

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE COUNCIL MEETING
DATE 05/12/2008**

The meeting was called to order at 7:00 p.m. by Mayor Abrams in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Invocation and Pledge of Allegiance to the Flag.

Councilmembers Present: Mayor Abrams, Adams, Mayor Pro-Tem Christie, Hicks, Hurt, Porath, Shumaker.

Councilmembers Absent: None.

Staff Present: City Manager Bueche, City Attorney Figura, Deputy City Clerk/Financial Officer Mary Jo Clark, Assistant City Manager Zettel, Engineer Lou Fleury.

Others Present: Boots Abrams, Bob Plumb, Tommy Butler, Ron Shultz, Jim Florence, Betty Binder. Carl Carlson, Terry O'Brien, Robert Treloar.

APPROVAL OF MINUTES

Resolution No. 080512-01

(Carried)

Motion by Councilmember Porath
Second by Councilmember Hurt

I Move the Swartz Creek City Council hereby approve the Minutes of the Regular Council Meeting held April 28, 2008, to be circulated and placed on file.

YES: Adams, Christie, Hicks, Hurt, Porath, Shumaker, Abrams.
NO: None. Motion Declared Carried.

APPROVAL OF AGENDA

Item 8T, Park Fee Waiver, June 22, 2008, Swartz Creek Women's Club, was added to the agenda.

Resolution No. 080512-02

(Carried)

Motion by Mayor Pro-Tem Christie
Second by Councilmember Shumaker

I Move the Swartz Creek City Council approve the Agenda as amended for the Regular Council Meeting of May 12, 2008 to be circulated and placed on file.

YES: Christie, Hicks, Hurt, Porath, Shumaker, Abrams, Adams.
NO: None. Motion declared carried.

REPORTS AND COMMUNICATIONS:

City Manager's Report

Resolution No. 080512-03

(Carried)

Motion by Councilmember Shumaker
Second by Councilmember Hurt

I Move the Swartz Creek City Council approve the City Manager's Report of May 12, 2008, to be circulated and placed on file.

YES: Hicks, Hurt, Porath, Shumaker, Abrams, Adams, Christie.
NO: None. Motion declared carried.

All other reports and communications were accepted and placed on file.

Mayor Abrams gave a brief rundown on the proposed GAIN budget.

MEETING OPENED TO THE PUBLIC:

Public Hearing on 2008-2009 Fiscal Year Budget.

City Manager Bueche gave a brief description on the 2008-2009 Fiscal Year Budget.

Robert Treloar, 5176 Worchester, questioned whether the budget included grant money. Mr. Treloar also asked if the City lost grant money. City Manager Bueche stated that there was no grant money for local streets.

No General Public Comments.

COUNCIL BUSINESS:

Hometown Days Permits, Master Resolution

Resolution No. 080512-04

(Carried)

Motion by Councilmember Hicks
Second by Councilmember Adams

I Move the City of Swartz Creek approve Resolutions 080512-8A through 080512-8G, allowing for the various permits relative to the annual Swartz Creek Hometown Days events, to be held beginning Wednesday May 28, 2008, and concluding on

Monday June 2, 2008, inclusive of all stipulations and conditions as specified and listed within.

Hometown Days, Street Carnival, General Street & Property Use Permits

I Move the City of Swartz Creek approve and authorize the Swartz Creek Hometown Days Committees' application for street closing and City property use permits for the following locations:

- A. Morrish between Miller and Ingalls-Wade, Carnival Midway.
- B. Holland between Miller and Ingalls, Vendor – Carnival.
- C. City Lot located at the southwest corner of Miller and Morrish, Carnival – Midway.
- D. Ingalls at Holland and Park Land located to the North and Northwest of the intersection of Morrish and Ingalls, Carnival & Midway.
- E. City owned property located along the North side of Fortino West of South Morrish Road, Car Show and Radio D.J., general parking.
- F. Dead end of Civic Drive west of Fortino Drive (Friday May 30th, 3-8 PM, Saturday May 31st, 10 AM to 8 PM and Sunday June 1st 10 AM to 8 PM), Helicopter Rides.
- G. City owned property and residential dwelling, 4438 South Morrish Road.
- H. City owned property, 4505 Fortino.

