

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 08/12/2019**

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, Root.

Councilmembers Absent: None.

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

Others Present: Lania Rocha, Bob Plumb, Steve Shumaker, Dennis Novak, Steve Long, Erik & Dawn Jamison, John Wilson, Brenda Huyck, Jim Barclay, Metro PD Chief Bade, Dan Atkinson, Adam & Meghan Atkinson, Jeff Kowczak, Kelly McIntyre, Jack Wheatley, Taylor Cook, Robert Daavittila.

APPROVAL OF MINUTES

Resolution No. 190812-01

(Carried)

Motion by Councilmember Root
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday July 22, 2019 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 190812-02

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Farmer

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of August 12, 2019, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 190812-03

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of August 12, 2019, including reports and communications to be circulated and placed on file.

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

MEETING OPENED TO THE PUBLIC:

Chief Matt Bade, Metro Police Authority, invited everyone to the 2nd annual open house on Wednesday, August 21st 6-8 p.m. at Metro Police headquarters.

Erik Jamison, 5015 Holland Drive, Back to the Bricks cruise in Swartz Creek had a tremendous turnout. Next year he would like to see this move to downtown.

COUNCIL BUSINESS:

RESOLUTION TO APPROVE A SPECIAL LAND USE FOR A DRIVE THROUGH USE (BIGGBY RESTAURANT ON MEIJER PROPERTY)

Resolution No. 190812-04

(Amended)

Motion by Councilmember Hicks
Second by Councilmember Cramer

WHEREAS, the city received a proposal to construct a drive through use on the Meijer site, identified as parcel 58-36-100-014, said land zoned General Business District (GBD) with a Planned Unit Development overlay zoning classification, and;

WHEREAS, the project is a special land use within the GBD and requires site plan review with an additional approval for the special land use, and;

WHEREAS, the planning commission found that the project, consisting of a drive-through only modular structure, to be an innovative land use that is best classified as an accessory use, and;

WHEREAS, the planning commission, in reviewing the application materials and review criteria in Zoning Ordinance found the proposed site plan of a special land use for drive through to meet the intent of the zoning ordinance, and;

WHEREAS, the planning commission found that the site plan in conjunction with the special land use, met all other general standards applicable for the site plan and special land use, with the following exceptions:

1. Drive spacing is not dimensioned
2. Drives do not contain curb
3. Landscaping plan is incomplete
4. Site plan informational data, while generally sufficient for review, is incomplete
5. Proposed lighting may produce glare
6. Building materials are non-durable

WHEREAS, the planning commission, in further reviewing the ordinance, found that the plan, while not in strict compliance with the specific ordinance requirements for a special land use, found such special land use requirements to be unnecessary or irrelevant in accordance with Zoning Section pertaining to special land uses, including:

1. Requirement for a traffic study
2. Requirement for three drive through delivery spaces

WHEREAS, the engineering reviews are not yet available as it relates to utilities, storm water, materials, and related features; and

WHEREAS, the Planning Commission approved the site plan and recommended approval of the special land use, with conditions, at their regular meeting on August 6, 2019.

NOW, BE IT RESOLVED that the Swartz Creek City Council hereby approves the special land use and related site plan, dated 07/19/2019 and included in the city council packet of August 12, 2019, subject to the following conditions, as well as any recommendations of the city engineers:

1. Landscaping to be revised and administratively approved
2. Lighting to be affirmed to be non-glare
3. Building material, color, and roof provisions to be waived
4. Site plan to be updated to affirm dimensions/standard requirements
5. Requirement for curbing to be waived
6. All other engineering standards shall be applied to site development
7. Waiver of a traffic study
8. Waiver of provision of three drive through delivery spaces

Adam Atkinson, Biggby owner & Jeff Kowczak, BCubed owner reviewed the project and answered any questions from council.

Resolution No. 190812-05

(Carried)

Motion by Councilmember Farmer

Second by Councilmember Hicks

I Move to amend the motion by striking out the words to be waived on item #5 Requirement for curbing to be waived.

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

YES Pinkston, Root, Cramer, Farmer, Gilbert, Krueger.
NO: Hicks. Motion Declared Carried.

Break 8:06 p.m. – 8:19 p.m.

