

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE REGULAR COUNCIL MEETING
DATE 12/06/2021**

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: Fountain, Florence, Gilbert, Hicks, Krueger, Pinkston, Henry.

Councilmembers Absent: None.

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

Others Present: Lania Rocha, Dennis Cramer.

Others Virtually Attended: Andy Harris OHM, Kevin Kilby Metro Attorney, Laura Gruzowski DLZ.

APPROVAL OF MINUTES

Resolution No. 211206-01

(Carried)

Motion by Councilmember Florence
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday November 22, 2021 to be circulated and placed on file.

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

APPROVAL OF AGENDA

Resolution No. 211206-02

(Carried)

Motion by Councilmember Henry
Second by Councilmember Gilbert

I Move the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of December 6, 2021, to be circulated and placed on file.

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

CITY MANAGER'S REPORT

Resolution No. 211206-03

(Carried)

Motion by Councilmember Fountain
Second by Councilmember Florence

I Move the Swartz Creek City Council accept the City Manager's Report of December 6, 2021, including reports and communications to be circulated and placed on file.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

Dennis Cramer 5399 Worchester Drive encouraged the council to elect him to fill Councilmember Fountain's vacancy.

COUNCIL BUSINESS:

RESOLUTION TO APPROVE VARIOUS AMENDMENTS TO THE INTERLOCAL AGREEMENT ESTABLISHING THE METRO POLICE AUTHORITY OF GENESEE COUNTY

Resolution No. 211206-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Fountain

WHEREAS, on October 12, 2015, the Parties entered into the Interlocal Agreement establishing a police authority; and

WHEREAS, on September 1, 2016, the Parties entered into the Amendment No. 1 to the Interlocal Agreement whereby the title of the Interlocal Agreement was changed to the "Interlocal Agreement establishing the Metro Police Authority of Genesee County" and the name of the entity created was changed to "The Metro Police Authority of Genesee County"; and

WHEREAS, on December 1, 2018, the Parties entered into Amendment No. 2 to

the Interlocal Agreement, which amended Section 3.05 setting forth how the Parties would handle prosecutions and payments from the court; and

WHEREAS, on January 1, 2019, the Parties entered into Amendment No. 3 to the Interlocal Agreement, which amended Section 3.04 setting forth the central operations building of the Police Authority and how the Parties would handle future buildings of the Police Authority; and

WHEREAS, on January 1, 2019, the Parties entered into Amendment No. 4 to the Interlocal Agreement, which further amended Section 3.05 setting forth further clarification of how the Parties would handle prosecutions and payments from the court; and

WHEREAS, on January 1, 2019, the Parties entered into Amendment No. 5 to the Interlocal Agreement, which amended Section 4.02, clarifying the powers of the Police Authority Board; and

WHEREAS, on January 1, 2019, the Parties entered into Amendment No. 6 to the Interlocal Agreement, which amended Section 4.09, clarifying who appoints the Chief of Police and Deputy Chief of Police of the Police Authority; and

WHEREAS, on January 1, 2019, the Parties entered into Amendment No. 7 to the Interlocal Agreement, which amended Section 4.10, modifying the duties and responsibilities of the Chief of Police and created duties and responsibilities of the Deputy Chief of Police; and

WHEREAS, the Michigan Legislature has adopted new legislation regarding the Michigan Open Meetings act, which modifies the current case law regarding remote meetings and participation. The Police Authority Board is requesting Section 4.04 of the Interlocal Agreement be modified to conform to the newly adopted legislation; and

WHEREAS, representatives of the Police Authority Board feel that the Finance Committee established by Section 4.05 of the Interlocal Agreement is no longer necessary as invoices and accounts payable are emailed to the entire Police Authority Board for review prior to each Police Authority Board meeting; and

WHEREAS, in an effort to assist the Chief of Police in preparation of the budget, the Police Authority Board is requesting the Township Board and City Council to amend the Interlocal Agreement to include a budget committee and a negotiations committee; and

WHEREAS, the Police Authority Board is requesting additional language be added to the Interlocal Agreement clarifying that the position of Deputy Chief of Police is subordinate to the Chief of Police; and

WHEREAS, the Police Authority Board is requesting additional language be added to the Interlocal Agreement clarifying that any promotion to the position of Lieutenant shall be affirmed by the Police Authority Board; and

WHEREAS, as the Police Authority Board continues to progress and evaluate how it conducts business of the Police Authority, the Police Authority Board representatives are recommending the following amendments for consideration by the Township Board and the City Council to assist the Police Authority Board in conducting business of the Police Authority in the future;

NOW, THEREFORE, BE IT RESOLVED, the Swartz Creek City Council hereby agrees to enter into Amendment #8 of the Interlocal Agreement as included in the City Council Packet of December 6, 2021.