Street and City property use, unless otherwise indicated, begins Wednesday, May 28, 2008 at 9:00 a.m. until Monday June 2, 2008 at 9:00 A.M., for the purpose of, and authorization to conduct a carnival, vendor/display area, car show and or other similar events under the following stipulations:

- 1. Insurance certificate naming the City as insured in the amount not less than \$1,000,000.00 (One-Million Dollars)
- 2. Written permission from deed holders of any private properties to be used and appropriate insurance certificates naming such parties as additional insured.
- 3. Sufficient number of portable bathrooms placed and located, and liter control program in accordance and under the approval of Director of Community Services.

General approval of the Chief of Police. Traffic control and pedestrian safety plan in accordance with and under the approval of office of Chief of Police

Hometown Days, Amplified Concert Music Permit

I Move the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee application to conduct an outdoor concert to be held at the outdoor football stadium of the Swartz Creek High School on Friday, May 30, 2008 between 4:30 p.m. and 10:00 p.m., under the following stipulations:

1. Insurance certificate naming the City as insured in the amount not less than \$1,000,000.00 (One-Million Dollars)
2. Written authorization from the School District Superintendent along with acceptable insurance certificates naming the School District as an additional insured, minimum amount not less than \$1,000,000 (One Million Dollars)
3. General approval of the Chief of Police. Traffic control and pedestrian safety plan in accordance with and under the approval of office of Chief of Police.
4. Music to end no later than 10:00 p.m.

Hometown Days, Street Usage Permit, Motor and Pedestrian Parade

I Move the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committees' application for street closing / usage permit for Saturday, May 31, 2008 from 11:00 a.m. until 1:30 p.m. for purposes of conducting a parade, streets used to be Fairchild Street, Miller Rd, and Frederick St under the following stipulations:

1. Insurance certificate naming the City as an additional insured party in the amount not less than \$1,000,000.00 (One Million Dollars).
2. No candy or other objects be thrown or handed from, to or at any vehicle, trailer, float, or similar, and further, that the Hometown Days Committee establish and maintain a list of all participants and/or entries in the parade that identifies a contact person, such contact to be informed by the Hometown Days Committee of the stipulation and motor vehicle code enforcement actions for violations thereof.
3. General approval, and under the direction and control of the Office of the Chief of Police.

Hometown Days Permit, Aerial Fireworks Display

I Move the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee's application for one fireworks aerial display to be held on Friday, May 30, 2008, at or shortly after dusk, with a cancellation date of Saturday, May 31, 2008, at or shortly after dusk, to be launched from properties directly west of the Swartz Creek Middle School structure, said properties owned by the Swartz Creek School District and Mr. Scott Hoover, under the following stipulations and conditions:

1. Insurance certificate naming the City as insured in an amount to be determined adequate by the City Manager.
2. Written permission from the aforementioned parcel owners along with acceptable insurance certificates naming said parcel owners as additional insured parties, in an amount to be determined adequate by the City Manager.
3. Traffic Control Plan and administration by the Offices of Chief of Police and Director of Community Services.

4. Detailed Plan submitted to and approved by the Fire Chief.
5. All decisions concerning the event and cancellation thereof, if needed, under the direction and control of the Fire Chief.

Hometown Days Permit, Operate Beer Tent

I Move the Swartz Creek City Council approve and authorize the Swartz Creek Hometown Days Committee application to operate a beer tent for the sale of beer and wine on the premises, along with live entertainment to be held on Parcel No. 58-02-200-014, owned by Scott Kincaid and located 5086 Morrish Road, south of Wade Street, beginning Thursday, May 29, 2008 until Sunday, June 1, 2008, under the following stipulations:

1. Michigan Liquor Control Commission Approved Application with appropriate insurance in accordance with the rules of the L.C.C. and naming the City and all other property owners as additional insured parties, in an amount not less than \$1,000,000 (One Million Dollars).
2. Portable bathrooms placed and located and litter control program in accordance and under the approval of Director of Community Services.
3. Traffic control and pedestrian safety plan in accordance with and under the approval of Office of Chief of Police.
4. Adherence to all L.C.C. stipulations and regulations, state and local laws.
5. No music after 11:00 p.m. Thursday, May 29, 2008 and 1:00 a.m. Friday, May 30, 2008 (Saturday Morning), and Saturday May 31, 2008 (Sunday morning).
6. A Christian Concert, without alcohol sales, will be permitted within the tent on Sunday, June 1, 2008 between 5:00 PM and 9:30 PM.
7. Adequate security as approved by the Chief of Police.
8. Adherence to and under the direction of control from the Office of the Chief of Police.

Hometown Days Permit, Ceremonial Discharge of a Firearm

I Move the Swartz Creek City Council, pursuant to section 10-212(3) of the Code of Ordinances, approve and authorize the Swartz Creek Hometown Days Committee to discharge weapons as a part of a military concert and ceremonial military honor guard, to be held at the Swartz Creek High School's outdoor football stadium, on Friday, May 30, 2008, at approximately 9:00 p.m., in conjunction with a concert and aerial fireworks display, under the following stipulations and conditions:

1. Insurance certificate naming the City as an additional insured party in an amount not less than \$1,000,000.00 (One Million Dollars).
2. The party(ies) discharging the weapon(s) must be a practicing military honor guard trained and capable in the handling of firearms.

Hometown Days Permit, Ceremonial Discharge of a Firearm

I Move the Swartz Creek City Council, pursuant to section 10-212(3) of the Code of Ordinances, approve and authorize the Swartz Creek Hometown Days Committee to discharge weapons in conjunction with a Parade and as a ceremonial military honor guard, to be held along Miller Road on Saturday, May 31, 2008, at approximately 12:00 noon, under the following stipulations and conditions:

1. Insurance certificate naming the City as an additional insured party in an amount not less than \$1,000,000.00 (One Million Dollars).
2. The party(ies) discharging the weapon(s) must be a practicing military honor guard trained and capable in the handling of firearms.

Discussion Ensued.

YES: Hurt, Porath, Shumaker, Abrams, Adams, Christie, Hicks.
NO: None. Motion Declared Carried.

Miller Road Project, Change Order #1

Resolution No. 080512-05

(Carried)

Motion by Councilmember Adams
Second by Councilmember Hurt

WHEREAS, the City of Swartz Creek let for bid and awarded a contract to the low bidder, Lois Kay Contracting of Saginaw Michigan, for the saw-cut, peg and concrete flatwork of sections of Miller Road at I-69, in reference to City Resolution #071126-04; and

WHEREAS, the need for additional work east of this location to a point west of Dye Road has been identified by the City's staff and Engineer and discussed in open meetings of the City Council at the time that the bid was awarded to Lois Kay Contracting, such work consisting of the milling of several dozen lateral heaved asphalt "bumps" that presents hazards and poor ride quality to motorists; and

WHEREAS, the milling of such sections was not specified within the bid process awarded to Lois Kay Contracting, however, the contractor is capable of such work and is on location with the proper and appropriate labor, equipment and traffic control devices to accomplish such a task and do so in an efficient and cost effective manner that would likely be less than specification and bid award to a company that would need to procure these items at additional expense; and

WHEREAS, the City's Engineer has reviewed the cost estimate of \$11,898 submitted by Lois Kay Contracting and states the pricing is competitive and recommends the City proceed with the work; and

WHEREAS, the City's purchasing ordinance provides for competitive bids in such work, however, allows for deviation from the bid process under certain circumstances under section #2-402 (a)(2), stating "...Due to circumstances beyond the control of the city, the market for such product, material or service is not competitive even though such product, material or service is normally competitive in nature...";

NOW THEREFORE, BE IT RESOLVED that the City approve a work change order to the contract with Lois Kay Contracting of Saginaw Michigan, to award the maintenance work of milling heaved asphalt along eastbound and westbound Miller Road between Dye and I-69, and further, appropriate an amount not to exceed \$11,898 plus 10% contingency, from the City's Major Street Fund #202.

