

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 02/24/2020**

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, Henry.

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, Clerk Connie Olger, Director of Community Services Andy Harris.

Others Present: Lania Rocha, Bob Plumb, Steve Long, John Wilson, Charles Campbell, Len Thomas, Metro PD Chief Bade, Officer Montney, Samantha Fountain, Brenda Huyck, Mark Gonyea, George Hicks.

APPROVAL OF MINUTES

Resolution No. 200224-01

(Carried)

Motion by Councilmember Henry
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday February 10, 2020 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 200224-02

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of February 24, 2020, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 200224-03

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Gilbert

I Move the Swartz Creek City Council accept the City Manager's Report of February 24, 2020, including reports and communications to be circulated and placed on file.

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

MEETING OPENED TO THE PUBLIC:

Steve Long, 5356 Worchester, residents request the council have more meetings on the Mary Crapo Project. Mr. Zettel responded on March 10, 2020 @ 7:00 p.m. Planning Commission meeting there is a public hearing scheduled regarding the property.

Mike Buza, 5277 Worchester, urged council to consider energy efficiency in the building. There is a program TALP for municipalities that he can supply information on.

Brenda Huyck, Hometown Days, thanked council for approving the emergency plan at past meeting.

Metro PD

UPDATE

Chief Bade & Officer Montney updated the council on the Mari Dan initiative and the working relationship with management. They also commented that Burkeshire Apts. have showed an interest in the initiative.

DNR TRUST FUND GRANT APPLICATION

PUBLIC HEARING

Mr. Zettel gave brief description of the process and informed council this is the third time applying for this grant.

OPEN: 7:21 p.m.

None.

END: 7:22 p.m.

COUNCIL BUSINESS:

A RESOLUTION TO APPROVE THE SUBMITTAL OF A MICHIGAN DEPARTMENT OF NATURAL RESOURCES TRUST FUND GRANT FOR A MATCH TO THE MICHIGAN DEPARTMENT OF TRANSPORTATION GRANT FOR TRANSPORTATION ALTERNATIVES PROGRAM (TAP)

Resolution No. 200224-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Cramer

WHEREAS, The City of Swartz Creek, through its Parks and Recreation Committee, recognizes a strong need to expand its trailway system; and

WHEREAS, the City has received grant funding from the Michigan Department of Transportation's Transportation Alternative Program for which the City must provide a match and engineering for a total project cost of \$1,005,700.00; and

WHEREAS, the City is requesting \$300,000.00 to come from the Michigan Department of Natural Resources Trust Fund Grant to be used towards the match of the Michigan Department of Transportation's Transportation Alternative Program Grant and the project's engineering; and

WHEREAS, the City is providing a 70% match to the Michigan Department of Natural Resources Trust Fund Grant of \$705,700.00, of which \$568,000.00 of the match is from the Michigan Department of Transportation's Transportation Alternative Program Grant and \$137,700.00 is from the City's general funds.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves the Submittal of the Michigan Department of Natural Resources Trust Fund Grant and its match.

Discussion Ensued.

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

A RESOLUTION TO AMEND PART II OF THE CODE OF ORDINANCES BY ADDING CHAPTER 22 - RECOVERY OF PUBLIC SAFETY AND EMERGENCY RESPONSE COSTS

Resolution No. 200224-05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Hicks

WHEREAS, the City of Swartz Creek seeks to protect the City of Swartz Creek from extraordinary costs associated with emergency responses and the expenses for prosecution of offenses by or on behalf of the City of Swartz Creek by authorizing the imposition of this ordinance amending Part II of the Code of Ordinances by adding Chapter 22.

NOW, THEREFORE, THE CITY OF SWARTZ CREEK ORDAINS:

**CITY OF SWARTZ CREEK
ORDINANCE NO. 446**

An ordinance to amend Part II of the Code of Ordinances by adding Chapter 22, entitled "Recovery of Public Safety and Emergency Response Costs"

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Part II, addition of Chapter 22 of the Code of Ordinances.

The City hereby amends Part II of the Code of Ordinances of the City of Swartz Creek by adding Chapter 22, entitled "Recovery of Public Safety and Emergency Response Costs"

Sec. 22-1. Definitions

For the purpose of this Ordinance, the following words, terms or phrases shall have the meanings as contained in this section, except where the context clearly indicates a different meaning:

Assessable Costs. Those costs for services incurred by the City in connection with a response to a public safety or fire emergency incident, including, but not limited to, the actual labor and material costs of the City (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, costs of transportation, costs of material disposal and costs of contracted labor), whether or not the services are provided by the City or by a third party on behalf of the City; service charges and interest; and attorney's fees, litigation costs, charges, fines or penalties to the City imposed by any court or state or federal

governmental entities, except that the City shall not be fully reimbursed more than once for any expense incurred by the City.