BE IT FURTHER RESOLVED, the Swartz Creek City Council authorizes and directs the Mayor to execute said amendments and Agreement on behalf of the city.

Discussion Ensued.

YES: Krueger, Pinkston, Henry, Fountain, Florence, Hicks.
NO: Gilbert. Motion Declared Carried.

UTILITY RATES

DISCUSSION

Mr. Zettel suggest due to the County sewer rate increase he wants the councils' input on two other components to consider while making the rate increase. The two other components to consider: absorbing credit card fees and an inflationary rate increase in water. Council consensus is not to absorb credit card fees but to add a conservative inflationary water rate increase along with the county sewer rate increase.

Mr. Zettel will bring back a very specific rate schedule to next council meeting for council to consider.

RESOLUTION TO ADOPT ORDINANCE 457, AN ORDINANCE TO AMEND THE CITY'S SEWER ORDINANCE IN ORDER TO PROVIDE ADDITIONAL PROVISIONS FOR THE REGULATION OF FATS, OILS, AND GREASES

Resolution No. 211206-05

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Henry

WHEREAS, the city owns, operates, and maintains a collection system for the transportation of sanitary sewage, and;

WHEREAS, sewage collected by the city is transported to the Genesee County Drain Commission – Water and Waste Services Division for treatment, and;

WHEREAS, the city has adopted an extensive sewer use ordinance in consultation with the GCDC-WWS in order to accommodate their treatment expectations, state standards, and best practices, and;

WHEREAS, the city is now acting on the enforcement of discharged fats, oils, and greases (FOGs) into the collection system.

THEREFORE, I MOVE the City of Swartz Creek ordains:

**CITY OF SWARTZ CREEK
ORDINANCE NO. 457**

An ordinance to amend the Code of Ordinances: Chapter 19, Article III Sewage Disposal

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Addition of Definitions to Section 19.101.2 of the Code of Ordinances.

The City hereby adds definitions, in alphabetical order, to Section 19.101.2 of the Code of Ordinances:

“25 percent rule” means that the combined depth of oil and grease and other solids (floating and settled) in any chamber of a grease control device shall not be equal or greater than 25 percent of the total operating depth of the grease control device. The operating depth of a grease control device is determined by measuring the internal depth from the water outlet invert elevation to the inside bottom of the grease control device.

“Grease control device” means any grease interceptor, grease trap, or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures, and lines, the purpose of which is to trap, collect, or treat FOG prior to discharge into the sewer system that is collected in food preparation areas, such as restaurants, hotel kitchens, hospitals, bars, school and church cafeterias, and the like.

“Grease interceptor” is commonly associated with kitchen cleaning appliances such as sinks, woks, and any other drains that collect oil and/or grease so as to prevent unreasonable accumulations of oil and/or grease from infiltrating into the sanitary sewer system and otherwise prohibiting the free flow of wastewater within such system. For purposes

of this definition, the term "kitchen" shall refer to a food preparation area located other than in a single family dwelling, primarily intended for activities of preparing, serving or otherwise making available for consumption food stuffs, and which are used for one or more of the following preparation activities: washing, trimming or cleaning fish and/or meat, cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods) boiling, blanching, roasting, toasting, or poaching; also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

Section 2. Modify Section 19-104.4 of the Code of Ordinances.

The City hereby removes "and/or the local unit" and replaces it with "the City, or the City's representative." within Section 19.104.4 of the Code of Ordinances.

Section 3. Modify Section 19-105.17 of the Code of Ordinances.

The City hereby removes Section 19.105.17 in its entirety from the Code of Ordinances and replaces it with the following:

Sec. 19-105.17. Grease, oil and sand interceptors.

A grease, oil and sand interceptor (trap) shall be installed and maintained in continuously efficient operating condition at the expense of the property owner when, in the determination of the POTW manager, an interceptor is necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable waste, sand, or other harmful ingredient. An interceptor shall be required for every restaurant, fast food outlet, automotive repair shop or garage, car wash, or any other type of establishment or use as determined necessary by the POTW manager and City DPS Director. An interceptor shall not be required for a single-family detached residential or multiple-family residential dwelling unit when used solely for residential living purposes. All interceptors shall be of a type and capacity approved by the POTW manager or City DPS Director, and shall be located so as to be readily and easily accessible for cleaning and inspection. Interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be of substantial construction, watertight, and equipped with easily removable covers which when in place shall be gas-tight and water-tight.

Maintenance of indoor and outdoor grease control devices shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25

percent rule” as defined herein. The user shall be responsible for the proper removal and legal disposal of the grease control device waste. All waste removed from each device must be disposed of at a facility permitted to receive such waste. No device pumpage may be discharged to the City sewer system. Maintenance shall include the complete removal of all contents, including floatable materials, wastewater, sludges and solids and jet flushing to remove measurable build-up on tank walls. Top skimming of outdoor grease traps, decanting or back flushing of the grease control device or its wastes for the purpose of reducing the volume to be hauled is prohibited.

