

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR (VIRTUAL) COUNCIL MEETING
DATE 1/11/2021**

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

Invocation and Pledge of Allegiance.

Councilmembers Present: Fountain, Farmer, Gilbert, Hicks, Krueger, Pinkston, Henry.

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, Clerk Connie Olger, Director of Public Services Andy Harris. City Attorney Chris Stritmatter.

Others Present: Lania Rocha.

APPROVAL OF MINUTES

Resolution No. 210111-01

(Carried)

Motion by Councilmember Henry
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the amended Minutes of the Regular Council Meeting held Monday December 14, 2020 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 210111-02

(Carried)

Motion by Councilmember Fountain
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of January 11, 2021, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 210111-03

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Henry

I Move the Swartz Creek City Council accept the City Manager's Report of January 11, 2021, including reports and communications to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

COUNCIL BUSINESS:

RESOLUTION TO APPROVE AN ORDINANCE, ORDINANCE 451 TO AMEND PART II SECTION 19-32 OF THE ORDINANCE, BACKFLOW CONNECTION AND CROSS CONNECTION CONTROL

Resolution No. 210111-04

(Carried)

Motion by Mayor Pro Tem Hicks
Second by Councilmember Farmer

WHEREAS, to remain compliant to the Safe Drinking Water Act of 1976, PA 339, the City of Swartz Creek instituted a Cross Connection Control and Compliancy Program, and solicited and awarded sealed bids to HydroCorp of Troy, Michigan to implement the program, and;

WHEREAS, it is mandatory for the City to continue the program in order to remain compliant with the Act and MI-DEQ Regulations, and;

WHEREAS, additional guidance from the Michigan Department of Environment, Great Lakes, and Energy requires that the city expand its cross connection control program to residential users, and;

WHEREAS, the City of Swartz Creek has retained HydroCorp to commence residential inspections, necessitating an ordinance update to Section 19-32 "Testing".

NOW, THEREFORE, THE CITY OF SWARTZ CREEK ORDAINS.

**CITY OF SWARTZ CREEK
ORDINANCE NO. 451**

An ordinance to amend Part II of the Code of Ordinances by adding, removing and replacing Section 19-32, entitled "Backflow prevention and cross connection control"

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Part II, removal and replacement of Section 19.32 of the Code of Ordinances.

The City hereby amends Part II of the Code of Ordinances of the City of Swartz Creek by Removing Section 19-32 in its entirety and replacing it with Section 19-32, entitled "Backflow prevention and cross connection control" to read as follows:

Sec. 19-32. - Backflow prevention and cross connection control.

- (a) *Introduction.* The intent of this section is to establish a program for the identification, detection and elimination of unprotected cross connections within the public water supply system in order to prevent contamination of the city's public potable water supply from the backflow or back-siphonage of non-potable sources of water or water borne contaminants or pollutants. This section provides guidelines for the proper use of backflow prevention devices, and identifies facilities where the potential for cross connections and the backflow of contaminants will require the use of approved backflow prevention devices.

No physical connection shall be installed or maintained between lines carrying a public potable water supply and pipes, pumps or tanks supplied from or with the potential of being supplied from any non-potable source. Where dual supplies are necessary or desired, lines carrying water from the public water supply system shall be protected against back flow of polluted or contaminated water by means of approved backflow, back-pressure, or back-siphonage devices.

- (b) *Adoption by reference.* The city hereby adopts by reference the water cross connection rules of the State of Michigan, being Rules 325.11401 through 325.11407 of the Michigan Administrative Code ("Rules"), and the City of Swartz Creek Cross Connection Control Program ("program") as prepared by the City of Swartz Creek Department of Public Services and dated October 9, 2001, two copies of which rules and program shall be maintained on file with the city clerk and be available for public inspection during all regular office hours of the city. Any person or firm violating any of the provisions of the rules or the program shall, except as otherwise provided by law, be subject to the penalties and sanctions provided for in this Code.

- (c) *Inspections.* It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and follow-up inspections based on potential health hazards involved shall be as provided for in and as authorized by the rules and the program.
- (d) *Right to enter.* As provided for in the rules and the program and as permitted by law, duly authorized employees and/or representatives of the city shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or water supply system thereof for cross connections.
- (e) *Cross connections in violation of this division.* As provided for in the rules and the program and as permitted by law, the city is authorized and directed, after providing reasonable notice thereof, to discontinue water service to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until cross connections have been eliminated in compliance with the provisions of the rules, the program and this division.
- (f) *Potable water system to be protected from contamination.* The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous place as:
- "WATER UNSAFE
FOR DRINKING"
- (g) *Testing.* That all testable backflow prevention assemblies shall be tested initially upon installation, relocation and/or repair to be sure that the assembly is working properly. Subsequent testing of assemblies shall be on an annual basis or as required by the City and in accordance with State of Michigan requirements. Only individuals that hold an active ASSE 5110 tester's certification shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.
- (h) *This division supplementary to state plumbing code.* This division does not supersede the state plumbing code, but is supplementary to it.
- (i) *Violations of this division a misdemeanor.* Any person or customer found guilty of a violation of any of the provisions of this division or any written order of the city department of public services, in pursuance thereof, shall be deemed guilty of a misdemeanor.