Discussion Took Place.

YES: Porath, Shumaker, Abrams, Adams, Christie, Hicks, Hurt.
NO: None. Motion Declared Carried.

Final Site Plan Approval, Cedar Creek, Parcel #58-03-200-011

Resolution No. 080512-06

(Postponed)

Motion by Councilmember Hurt
Second by Councilmember Adams

I Move the City of Swartz Creek accept the recommendation of the Planning Commission and approve the final site plan revision, dated April 7, 2008, with elevations dated March 26, 2008, for parcel 9279 Miller Road 58-03-200-011 (Cedar Creek) subject to the following conditions:

- 1). Applicant shall include a provision for lighting in the final site plan that must meet administrative approvals.
- 2). Applicant shall provide adequate ground cover and landscaping for ac units and building surroundings that must meet administrative approvals.
- 3). Applicant shall narrow road widths per the city staff's recommendations to a 22' width from the front of the curb while maintaining proper turn radii and shall also install 'one-way' and 'no parking' signs per staff recommendations.
- 4). Applicant shall work with staff to ensure adequate screening along the sides and rear prior to construction.
- 5). Applicant shall submit and obtain a sign permit prior to construction.
- 6). Applicant shall obtain all local, county, state, and/or other necessary permits, insurance, review and licensing prior to construction, including but

not limited to: construction plan review, architectural review, soil erosion permitting, approval of master deed and condo by-laws, and completion of a development agreement.

- 7). Applicant shall include a provision to extend the sidewalk to the western property line and shall move the proposed internal sidewalk off of the proposed curb by no less than four (4) feet.

Discussion Ensued.

Suggestion to postpone decision until Council receives drawings from the owner.

Motion to Postpone by Councilmember Shumaker
Second by Councilmember Hurt

YES: Shumaker, Abrams, Adams, Christie, Hicks, Hurt, Porath.

NO: None. Motion Declared Carried.

Park Waiver Request, Elms, Scout Troop #122

Resolution No. 080512-07

(Carried)

Motion by Councilmember Porath
Second by Mayor Pro-Tem Christie

I Move the City of Swartz Creek waive fees associated with the use of Elms Road Park Pavilion #2, for Cub Scout Troop #122, on Saturday May 17, 2008, from 10:00 AM to 7:00 PM, for their annual cross over event.

YES: Abrams, Adams, Christie, Hicks, Hurt, Porath, Shumaker.

NO: None. Motion Declared Carried.

Boards & Commissions, Reappointments, Master Resolution

Resolution No. 080512-08

(Carried)

Motion by Councilmember Hurt
Second by Mayor Pro-Tem Christie

I Move the City of Swartz Creek approve Resolutions 080512-8K through 080512-8S, inclusive of all stipulations and conditions as specified and listed within.

Boards & Commissions, Reappointment, Tax Board of Review

I Move the City of Swartz Creek Council reappoint Joseph Edgerton, of 9127 Chesterfield Drive, to the Swartz Creek Tax Board of Review, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Planning Commission

I Move the City of Swartz Creek Council concur with the Mayor's reappointment of Carl Connor, of 4061 South Elms Road, to the Swartz Creek Planning Commission, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Planning Commission

I Move the City of Swartz Creek Council concur with the Mayor's reappointment of Douglas Stephens, of 5250 Birchcrest Drive, to the Swartz Creek Planning Commission, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Zoning Board of Appeals

I Move the City of Swartz Creek Council reappoint Douglas Stephens, of 5250 Birchcrest Drive, to the Swartz Creek Zoning Board of Appeals, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Zoning Board of Appeals

I Move the City of Swartz Creek Council reappoint Ronald Smith, of 9194 Chesterfield Drive, to the Swartz Creek Zoning Board of Appeals, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Zoning Board of Appeals, Alternate

I Move the City of Swartz Creek Council reappoint Kenneth Keyes, of 5296 Greenleaf Drive, to the Swartz Creek Zoning Board of Appeals, Alternate, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Zoning Board of Appeals, Alternate

I Move the City of Swartz Creek Council reappoint James Florence, of 4296 Springbrook Drive, to the Swartz Creek Zoning Board of Appeals, Alternate, term running from July 1, 2008, expiring June 30, 2011.

