

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 04/27/2020**

The virtual meeting was called to order at 7:00 p.m. by Mayor Krueger.

Invocation and Pledge of Allegiance.

Councilmembers Present: Cramer, Farmer, Gilbert (late), Hicks, Krueger, Pinkston, Henry.

Councilmembers Absent: None.

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

Others Present: Lania Rocha, Samantha Fountain, Glenn Wilson, Michael Wright, Mark Gonyea.

APPROVAL OF MINUTES

Resolution No. 200427-01

(Carried)

Motion by Councilmember Henry
Second by Councilmember Hicks

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday April 13, 2020 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 200427-02

(Carried)

Motion by Councilmember Cramer
Second by Councilmember Henry

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of April 27, 2020, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 200427-03

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Cramer

I Move the Swartz Creek City Council accept the City Manager's Report of April 27, 2020, including reports and communications to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

COUNCIL BUSINESS:

A RESOLUTION TO APPROVE ORDINANCE 448 TO PROVIDE FOR A PAYMENT IN LIEU OF TAXES FOR SENIOR HOUSING LOCATED AT 8197 MILLER ROAD

Resolution No. 200427-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Farmer

WHEREAS, a land owner has petitioned to develop 40 senior apartments in the Mary Crapo School as part of a redevelopment project, and;

WHEREAS, the City Council recognizes the importance of providing housing for elder populations, preserving historical buildings, and ensuring housing for a mixture of incomes in the senior population; and,

WHEREAS, a payment in lieu of taxes will enable payments for public services based upon the controlled rents, instead of the value of the property investment.

THEREFORE, I MOVE the City of Swartz Creek ordains:

ORDINANCE NO. 448

An Ordinance to provide for a service charge in lieu of taxes for a housing development for adults aged 55 and older to be financed with a federally aided mortgage loan pursuant to the provisions of the State Housing Development Authority

Act of 1966 (PA 346, as amended; MCL 125.1401, Et Seq.) (The "ACT"). This Ordinance amends Chapter 17 by adding Article III.

THE CITY OF SWARTZ CREEK ORDAINS:

Sec. 17-28.

This ordinance shall be known and cited as the City of Swartz Creek Tax Exemption Ordinance – Mary Crapo Development

Sec. 17-28. Preamble

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly persons to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act.

It is further acknowledged that such housing for elderly persons is a public necessity, and the City will benefit and be improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that Communities First, Inc., as the sponsor, has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate the Mary Crapo Development located at 8197 Miller Rd, Swartz Creek, MI,

The portions are on certain property described as:

PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, T6N-R5E, CITY OF SWARTZ CREEK, GENESEE COUNTY, MICHIGAN, DESCRIBED AS BEING ALL OF LOTS 39 THRU 45, AND 50, AND PART OF LOTS 37, 38, 51, AND 52 OF CRAPO PLAT NO. 1, AS RECORDED IN PLAT LIBER 15, PAGE 40, OF GENESEE COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF LOT 41 OF SAID "CRAPO PLAT NO. 1"; THENCE S00°00'00"E, ALONG THE WEST RIGHT-OF-WAY LINE OF SCHOOL ROAD, 351.00 FEET TO A POINT THAT IS N00°00'00"E, 21.00 FEET FROM THE NORTHEAST CORNER OF LOT 36 OF SAID CRAPO PLAT NO. 1; THENCE N90°00'00"W, 131.00 FEET PARALLEL

WITH THE NORTH LINE OF SAID PLAT; THENCE N00°00'00"E, 67.00 FEET PARALLEL WITH THE WEST RIGHT-OF-WAY LINE OF SCHOOL ROAD; THENCE N90°00'00"W, 162.00 FEET PARALLEL WITH THE NORTH LINE OF SAID PLAT; THENCE N00°00'00"E, 77.00 FEET; THENCE 90°00'00"W, 157.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF MCLAIN STREET; THENCE N00°00'00"E ALONG SAID RIGHT-OF-WAY LINE, 67.00 FEET TO THE NORTH LINE OF LOT 50 OF SAID CRAPO PLAT NO. 1; THENCE S90°00'00"E ALONG SAID NORTH LINE, 200.00 FEET; THENCE N00°00'00"E, 140.00 FEET ALONG THE WEST LINE OF LOT 45 OF SAID CRAPO PLAT NO. 1 TO THE SOUTH RIGHT-OF-WAY LINE OF MILLER ROAD; THENCE S90°00'00"E, 250.00 FEET TO THE POINT OF BEGINNING. CONTAINING 96,488 SQUARE FEET OR 2.215 ACRES OF LAND, MORE OR LESS. ALSO SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD in the City to serve persons aged 55 and older, and that Communities First, Inc. (the "Sponsor") has offered to pay the City on account of the housing development, an annual service charge for public services in lieu of all taxes on the elderly portions, not to exceed 100 living units, of the housing development.

Sec. 17-29. 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:

Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing development representing rent or occupancy charges exclusive of Utilities.