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 11th day of January, 2021, Councilmember Hicks moved for adoption of the ordinance and Councilmember Farmer supported the motion.

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

The Mayor declared the ordinance adopted.

David Krueger
Mayor

Connie Olger
Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance No. 451 which was enacted by the Swartz Creek City Council at a regular meeting held on the 11th day of January, 2021.

Connie Olger
City Clerk

Discussion Ensued.

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

**RESOLUTION TO PROVIDE PARTIAL RELIEF TO THE SWARTZ CREEK
COMMUNITY SCHOOLS FOR CHARGES RELATED TO WATER AND SEWER
CONNECTIONS FOR AN EXISTING SCHOOL**

Resolution No. 210111-05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Farmer

WHEREAS, the City of Swartz Creek has historically required connection charges to be paid when new users connect or expand upon connections to water and/or sewer infrastructure within the city; and

WHEREAS, Syring Elementary, located at 5300 Oakview Drive, has been connected to the system for over 50 years; and

WHEREAS, a lack of a record is not indicative of a lack of a permit to connect due to the city's recent incorporation in 1959 and subsequent management of the private sewer system within Winchester Village; and

WHEREAS, the Swartz Creek Community Schools (SCCS) have undertaken a bond for district improvements, resulting in a small expansion to Syring School, further requiring review by local building agencies and the Genesee County Drain Commission Water and Waste Services Office, among others; and

WHEREAS, the current digital record indicates that Syring had only two Residential Equivalent Units assigned; however, the county audit indicated that the facility should be set at 30 REU's; and

WHEREAS, the GDCD-WWS invoiced the school for the additional 28 units of water and 28 units of sewer per its County Capital Improvement Fee (CCIF) policy, an amount of \$56,000; and

WHEREAS, the City of Swartz Creek issued charges for the same number of units in accordance with our own fee schedule, an amount equal to \$84,000 (\$1,500 per REU water and \$1,500 per REU sewer); and

WHEREAS, the City Council finds that is much more likely than not that the school has been permitted to connect to the sewer system in the past in accordance with connection charges that existed at the time; and

WHEREAS, the school has paid lower than normal quarterly charges for sewer as a result of this error, the billable amount of which is estimated to be \$8,005.92; and

WHEREAS, the City of Swartz Creek City Council desires to maintain a system of charges and fees that is fairly and equally applied, in which customers are not unbilled without cause nor overbilled.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek hereby reduces the amount of sewer units to be billed to the SCCS to 7, down from 28, thereby reducing the amount owed to \$10,500.

BE IT FURTHER RESOLVED, the City of Swartz Creek hereby reduces the amount of water units to be billed to the SCCS to 7, down from 28, thereby reducing the amount owed to \$10,500.

Discussion: This only applies to connection fees.

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE THE MORRISH ROAD PRELIMINARY ENGINEERING CONTRACT

Resolution No. 210111-06

(Carried)

Motion by Councilmember Pinkston

Second by Councilmember Farmer

WHEREAS, the city submitted a resurfacing project for Morrish Road to the Genesee County Metropolitan Planning Commission for approval in the Traffic Improvement Program; and

WHEREAS, the project was approved for construction during the 2022 season, with allocations of funds and cost sharing as outlined herein; and

<u>Road</u>	<u>Point of Beginning</u>	<u>Point of End</u>	<u>Total Cost</u>	<u>Federal Match</u>	<u>Local Match</u>
Morrish	Bristol	Miller	\$1,054,575	\$843,660	\$210,915

WHEREAS, the city needs to select a professional engineer to perform preliminary engineering design work for this project; and

WHEREAS, the city is NOT required to have a federally pre-qualified engineer perform the service because the preliminary engineering cost is under \$100,000; and

WHEREAS, OHM Advisors IS a federally pre-qualified engineer, and they submitted a proposal to perform the engineering service as stipulated and qualified by the Traffic Improvement Program; and

WHEREAS, the city finds OHM Advisors to be a qualified firm performing a professional service.

NOW, THEREFORE, BE IT RESOLVED the City of Swartz Creek approve the design engineering proposal by OHM Advisors as dated December 11, 2020 and included in the January 11, 2021 city council packet, in the amount of \$75,700 for Morrish Road.

BE IT FURTHER RESOLVED the City of Swartz Creek authorizes and directs the Mayor to execute this proposal on behalf of the city.

Discussion Ensued.