Boards & Commissions, Reappointment, Downtown Development Authority

I Move the City of Swartz Creek Council concur with the Mayor's reappointment of Richard Mattson, of 9251 West Hill Road, to the Swartz Creek Downtown Development Authority, term running from April 1, 2008, expiring March 31, 2012.

Boards & Commissions, Reappointment, Downtown Development Authority

I Move the City of Swartz Creek Council concur with the Mayor's reappointment of Mark Nemer, of 8122 West Hill Road, to the Swartz Creek Downtown Development Authority, term running from April 1, 2008, expiring March 31, 2012.

Discussion Took Place.

YES: Adams, Christie, Hicks, Hurt, Porath, Shumaker, Abrams.
NO: None. Motion Declared Carried.

Park Fee Waiver Request, Elms, Swartz Creek Women's Club

Resolution No. 080512-09

(Carried)

Motion by Mayor Pro-Tem Christie
Second by Councilmember Shumaker

I Move the City of Swartz Creek waive fees associated with the use of Elms Road Park Pavillion #2, for the Swartz Creek Women's Club on Sunday, June 22, 2008, from 10:00 am to 8:00 pm for their annual picnic.

YES: Christie, Hicks, Hurt, Porath, Shumaker, Abrams, Adams.
NO: None. Motion Declared Carried.

MEETING OPENED TO THE PUBLIC:

Tommy Butler, 40 Somerset, questioned whether there was a job description for a City Council Member. Mayor Abrams advised Mr. Butler that it is outlined in the City Charter.

Boots Abrams thanked the Council for waiving the fee for the Women's Club to use Elms Park.

Ron Schultz, 4279 Springbrook, wanted to thank the City Council for doing the right thing reference the skateboarding in Swartz Creek.

REMARKS BY COUNCILMEMBERS:

Councilmember Porath talked about Cedar Creek. He asked if there was a problem calculating the detention. Mr. Porath also talked about a Detroit News article about race track litigation.

Councilmember Shumaker spoke about the new calendars that the City of Swartz Creek puts out that includes City Services and meeting calendar. He stated that it was very well done this year. Mr. Shumaker questioned if there was a place that City residents could pick up composted material. He was advised that the City's garbage carrier hauls it away. Mr. Shumaker talked about an article in the Flint Journal reference a supposed dump site on Raubinger Road. He stated that he feels that the article was slanted against the City.

Councilmember Hurt asked if City Manager Bueche was going to have Rowe Incorporated stake the flood plain because somebody complained. Mr. Bueche stated that it was being staked for the purpose of maintaining the correct use, not to appease someone.

Councilmember Adams talked about the Hometown Days parade and asked why the City Council should police the events. He stated that sometimes the Councilmembers should address City Manager Bueche with complaints in private, giving him an opportunity to handle things rather than putting him on the spot in front of the audience at the Council table.

Councilmember Hicks asked whether the hazardous waste day was put on the water bills. Ms. Hicks also spoke about the Cedar Creek site plans and asked if all of the questions would be addressed at the next City Council meeting.

Mayor Pro-Tem Christie thanked the Council for excusing his absence at the last meeting. Mr. Christie spoke about the Eagle scout ceremony that he attended.

Mayor Abrams spoke about the Planning seminar given by Rowe Engineering. He stated that it was an excellent seminar. Mayor Abrams questioned whether the carriage sign for the Chiropractor was illegal. City Manager Bueche stated that they would look at it and let the Council know.

City Attorney Figura talked about giving a seminar for the Michigan Planning Commission up north. Mr. Figura also spoke about the 5th annual Asparagus Festival. He invited the Council to attend.

ADJOURNMENT:

There being no objection, Mayor Abrams declared the meeting adjourned at 8:30p.m.

Richard Abrams, Mayor

Mary Jo Clark, Deputy City Clerk/
Financial Officer