These devices shall be installed in compliance with the current Michigan Plumbing Code, as enforced by the City. The City or City DPS Director shall make final determination and approval of a grease control device’s size.

The user shall be responsible for maintaining records and/or manifests as to the dates of service, quantity and waste hauler name at the user’s location for a period of three (3) years, which records shall be subject to review by the City without prior notification.

Section 4. Add Section 19-105.18 to the Code of Ordinances.

The City hereby adds a new section, Section 19.105.18 as follows:

Sec. 19-105.18. Outdoor Storage of Grease.

Animal or vegetable grease stored by businesses outside of their buildings must be kept in a self-contained, sealed, leak proof grease container which is approved by the City DPS Director or their designee. The container and the area in and around the container must be kept clean. The name and address of the business must be clearly identified on the outside of the container. Any person or business found disposing of FOG in the City sewer system and/or not properly maintaining their grease container(s) shall be guilty of a misdemeanor and shall be responsible for the costs incurred by the City in cleaning up and disposing of the grease.

Section 5. Modify Section 19-117.1.A of the Code of Ordinances.

The City hereby removes Section 19-117.1.A in its entirety and replaces it with:

“A. *In general.* The POTW, City, and the City’s representative is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons,

compliance or non-compliance with applicable pretreatment standards and requirements, with this article, and with other applicable laws and regulations. This authority includes, without limitation, the authority:"

within Section 19.117.1.A of the Code of Ordinances.

Section 6. Modify Section 19-117.1.B of the Code of Ordinances.

The City hereby removes Section 19-117.1.B in its entirety and replaces it with:

"B. *Right of entry.* The POTW manager and other authorized representatives of the POTW, City or City's representative bearing proper credentials and identification are authorized to enter a nondomestic user's premises (and any other user's premises, as determined necessary by the POTW manager) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this article, and in that regard shall have, without limitation, the following minimum authority:"

within Section 19.117.1.B of the Code of Ordinances.

Section 7. Modify Section 19-117.1.C of the Code of Ordinances.

The City hereby removes Section 19-117.1.C in its entirety and replaces it with:

"C. *Access without delay required.* Users shall allow the POTW, City and City representative ready access at all times to all parts of the user's facility or premises where wastewater governed by this article is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this article could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a user has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the user shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized State or Federal Personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a user's premises, POTW representatives shall inform the user or its employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the user has

the right to accompany the POTW employee/representative during the performance of his/her duties.”

within Section 19.117.1.C of the Code of Ordinances.

Section 8. Modify Section 19-117.1.D of the Code of Ordinances.

The City hereby removes Section 19-117.1.D in its entirety and replaces it with:

“D. *Refusal to allow entry.* If a user refuses to permit access (or unreasonably delays access) to an authorized POTW, City or representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this article, the POTW manager may order the termination of the discharge of wastewater to the POTW; order the user to permit access within a time certain; issue the user a notice of violation of this section; or take other appropriate action as provided by this article and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this section shall constitute a violation of this article.”

within Section 19.117.1.D of the Code of Ordinances.

Section 9. Modify Section 19-117.2.C of the Code of Ordinances.

The City hereby removes Section 19-117.2.C in its entirety and replaces it with:

“C. Nothing in this section shall limit the authority of the POTW and/or the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation, or otherwise require the POTW and/or the local unit to first issue a notice of violation before initiating a civil or criminal action against a person for violating this article.”

within Section 19.117.2.C of the Code of Ordinances.

Section 10. Modify Section 19-117.11 of the Code of Ordinances.

The City hereby removes Section 19-117.11 in its entirety and replaces it with:

“A. Any person who discharges to the POTW, including, but not limited to, any person who causes or creates a discharge that violates any provision of this article, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW or City, or causes or contributes to a violation of any Federal, State or local law governing the POTW or City, whether any such act is intentional or unintentional, shall be liable to and shall fully reimburse the POTW and/or local unit for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW and/or City as a result of any such discharge, deposit, obstruction, damage, injury, impairment, violation, exceedance, non-compliance, or act. The costs that must be reimbursed to the POTW and/or City shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the POTW and/or City in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or non-compliance.
- (2) All costs to the POTW and/or City of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or non-compliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW or City, or any POTW or City representative, by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or non-compliance.
- (4) The full value of any POTW City staff, or City's representative time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW or local unit's legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, or non-compliance or otherwise incurred by the POTW or local unit in administering and enforcing the requirements of this article.