RESOLUTION TO APPROVE A USE AGREEMENT WITH SWARTZ CREEK YOUTH FOOTBALL

Resolution No. 190812-06

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

WHEREAS, the City owns certain land (the “Property”) in the City of Swartz Creek (“City”) which is used for public purposes; and

WHEREAS, the Swartz Creek Youth Football is a charitable organization recognized as such pursuant to Section 501 (c) (3) of the Internal Revenue Code and is engaged in the promotion of youth athletics in the City; and

WHEREAS, the User has constructed at its own expense and with the City’s permission certain improvements on the Property which improvements are used for storage and related activities by the User and/or by other public, educational and athletic organizations with the permission of the User; and

WHEREAS, the City finds that the use of the Property by the User and the construction by the User at its own expense of the improvements thereon inures to the benefit of the City and its citizens and helps reduce the burden of government; and

NOW, THEREFORE, the City Council hereby approves the Park Use Agreement Between the City of Swartz Creek and the Swartz Creek Youth Football as included in the August 12, 2019 city council packet and further directs the Mayor and Clerk to execute the agreements on behalf of the city.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE A USE AGREEMENT WITH DRAGONS LAX

Resolution No. 190812-07

(Carried)

Motion by Mayor Pro Tem Pinkston
Second by Councilmember Cramer

WHEREAS, the City owns certain land (the "Property") in the City of Swartz Creek ("City") which is used for public purposes; and

WHEREAS, the DRAGONS LAX is a charitable organization recognized as such pursuant to Section 501 (c) (3) of the Internal Revenue Code and is engaged in the promotion of youth athletics in the City; and

WHEREAS, the City finds that the use of the Property by the User and the construction by the User at its own expense of the improvements thereon inures to the benefit of the City and its citizens and helps reduce the burden of government; and

NOW, THEREFORE, the City Council hereby approves the Park Use Agreement Between the City of Swartz Creek and the Dragons Lax as included in the August 12, 2019 city council packet and further directs the Mayor and Clerk to execute the agreements on behalf of the city.

Discussion Ensued.

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

RESOLUTION TO APPROVE THE PARK WAIVER REQUEST OF THE GFWC OF SWARTZ CREEK

Resolution No. 190812-08

(Carried)

Motion by Councilmember Root
Second by Councilmember Hicks

WHEREAS, the City of Swartz Creek requires park usage reservations and fees in accordance with adopted rules and regulations; and

WHEREAS, the General Federation of Women's Clubs, Swartz Creek Women's Club reserved Pavilion #2 in Abrams Park for Sunday, August 18, 2019 for the purpose of holding an annual meeting; and

WHEREAS, the city park rules and regulations states that “fees may be waived in full if reservations by a non-profit are found to result in a public benefit directly or if proceeds from the reserved event are found to be a benefit to the city.”; and

WHEREAS, the City Council finds the petitioning group to be a qualifying group with a qualifying activity.

NOW, THEREFORE, BE IT RESOLVED, the Swartz Creek City Council hereby waives all fees for the August 18, 2019 reservation in Abrams Park.

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE FISCAL YEAR 2019 BUDGET AMENDMENTS AND ADJUSTMENTS

Resolution No. 190812-09

(Carried)

Motion by Councilmember Cramer

Second by Councilmember Hicks

WHEREAS, Act 621 of P.A. 1978 provides for a uniform budgeting system for local units of government; and

WHEREAS, Act 275 of P.A. of 1980 further prohibits deficit spending by local units of government; and

WHEREAS, the City Council has reviewed the City’s 2018 - 2019 Fiscal Year Budget and comparative year-to-date balance sheet of expenses and revenues, and finds that it is not in deficit; however, certain department activity line items may be in deficit.

WHEREAS, the City Council has received a Budget Amendment Summary; and

WHEREAS, new budget amounts necessitate adjustments to the original adopted budget; and

WHEREAS, said supplemental documentation shows the new proposed revenue and expenditure changes by account number.

THEREFORE BE IT RESOLVED, the Swartz Creek City Council hereby authorizes and directs the city manager or his designee to make all necessary end-year budget adjustment amendments to all city funds in accordance with the supplemental documentation (pages 110 to 119) attached.

BE IT FURTHER RESOLVED, the Swartz Creek City Council hereby authorizes and directs the City Manager or his designee to make all necessary year-end budget adjustment amendments.

Discussion Ensued.