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

A RESOLUTION TO AUTHORIZE FAIR MARKET VALUE OFFERS TO TWO OWNERS THAT POSSESS PROPERTY REQUIRED TO CONSTRUCT THE GENESEE VALLEY TRAIL EXTENSION AND RELATED SAFE ROUTES TO SCHOOL PATHS

Resolution No. 210111-07

(Carried)

Motion by Councilmember Henry
Second by Mayor Pro Tem Hicks

WHEREAS, the City of Swartz Creek has formally planned for, acquired funds for, and intends to construct an extension of the Genesee Valley Regional Trail as well as a connected Safe Routes to School lateral, and

WHEREAS, the trail is a high priority regional asset that functions as an integral part of a non-motorized transportation network, as well as a recreational asset, and

WHEREAS, the trail extension will provide public value use for walkers, bikers, joggers, and other users by providing a direct health and recreational benefit and by providing access to non-motorized travel between key destinations, and

WHEREAS, MDOT standards for construction require a substantial and ridged footprint to accommodate the 10 foot wide path and accompanying shoulders, and

WHEREAS, some sections of the path lack the proper right-of-way to accommodate the path, and

WHEREAS, some permanent easements have not yet been acquired through donation or good faith offers acquisition, and

WHEREAS, the properties that still require such easements include 0.05 acres located at 5420 Miller Road and 0.94 acres located at 6060 Bristol Road, and

WHEREAS, the city has retained the services of a highly qualified and certified appraiser to determine the fair market value for the easement areas identified.

THEREFORE, BE IT RESOLVED that the City of Swartz Creek authorizes city staff and the city attorney to make good faith offers to obtain the easements in

question in accordance with the values identified in the appraisals performed by Integra Realty Resources, said values being \$1,350 for the easement over 5420 Miller and \$25,380 for the easement over General Motors property.

BE IT FURTHER RESOLVED that the City Manager shall bring forth purchase instruments related to the easement acquisitions to the city council for review or otherwise report the disposition of the owners upon the good faith offers.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE THE CITY CDBG ALLOCATION

Resolution No. 210111-08

(Carried)

Motion by Councilmember Fountain

Second by Councilmember Henry

WHEREAS, the City of Swartz Creek City Council receives an allocation of Community Development Block Grant Funds from Genesee County on a three year cycle, with the next allocation expected to be \$42,025; and

WHEREAS, applications are now being accepted for service projects and construction projects; and,

WHEREAS, projects must meet specific criteria as noted on the pre-application forms, including expenditure in low/moderate income areas, or serving a low/moderate income population while accomplishing a national objective; and,

WHEREAS, the funds for services can equal up to 15% of the three year allocation for approved and eligible purposes; and,

WHEREAS, the city council held a public hearing on November 9, 2020 to hear public comment related to the use of such funds,

NOW, THEREFORE, BE IT RESOLVED THAT the Swartz Creek City Council dedicate 15% of the three year Community Development Block Grant Distribution, an amount estimated to be \$6,303.75, to support services, including labor, at the Swartz Creek Area Senior Center, Inc., a recognized non-profit senior citizens center located at 8095 Civic Drive, Swartz Creek, MI 48473.

BE IT FURTHER RESOLVED THAT the Swartz Creek City Council dedicate 85% of the three year Community Development Block Grant Distribution, an amount estimated to be \$37,721.25, to support the improvement of sidewalks downtown.

BE IT FURTHER RESOLVED THAT the Swartz Creek City Council approves the applications for funding as included on Genesee County Planning Commission applications as included in the January 11, 2021 city council packet.

Discussion Ensued.

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

CLOSED SESSION TO STRATEGIZE WITH THE CITY ATTORNEY (ROLL CALL VOTE)

Resolution No. 210111-09

(Carried)

Motion by Councilmember Farmer
Second by Councilmember Gilbert

WHEREAS, the City of Swartz Creek City Council and City Attorney desire to consider options related to potential/pending litigation, and;

WHEREAS, the MCL 15.268(e) permits a governing body to enter a closed session to consult with the city attorney regarding a trial or settlement strategy in connection with pending litigation, finding that an open meeting would have a detrimental financial effect on the settlement position of the city.

NOW THEREFORE, BE IT RESOLVED the City of Swartz Creek City Council exit the regular session of the city council and enter into a closed session for the purpose of discussion with the city attorney.

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

RESOLUTION TO SETTLE MEDIATION

Resolution No. 210111-10

(Carried)

Motion by Councilmember Henry
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Mayor to execute settlement in the Hajdino case of the amount stated.

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

MEETING OPENED TO THE PUBLIC:

None.

REMARKS BY COUNCILMEMBERS:

Councilmember Henry wanted an update on erosion control removal. Mr. Zettel responded he will have update next meeting.

Councilmember Fountain wanted to know if we will be able to meet in City Hall next meeting now with the new equipment installation. Mr. Zettel responded no.

Mayor Pro Tem Hicks commented the Women’s Club donated \$200 to Metro Police for the canine unit.

Councilmember Gilbert everyone stay healthy, happy and have a better new year than last year and stay safe.

Mayor Krueger Happy New year to everyone and hope to soon be able to get together in person.

ADJOURNMENT

Resolution No. 210111-11

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Farmer

I Move the Swartz Creek City Council adjourn the regular council meeting of January, 11, 2021, at 8:25 p.m. and set Zoom as the venue for the next regularly Scheduled council meeting of January 25, 2021.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Olger, City Clerk