Authority means the Michigan State Housing Development Authority

LIHTC Program means the Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Qualified Tenants means persons aged 55 and older eligible to move into the housing development.

Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing development, and secured by a mortgage on the housing development.

Sponsor means Communities First Inc. and any entity that receives or assumes a Mortgage Loan.

Utilities mean charges for gas, electric, water, sanitary sewer and other utilities

furnished to the occupants that are paid by the housing development.

Sec. 17-30. Class of Housing Developments

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing developments for Qualified Tenants that are financed with a Mortgage Loan. It is further determined that the Mary Crapo Development is of this class.

Sec. 17-31. Establishment of Annual Service Charge.

The housing development identified as the Mary Crapo Development and the property on which it will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing development for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to rehabilitate, construct and operate the housing development, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to six percent (6%) of the Annual Shelter Rents actually collected by the housing development during each operating year.

Sec. 17-32. Contractual Effect of Ordinance.

Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance. This Ordinance is referenced as the Projected Ordinance in the Lease Agreement executed between the Sponsor and the City

Sec. 17-33. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing development that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

Sec. 17-34. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before May 1 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1 et seq.).

Sec. 17-35. Duration.

This Ordinance shall remain in effect and shall not terminate for so long as a Mortgage Loan remains outstanding and unpaid and the housing development remains subject to income and rent restrictions under the LIHTC Program.

Sec. 17-36. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provisions of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

Sec. 17-38. 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 27th day of April, 2020, Councilmember Hicks moved for adoption of the foregoing ordinance and Councilmember Farmer supported the motion.

Voting for: Krueger, Pinkston, Cramer, Farmer, Hicks.
Voting against: Henry.

The Mayor declared the ordinance adopted.

David Krueger
Mayor

Connie Olger
Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 448 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on April 27, 2020.

Connie Olger, City Clerk

Publish Date: _____
Swartz Creek View

Discussion Ensued.

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

NO: Henry. Motion Declared Carried.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SWARTZ CREEK AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS WATER SYSTEM FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

Resolution No. 200427-05

(Carried)

Motion by Mayor Pro Tem Pinkston
Second by Councilmember Cramer

WHEREAS, it is necessary for the City of Swartz Creek City (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Two Million Nine Hundred Forty Thousand & 00/100 pursuant to the provisions of ACT 94 of 1933, as amended, and;

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture,(herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such

- purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
 4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
 5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
 6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
 7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
 8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as

- required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
 17. To accept a grant in an amount not to exceed \$2,391,000.00 under the terms offered by the Government; that the City Mayor and City Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Discussion Ensued.

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

Requested Fiscal Year 2021 Budget

Discussion

Councilmember Henry suggested a possibly error on the summary page. Mr. Zettel and Mrs. Korth will check into it.

Councilmember Hicks questioned why the sidewalk and weed accounts were changed.

Mrs. Korth responded that the accounts will be closed out and go back into general fund.

Councilmember Henry inquired on the water/sewer funds large depreciation expenses.

Mrs. Korth explained that they are proprietary funds and they are ran like a business and have to include depreciations.

Mr. Zettel expressed that the budget as prepared is a balanced budget, but we should anticipate a revenue crunch. He also encouraged councilmembers to contact himself or Mrs. Korth with any questions that they may have.

RESOLUTION TO APPROVE A PROPOSAL FOR BRIDGE INSPECTION SERVICES

Resolution No. 200427-06

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Henry

WHEREAS, the City of Swartz Creek owns, operates, and maintains a system of major streets, including two bridges, and

WHEREAS, the Federal Highway Administration requires inspection of these bridges by a certified professional once every two years, and

WHEREAS, Rowe Professional Services Company is a qualified engineer of the city and has completed these inspections previously and maintains a working knowledge of the process and bridge particulars, and

WHEREAS, Rowe proposes to complete and submit bridge reports to the city and the MDOT for a fee of \$425 each.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek approves the bridge inspection proposal by ROWE Professional Services Company, dated February 17, 2020.

BE IT FURTHER RESOLVED, that the City Council directs the Mayor to execute said proposal on behalf of the city and for the city finance director to appropriate such design costs to the Major Street Fund.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

REMARKS BY COUNCILMEMBERS:

Councilmember Cramer informed everyone that as of April 25, 2020 the census response rate was at 69.9%.

Councilmember Farmer commented about his recent contact with Metro Police in regards to a camper on property on Miller Road, across from Cornerstone Baptist Church. He spoke with Chief Bade and they will investigate it.

Councilmember Hicks expressed concern on residents paying the current water bill that is due May 5th.

Councilmember Gilbert was glad he finally was able to join the meeting. He wished everyone good health and to take care.

Mayor Pro Tem Pinkston spoke of the recent murder in Gaines Twp. and the good news that they were caught.

Mayor Krueger thought meeting went well and wished everyone to stay safe.

ADJOURNMENT

Resolution No. 200427-07

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Henry

I Move the Swartz Creek City Council adjourn the regular meeting at 7:51 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Olger, City Clerk