Cost Recovery Schedule. The City shall from time to time adopt resolutions that set forth a schedule of the costs incurred in responding to a public safety or fire emergency incident. The City presumes that the costs listed in this schedule are the true costs incurred by the City in responding to a public safety or fire emergency incident. This schedule shall be available to the public from either the City Clerk, police department, or Fire Authority.

Emergency Services. Emergency medical, public safety, police, fire and civil services.

Emergency Service Fee. This shall mean the cost incurred by the City or its affiliated public safety service providers because of providing emergency services including police, fire, or other support services to a person within the City including but not limited to the following:

1. Officer expenses incurred by the involved police departments or fire authorities the City is a part of or responsible to for monetary contributions, other public officials, or bodies, third parties engaged by the City in responding to the incident. Costs and expenses shall include cost of equipment, operations, personnel, materials used and other expenses including without limitation employee wages, fringe benefits, administrative overhead, costs of equipment including depreciation.
2. Other costs and expenses incurred by the City in providing the emergency service or attempting to collect a fee including legal and engineering fees, litigation costs and expenses, supplies used directly or indirectly in the incident.
3. Costs incurred in accounting for emergency services including billing and collection costs.
4. Costs associated with deployment, including costs associated with dispatch and return of emergency resources.

Excessive Requests for Emergency Assistance. Any request for emergency assistance made to a particular location or premises if such location or premises have requested emergency assistance more than three (3) times in the preceding thirty (30) days.

False Alarms. Any request for emergency assistance made when the person making the request knows there is no actual need for emergency assistance or the request is made by an automated system. Such request may be in any form and includes a request by telephone or any other method,

including the activation of any automated or manual device designed to request or summon emergency assistance. The most senior person responding to a false alarm shall make the determination that there was no actual need for emergency assistance. Any person or premises that cause more than four (4) requests per year for emergency services deemed false alarms shall be financially responsible pursuant to this ordinance.

Illegal Fire. A fire set or determined to be set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a “no-burning” ban, order, or ordinance. An illegal fire does not include an unintentional fire or a fire caused by an act of God, i.e., lightning storm.

Non-Resident. Means a person or entity that does not have a primary residence in the City of Swartz Creek, own real property in the City of Swartz Creek, or have a principal office or place of business within the City.

Public Safety or Fire Emergency Incident. One or more of the following: (i) excessive requests for emergency assistance, (ii) a false alarm, (iii) a hazardous material incident or emergency, (iv) an illegal fire, (v) bomb threats, (vi) threats of harm to oneself or others, or (vii) a structure demolition, (viii) utility line failure or damage, or (ix) any extraordinary event requiring emergency assistance.

Responsible Party. A responsible party is an individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any legal entity that is responsible for a public safety or fire emergency incident or any owner, tenant, occupant, or party in control of real and personal property from which, onto which, or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

Utility Line Failure or Damage. The disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses) if the owner or party responsible for the maintenance of such utility line does not respond within one (1) hour to a request to correct or repair such failure.

Sec. 22-2. Liability for Emergency Service Fees

Emergency Service Fees shall be accessed against any responsible party or parties when the City or its affiliated authorities, contractors, and other third parties have deployed any emergency resources under the following circumstances:

- a. Emergency Services provided for any accident, or fire involving, or related to any motor vehicle, trailer, aircraft, boat, snow mobile, watercraft, or other vehicles owned or operated by a non-resident of the City.
- b. Emergency response to any fire which could be set with a permit, but party responsible for the fire failed to obtain a permit prior to setting the fire.
- c. Emergency response to any fire which could be set with a permit, but which becomes uncontrolled regardless of whether obtaining a permit.
- d. Emergency response provided to any non-resident of the City within the areas of the City opened to the public, such as parks, roads, highways and places of business.
- e. Emergency response to an illegal fire under federal, state or local law. Charges under this sub-section are payable by the responsible party causing in whole, or in part, or responsible in whole, or in part for such illegal fire.
- f. Emergency response to an activity, event, or incident in violation of federal, state, or local laws involving the illegal use of fireworks, or malicious destruction of property.
- g. Emergency response to an activity, event, or incident involving threats of harm to oneself, or another, or another's property which if carried out, would be a violation of federal, state, or local law.
- h. Utility line failure or damage involving disabling of any transmission or service line, cable, conduit, pipeline, wire, or the like used to provide, collect, or transport electricity, natural gas, water, sewer, communication, or electronic signals (including but not limited to telephone, computer, cable, television, or other electronic impulses, if the owner, or party responsible for the maintenance of such utility line does not respond, employing personnel to the scene within one hour of a request to repair, or correct such failure.)
- i. Any emergency service response to a particular location considered an excessive request for emergency assistance. Particular location shall mean the entire area of land occupied by a business, including structures, parking areas and other improved areas utilized, or otherwise legally owned. In a case of a single family home, or condominium it shall mean the dwelling unit, any accessory structure, such as sheds or garages and any other property in which an ownership interest exists. In the case of an apartment complex, particular location shall refer to all areas of the apartment complex for owners, and the dwelling unit rented and common areas occupied without special permission in the case of renters.

