, 2018.

Connie Eskew, City Clerk

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

A RESOLUTION TO REGULATE RECREATIONAL MARIJUANA ESTABLISHMENTS

Resolution No. 181203-07

(Carried)

Motion by Councilmember Porath
Second by Councilmember Cramer

WHEREAS, the City of Swartz Creek maintains police powers to regulate and control the nature of certain establishments within the community, and

WHEREAS, the people of the State of Michigan, by referendum vote, have decriminalized recreational marijuana, subject to local controls, and

WHEREAS, the City previously found no benefit to medical marijuana land uses within the city limits.

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

CITY OF SWARTZ CREEK ORDINANCE NO. 437

An ordinance to amend Chapter 2 of the Code of Ordinances by adding thereto a new Article VIII, entitled "Marijuana Establishments."

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Chapter 2 of the Code of Ordinances.

The City hereby amends Chapter 2 of the Code of Ordinances of the City of Swartz Creek by adding thereto a new Article VIII, entitled "Marijuana Establishments," to read as follows:

ARTICLE VIII. MARIJUANA ESTABLISHMENTS.

Sec. 2-601. Prohibition of Marijuana Establishments.

No marijuana establishments, as defined by the Michigan Regulation and Taxation of Marijuana Act (PA – of 2018), are permitted within the boundaries of the City.

Section 2. Effective Date.

This Ordinance shall take effect twenty (20) days following publication.

At a regular meeting of the City Council of Swartz Creek held on the 3rd day of December, 2018, Councilmember Porath moved for adoption of the foregoing ordinance and Councilmember Cramer supported the motion.

Voting for: Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston, Porath.

Voting against: None.

The Mayor declared the ordinance adopted.

David Krueger
Mayor

Connie Eskew
Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 437 which was enacted by the Swartz Creek City Council at a regular meeting held on the 3rd day of December, 2018.

Connie Eskew
Clerk

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

NO: None. Motion Declared Carried

**A RESOLUTION TO REQUIRE FRANCHISE AGREEMENTS FOR THE
INSTALLATION AND OPERATION OF SMALL CELL WIRELESS FACILITIES
WITHIN CITY RIGHT OF WAYS**

Resolution No. 181203-08

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Farmer

WHEREAS, the City of Swartz Creek maintains police powers over its right of ways, and

WHEREAS, changing technologies necessitate the installation and operation of 'small cell' technologies throughout communities, including right of ways, and

WHEREAS, the city desires to enable such installation and operation while maintaining a reasonable degree of control over shared right of ways.

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

**CITY OF SWARTZ CREEK
ORDINANCE NO. 438**

An ordinance to amend Appendix B of the Code of Ordinances by adding thereto a new article, Article VI, regulating Distributed Antenna Systems and Small Cell Networks.

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Appendix B of the Code of Ordinances by the Addition of Article VI.

The City Council hereby amends Appendix B of the Code of Ordinances of the City of Swartz Creek by adding Article VI thereto, that article to read as follows:

ARTICLE VI. DISTRIBUTED ANTENNA SYSTEMS AND SMALL CELL NETWORKS

Section 1. Franchise Required.

No person, entity or legal body shall install or operate any telecommunication facilities or related equipment for the provision of commercial mobile radio service carriers pursuant to a distributed antenna system or small cell network without a franchise agreement substantially in the form approved by Resolution No. ___, or subsequent replacement resolution, which rates established therein are hereby incorporated herein by reference.

Section 2. Interpretation of this Article and Franchise Agreement.

It is the intent of the City Council in adopting this provision that all provisions in this Article and in the franchise agreement required by this article be construed to protect the peace, health, safety and welfare of the residents of Swartz Creek as well as the aesthetics of the City of Swartz Creek. Only reasonably inconspicuous telecommunication facilities and related equipment are to be permitted in the city right-of-way pursuant to the terms of any franchise agreement. The franchisee shall at all times take the required measures to use the most inconspicuous equipment reasonably feasible at the time of installation. Franchisee shall also remove and/or replace existing equipment in the future when less conspicuous equipment becomes reasonably feasible or when and if the number of antennas for the system is no longer reasonably necessary and reduction of the number of antennas becomes reasonably feasible.

Any franchise agreement entered into pursuant to this Article shall remain in effect only to the extent the rates and regulations and other material provisions established in the franchise agreement and this Article remain in full force and effect. To the extent state or federal law makes unlawful and/or unenforceable any material provision of the franchise agreement required by this Article or any provision of this Article, the unlawful provisions are not severable and the franchise agreement shall terminate and be of no force and effect. To the extent authorized by law, under such circumstance, franchisee shall remove all such facilities placed in the city right-of-way pursuant to the franchise agreement unless the parties agree on a new franchise agreement that is compliant with the then-existing law.

Section 3. Franchise Nonexclusive and Revocable.

In accordance with the City Charter, any franchise authorized by this article shall be nonexclusive and shall be revocable at the will of the Council.

Section 2. Effective date.

This Ordinance shall take effect twenty (20) days following publication.

At a regular meeting of the City Council of Swartz Creek held on the 3rd day of December, 2018, Councilmember Cramer moved for adoption of the ordinance and Councilmember Farmer supported the motion.

The Mayor declared the ordinance adopted.

David Krueger
Mayor

Connie Eskew
Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 438 which was enacted by the Swartz Creek City Council at a regular meeting held on the 3rd day of December, 2018.

Connie Eskew
City Clerk

Discussion Ensued.

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

RESOLUTION TO APPROVE DUES TO THE FLINT AREA NARCOTICS GROUP

Resolution No. 181203-09

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Cramer

WHEREAS, the City of Swartz Creek provides police services via the Metro Police Authority of Genesee County by means of an interlocal agreement with Mundy Township, and

WHEREAS, the City of Swartz Creek has maintained membership in the Flint Area Narcotics Group as a means to provide additional support for investigations within the community, and

WHEREAS, the Metro Police also cooperates with FANG, but memberships remain a municipal feature, with municipal level appointees and participation, and

WHEREAS, the Metro Police Board and city staff believe that the membership participation, representative and costs remain under the purview of the local municipality.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek City Council approve the payment of \$7,850.60 to the Flint Area Narcotics Group (FANG) for annual dues and expenses, said payment to be apportioned by the City Treasurer.

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

MEETING OPENED TO THE PUBLIC:

Steve Shumaker, 7446 Country Meadow Drive, commented on the FANG membership.

REMARKS BY COUNCILMEMBERS:

Councilmember Porath commented on Mr. Zettel’s suit & tie.

Councilmember Cramer he had a great time at the tree lighting and the parade this past weekend. He also had a resident suggest we extend yard waste pick up.

Councilmember Farmer the festivities last weekend were grand. He suggested we make the festivities a weekend full of activities. .

Councilmember Hicks is glad she doesn’t have to the audit and is happy about the glowing report that our staff does and thanks everyone for doing such a good job.

Mayor Pro Tem Pinkston he likes the fact that a company as reputable as Plante Moran come in and thinks we are doing a great job. That is a great compliment the way this city is run.

Mayor Krueger commented on the electrical issues at the tree lighting ceremony and looking forward to having the updates done to Holland Square.

ADJOURNMENT

Resolution No. 181203-10

(Carried)

Motion by Councilmember Porath
Second by Councilmember Farmer

I Move the Swartz Creek City Council adjourn the regular meeting at 9:17 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Eskew, City Clerk