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

**A RESOLUTION TO AMEND CHAPTER 9 OF THE CODE OF ORDINANCES BY
ADDING THERETO A NEW SECTION ENTITLED “ODORS”**

Resolution No. 190812-10

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Hicks

WHEREAS, the City of Swartz Creek maintains police power over various activities and performance standards related to maintaining the health, safety, and welfare of the public, and

WHEREAS, the ability to define and regulate odors in the community has been noted as a deficiency in providing for the health, safety and welfare of the public.

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

**CITY OF SWARTZ CREEK
ORDINANCE NO. 442**

An ordinance to amend Chapter 9 of the Code of Ordinances by adding thereto a new Section, entitled “Odors.”

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Chapter 9 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 Section, entitled “Odors,” to read as follows:

Sec. 9-5. Odors.

(1) Purpose.

To control odors that are a public nuisance and to provide the residents of the City of Swartz Creek protection from objectionable odor that unreasonably interfere with the health, safety and general welfare of the community.

(2) Definition.

Odor nuisance shall mean the doing of any act or omitting to do any act that causes injury, damage, hurt, danger, inconvenience, annoyance or discomfort or that unreasonably interferes with or adversely impacts a person of normal sensitivities or the normal use and enjoyment of property or that threatens health, safety and general welfare of the public that results from the emission of odor, chemicals, gas, smoke, fumes or other materials or processes across any parcel or property line.

(3) Prohibition.

No person shall cause, permit or fail to prevent the emission of an odor nuisance from any property he or she owns, occupies, leases or controls. In determining whether or not there is a violation the following may be considered in addition to other relevant factors:

- (a) Frequency of occurrence of the odor.
- (b) Intensity and character of the odor.
- (c) Duration of the odor.
- (d) Number and frequency of citizen complaints.
- (e) Availability of technology to control or eliminate the odor.

No violation shall be exempt from complying with this provision because of its existence or of any activity causing an odor nuisance at the time of the effective date of this provision.

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 12th day of August, 2019, Councilmember Farmer moved for adoption of the ordinance and Councilmember Gilbert 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. 442 which was enacted by the Swartz Creek City Council at a regular meeting held on the 12th day of August, 2019.

Connie Eskew
City Clerk

Discussion Ensued.

YES: Hicks, Krueger, Pinkston, Root, Cramer.
NO: Farmer, Gilbert. Motion Declared Carried.

RESOLUTION TO APPROVE TRAFFIC CONTROL ORDER NUMBER 175, TO REMOVE THE STOP SIGN ON FAIRCHILD AT CAPPY LANE

Resolution No. 190812-11

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Farmer

WHEREAS, the city owns and operates a system of major and local streets, including traffic control devices; and

WHEREAS, Chapter 18, Article II of the Swartz Creek City Charter adopts the provisions of the Michigan Manual on Uniform Traffic Control Devices, 2009 Edition; and

WHEREAS, Section 1A.08 of the Michigan Manual on Uniform Traffic Control Devices, 2009 Edition grants local control of the regulation of traffic devices; and

WHEREAS, Public Act 235 of 1969, MCL 257.942, enables municipal control over parking areas, parking access points, and related traffic control devices when requested by the owner or operator of such a site; and

WHEREAS, the city conducted a traffic study that recommends removing the stop sign traffic control device from the south approach to the Cappy and Fairchild intersection, said approach being shared jurisdiction between the city and the parking lot access point for the Swartz Creek Middle School; and

WHEREAS, the Superintendent of the Swartz Creek Community Schools desires to follow the recommendation of the engineering report; and

WHEREAS, the street administrator and staff from the Metro Police Authority of Genesee County recommend removing the stop sign.

NOW, THEREFORE BE IT RESOLVED that the City of Swartz Creek approve Traffic Control Order #175 as a permanent order and direct the staff to remove stop sign in accordance with the MUTCD.

Discussion Ensued.

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

Break 8:58 p.m. - 9:01 p.m.