Further, the POTW and/or City is authorized to correct any violation of this article or damage or impairment to the POTW or local unit caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other sections of this article.

B. In determining the amounts to be reimbursed, the POTW or City may consider factors such as, but not limited to, the following:

- (1) The volume of the discharge.

- (2) The length of time the discharge occurred.
- (3) The composition of the discharge.
- (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
- (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
- (6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.
- (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW and/or City, including the POTW or City's costs of defense of actions, or suits brought or threatened against the POTW or City by governmental agencies or third parties.
- (8) Such other factors, including the amount of any attorney's fees, consultant and expert fees, expenses, costs, sampling and analytical fees, repairs, etc., as the POTW or City deems appropriate under the circumstances.

C. Costs to be reimbursed to the POTW or City as provided by this section may be assessed to the user as provided by section 19-117.4 of this article, or as otherwise determined appropriate by the POTW manager or City manager in conjunction with an enforcement action.

D. The failure by any person to pay any amounts required to be reimbursed to the POTW or City as provided by this section shall constitute an additional violation of this article.”

within Section 19.117.11 of the Code of Ordinances.

Section 11. Effective date.

This Ordinance shall take effect thirty (30) days following publication.

Discussion Ensued.

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

NO: None. Motion Declared Carried.

RESOLUTION TO AFFIRM COMMISSION APPOINTMENTS

Resolution No. 211206-06

(Carried)

Motion by Councilmember Pinkston
Second by Councilmember Fountain

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 exist vacancies in a number of said positions; and

WHEREAS, said appointments are Mayoral appointments, subject to affirmation of the city council.

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

#211206-6D1 **MAYOR RE-APPOINTMENT:** **James Barclay**
Park and Recreation Advisory Board, Citizen
Three year term, expiring December 31, 2024

#211206-6D2 **MAYOR RE-APPOINTMENT:** **Rae Lynn Hicks**
Park and Recreation Advisory Board
Three year term, expiring December 31, 2024

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

NO: None. Motion Declared Carried.

RESOLUTION TO APPROVE PARTICIPATION AND PAYMENT FOR UPDATED PICTOMETRY SERVICES BY GENESEE COUNTY

Resolution No. 211206-07

(Carried)

Motion by Councilmember Fountain
Second by Councilmember Henry

WHEREAS, the City has participated in the County's Pictometry – Orthoimagery Program since its inception in 2005; and

WHEREAS, the approximate average yearly cost to the City since the program initiation has been approximately \$600.00; and

WHEREAS, the City finds the program very useful in property assessing, site plan review, traffic design, engineering and management; and

WHEREAS, the last multi-year agreement that obligated and provided the city with current imagery and county-wide GIS data extended from 2013 through 2021; and

WHEREAS, commitments are needed from participating communities in order to calculate cost distribution for the next six year commitment, with the City's

estimated participating cost being \$4,437.96 which includes six years of software support with two photograph updates, one in 2022 and the other in 2025.

NOW, THEREFORE, BE IT RESOLVED, the City of Swartz Creek hereby commit to participation in the Genesee County G.I.S. Pictometry – Orthoimagery Program, for the 2022-2028 cycle, estimated total cost of \$4,437.96, and further, direct the City Manager to sign the inter-agency agreement on behalf of the City.

Discussion Ensued.

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

MEETING OPENED TO THE PUBLIC:

None.

REMARKS BY COUNCILMEMBERS:

Councilmember Pinkston wanted an update on the Christmas Events in downtown the past Saturday. Mr. Zettel responded there was a fantastic selection of vendors at the market. Social Media comments have all been very positive. The core of the crowd concentration was in downtown. Things went very well.

Councilmember Gilbert has an arrow sign in his yard that needs picked up.

Mayor Pro Tem Hicks had a wonderful time at the Christmas Event. The kids loved the Grinch. Congratulations to all that organized the event.

Councilmember Fountain said her kids had a blast at the event.

Councilmember Henry reminded everyone that the council meeting is early next week at 6 p.m. He suggested when preparing for the next event at Holland Square we have more trash receptacles and lighted port a jons.

Councilmember Florence can get out of Springbrook without all the barrels now. The United Methodist church had 230 Christmas trees and they sold all of them in 7 days.

Mayor Krueger commented all the events went well Saturday in Swartz Creek. He invited all the council to attend the Genesee Wind Symphony Concert at the PAC next Monday night at 7:30 p.m. after the council meeting.

ADJOURNMENT

Resolution No. 211206-08

(Carried)

Motion by Councilmember Gilbert
Second by Councilmember Fountain

I Move the Swartz Creek City Council adjourn the regular council meeting of
December 6, 2021, at 8:38 p.m.

Unanimous Voice Vote.

David A. Krueger, Mayor

Connie Olger, City Clerk