Sec. 22-3. Cost Recovery Authorization, Procedure, and Appeal

The City may recover all assessable costs in connection with a public safety or fire emergency services incident from any or all responsible parties jointly and severally.

a. The City Manager or designee shall determine the total assessable costs in consultation with other personnel involved in responding to a public safety or fire emergency incident, and determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determination, the following may be considered:

1. The total assessable costs;
2. The risk the public safety or fire emergency incident imposed on the City, its residents and their property;
3. Whether there was any injury or damage to person or property;
4. Whether the public safety or fire emergency required evacuation;
5. Whether the public safety or fire emergency incident required an unusual or extraordinary use of personnel and equipment; and
6. Whether there was any damage to the environment.

b. In order to determine the assessable costs against a party, the City Manager or designee shall rely on reports of the actual expenses incurred from the personnel involved in responding to the incident and the amounts as set forth in the cost recovery schedule.

d. The City Manager or designee may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefore or is legally at fault.

d. If the City Manager or designee determines not to assess all or a part of assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to other parties.

e. After determining to assess assessable costs against a responsible party, the City shall prepare and mail an itemized invoice to the responsible party at its last known address. The invoice shall demand full payment within thirty (30) days of billing. Amounts unpaid after thirty (30) days of the billing date will

accrue a late charge, not to exceed the maximum rate permitted by law until said account shall be paid in full.

f. Any person deemed to be responsible for an emergency service fee may appeal that determination by filing a written statement of appeal to the City Manager setting forth the reasons for the appeal. The appeal shall be filed within twenty-one (21) days following the mailing of any invoice, or if not mailed, the date of delivery by other means. The appeal stays payment of the emergency service fee until a final determination by the City Manager. The party appealing may present information and evidence. The City Manager shall make a final determination on any appeal within fourteen (14) days of the filing of any appeal. The determination shall be in writing.

g. The City shall be entitled to pursue any other remedy, or may institute appropriate action or proceedings in a court of competent jurisdiction to collect successful costs from a responsible party. The recovery of accessible cost pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law to the City, or to any other person, or entity.

Sec. 22-4. Assessable costs, lien upon property.

Accessible costs when not paid, including late payment and interest shall constitute a lien upon real property that shall be payable and collectible in the same manner as real property taxes, including interest and penalties thereto as a cumulative remedy.

Sec. 22-5. Severability.

Should any word, phrase, sentence, or clause of this Ordinance be declared by a court of competent jurisdiction, to be invalid, or unenforceable, the same shall not effect the validly or enforceability of any other provision, or part.

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 24th day of February, 2020, Councilmember Gilbert moved for adoption of the ordinance and Councilmember Hicks supported the motion.

The Mayor declared the ordinance adopted.

David Krueger
Mayor

Planning Commissioner - Resident
Remainder of Three year term, expiring June 30, 2021

#200224-8E5

MAYOR APPOINTMENT:

David Spillane

Fire Board Member-Swing Seat-Resident
One year term, expiring March 31, 2021

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

NO: None. Motion Declared Carried.

MEETING OPENED TO THE PUBLIC:

Mark Gonyea, 5378 Winshall Drive thanked the council for the appointment.

Steve Long, 5356 Worchester Drive voiced concerns with Cost Recovery Ordinance fees.

Mike Buza, wanted to clarify his comments earlier were on behalf of his residency and Sierra Club, Nepessing Group.

REMARKS BY COUNCILMEMBERS:

Councilmember Henry nice to be at my first meeting.

Councilmember Cramer the Complete Count Committee is meeting on March 10th at the Senior Center 12:30-1:30 p.m. He is also meeting with the staff and students of the Honor Society on March 12th.

Councilmember Farmer commented on "The Best" survey in The View.

Councilmember Hicks received a package that was requested to only be opened in a quorum only. She opened package and requested it to be scanned and sent to all council members for review due to the size. Welcome to all the newly appointed members.

Councilmember Gilbert questioned if the Mary Crapo property stipulated that it only be used as school property. Mr. Zettel responded he is not sure but feels sure if there was a restriction it would be found out during the title work.

Len Thomas, Historical Society, commented the Crapo family who donated this property isn't interested being involved with the property.

Mayor Pro Tem Pinkston commented on the rules of population threshold for liquor licensing.

Mayor Krueger asked everyone to please fill out the census information accurately. Snow storm coming over next couple days, everyone drive carefully.

ADJOURNMENT

Resolution No. 200224-07

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Farmer

I Move the Swartz Creek City Council adjourn the regular meeting at 7:59 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Olger, City Clerk