RESOLUTION TO APPROVE GIS MAPPING SERVICES AGREEMENT

Resolution No. 190812-12

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

WHEREAS, the city owns, operates, and maintains a system of sewer collection lines, water distribution lines, storm sewer lines, and related valves, manholes, and other appurtenances; and

WHEREAS, such infrastructure is largely underground and the associated maps that convey location, depth, and related data are inaccurate, missing, or incomplete; and

WHEREAS, the need for documented and efficient maintenance, as well as holistic asset management, make the ability to locate and track ongoing data for such infrastructure essential; and

WHEREAS, technology exists to effectively locate and map such infrastructure using Geographic Information System maps and databases; and

WHEREAS, the Genesee County Drain Commission, Water and Waste Services Division, is also engaging in GIS mapping services, with the intention of reimbursing communities some of the cost associated with water and sewer line mapping services.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek hereby approves the proposal from Rowe Professional Services Company, dated July 30, 2019, in the amount of \$39,850, plus a 10% contingency, funds to be appropriated to the Water 590, Sewer 591, and other applicable funds as determined by the City Treasurer.

Discussion Ensued.

YES: Pinkston, Root, Cramer, Farmer, Hicks, Krueger.
NO: Gilbert. Motion Declared Carried.

RESOLUTION TO APPROVE SEWER CAPACITY ANALYSIS AND REPORT

Resolution No. 190812-13

(Carried)

Motion by Mayor Pro Tem Pinkston
Second by Councilmember Cramer

WHEREAS, the city owns, operates, and maintains a system of sewer collection lines that transport sewer to the county interceptors located at various locations in and around the community; and

WHEREAS, the current and future capacity, especially as it pertains to wet weather events, must be known in order to ensure proper pipe sizing and related capacity; and

WHEREAS, Rowe Professional Services Company has been working with city staff to get flow data on high priority lines and lines with the potential for new users in order to determine future needs; and

WHEREAS, additional analysis of the current raw data and potential for new users is required to create the need, if any, for capital improvements.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek hereby approves the proposal from Rowe Professional Services Company, dated July 26, 2019, in the amount of \$6,750, plus a 10% contingency, funds to be appropriated to the Sewer 591 fund.

YES: Root, Cramer, Farmer, Hicks, Krueger, Pinkston.
NO: Gilbert. Motion Declared Carried.

RESOLUTION TO PURCHASE 4X4 TRUCK & TO SELL 1 TON TRUCK

Resolution No. 190812-14

(Carried)

Motion by Councilmember Root
Second by Councilmember Cramer

WHEREAS, the city finds it necessary to replace a 1999 Chevy 1 Ton Pickup Truck with a comparable piece of equipment; and

WHEREAS, the City's Purchasing Ordinance, Chapter 2, Article VI, Section 2-406 provides for and encourages cooperative government purchasing practices; and

WHEREAS, the Director of Public Services has selected a Ford F350 4x4 from the State of Michigan Vehicle Contract; and

WHEREAS, the 2020 Motor Pool Fund has sufficient funds set aside for this planned equipment replacement.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek approves the purchase of the 2019 Ford Diesel F350 Regular Cab 4x4 Pickup from Signature Ford in the amount of \$38,975 plus associated fees and expenses, to be apportioned from the Motor Pool Fund (661).

BE IT FURTHER RESOLVED, the City of Swartz Creek, finding the 1999 1 ton truck to be beyond its useful life for the execution of safe and efficient duties, hereby direct and authorize the Director of Public Services to auction this vehicle and related appurtenances (listed below) by means of the Bidcorp.com or related public auctioning service.

1. 1999 Chevy 1 Ton Truck; VIN 1GDKC34J9XF022179

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

NO: None. Motion Declared Carried.

MEETING OPENED TO THE PUBLIC:

None.

REMARKS BY COUNCILMEMBERS:

Councilmember Root inquired on the fall decorations timeline.

Councilmember Cramer updated on the 2020 Census committee.

Councilmember Farmer thanked Metro PD for patrolling the city and for being at Back to the Bricks event.

Councilmember Hicks feels it is really unfortunate that the Biggby project is a type 5 construction. She feels we should've held the project at a higher standard.

Councilmember Gilbert commented on the streetlight down at Morrish and Miller and the light being so close to the road.

Mayor Pro Tem Pinkston downtown looks great and he noticed that Sharp's was open.

Mayor Krueger thanked the clerk for fixing his laptop.

ADJOURNMENT

Resolution No. 190812-15

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Cramer

I Move the Swartz Creek City Council adjourn the regular meeting at 9:22 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Eskew, City Clerk