

## DOWAGIAC CITY COUNCIL MEETING

Monday, August 8, 2016

A regular meeting of the Dowagiac City Council was called to order by Mayor Lyons at 7:00 p.m.

Mayor Lyons led the Pledge of Allegiance to the flag

PRESENT: Mayor Donald D. Lyons, Mayor Pro-Tem Leon D. Laylin; Councilmembers James B. Dodd, Lori A. Hunt, Danielle E. Lucas and City Clerk Jane P. Wilson

ABSENT: Councilmembers Charles K. Burling and Bob B. Schuur

STAFF: City Manager Kevin P. Anderson

### APPROVAL OF MINUTES OF PREVIOUS MEETING

Councilmember Dodd moved and Councilmember Laylin seconded that the minutes of the July 25, 2016 meeting be approved.

Approved unanimously.

### COMMUNICATIONS

#### 1. Benefit Concert for Richard Henniger, August 25, 2016

Councilmember Laylin offered and moved to approve the event; seconded by Councilmember Lucas.

### RESOLUTIONS

1. Resolution introducing a resolution to accept an offer for the conveyance of property at 303 Parsonage, parcel number 14-160-200-903-00, and 403 West Street, parcel number 14-160-200-904-00 for \$6,200 at the September, 2016 regular City Council meeting.

Councilmember Dodd offered and moved to approve the following resolution; seconded by Councilmember Lucas.

WHEREAS, the City of Dowagiac wishes to convey and sell a parcel of real property owned by the City in accordance with the provisions of Section 14.9 of the City Charter; and,

WHEREAS, to do so requires the formal approval of the final-form resolution authorizing such conveyance a minimum of twenty-one (21) days in advance of the final adoption of the said, final-form resolution.

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council, by the affirmative vote of its City Council, does hereby adopt and introduce the attached, final-form resolution for the conveyance of City-owned real property in accordance with the provisions of Section 14.9 of the City Charter, and further directs the City Clerk to

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maintain on file for public review said same final-form resolution for a period of not-less-than twenty-one (21) days preceding the formal action by Council to approve the resolution as attached.

APPROVED unanimously.

Resolution #X  
First Reading August 8, 2016  
Second Reading September 12, 2016

**City Property Sale; 303 Parsonage and 403 West Street**

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution, seconded by Councilmember \_\_\_\_\_.

**WHEREAS**, at the August 8, 2016 City Council meeting by way of an adopted resolution introducing same, the Dowagiac City Council approved of a final-form resolution authorizing the conveyance of City-owned, real property in accordance with the provisions of Section 14.9 of the City Charter, and the specifications outlined in the City Council Policy enacted on June 21, 1993, and;

**WHEREAS**, having now remained on file for public inspection with the Office of the City Clerk for in-excess-of the minimum twenty-one (21) day period required by the City Charter, the City of Dowagiac wishes to formally convey and sell the parcel of surplus real property legally described in Exhibit "A", commonly known as 303 Parsonage, in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-200-903-00, and commonly known as 403 West Street, in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-200-904-00 to Melissa & Timothy Craig, for the total sale price of not less than six thousand two dollars (\$6,200.00).

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council, by the affirmative roll call vote of five or more of its City Council Members, does hereby adopt and approve the sale and conveyance of City-owned real property legally described in Exhibit "A", commonly known as 303 Parsonage, in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-200-903-00, and commonly known as 403 West Street, in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-200-904-00 to Melissa & Timothy Craig, for the total sale price of not less than six thousand two dollars (\$6,200.00).

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**BE IT FURTHER RESOLVED** that the said conveyance shall be accomplished by means of the transfer of a Quit-claim Deed, as prepared by the City Attorney, signed by the Mayor and Clerk respectively of the City of Dowagiac, and executed within thirty (30) days following adoption of this resolution.

2. Resolution to authorize an emergency purchase order for the purpose of making additional repairs to Unit #4 (bucket truck).

Councilmember Laylin offered and moved to approve the following resolution; seconded by Councilmember Dodd.

WHEREAS, on April 25, 2016 City Council authorize the replacement of the compartment boxes to extend the life of Unit 4, a bucket truck for the Electric Division; and,

WHEREAS, during the replacement of the compartment boxes other critical repairs needs were uncovered;

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by affirmative vote of its City Council, hereby approves and the revised purchase order in the amount of \$50,217.85, and;

BE IT FURTHER RESOLVED that the City Council directs the City Manager to be authorized as the signatory for execution of the same.

APPROVED unanimously.

3. Resolution to authorize the amendment of the 2015-16 Fiscal year Budget.

Councilmember Dodd offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

WHEREAS, the City administration has reviewed the attached budgets for the 2015-16 fiscal year and the actual revenues and expenditures through the third quarter of 2015-16 fiscal year; and

WHEREAS, the City administration recommends revision of the attached budgets in accordance with the latest projections available; and

WHEREAS, the attached report for these funds indicates the current budget and the recommended budget revisions.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt the attached, recommended revised budgets.

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APPROVED unanimously.

4. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due:

Councilmember Dodd offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

**WHEREAS**, the following information has been reviewed by the City Manager and City Treasurer and is being presented to City Council with a recommendation to approve invoices for period ending 7/31/16 and payroll #23:

Invoices \$495,447.68      PR #23 \$117,439.09      Total \$612,886.77

**BE IT RESOLVED** that the City Manager and City Treasurer are hereby authorized and directed to pay the following bills and payroll due:

<u>BILLS</u>	<u>PAYROLL</u>	<u>TOTAL</u>
\$495,447.68	\$117,439.09	\$612,886.77

ADOPTED on a roll call vote.

Ayes: Four (4) Dodd, Hunt, Laylin, Lucas

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

ORDINANCES

1. Second reading of an ordinance to amend Chapter 82, Utilities; Article I., Section 82-24 "Landlord/Tenant Policy for Rental Properties", Sub-paragraph (b) regarding landlord affidavit policy.

AN ORDINANCE TO AMEND CHAPTER 82, UTILITIES, ARTICLE I. "IN GENERAL" SECTION 82-24, "LANDLORD/TENANT POLICY FOR RENTAL PROPERTIES", SUB-PARAGRAPH (B), OF THE DOWAGIAC CITY CODE BE AND IS HEREBY AMENDED BY ITS REPEAL AND THE ADOPTION OF A NEW SUBPARAGRAPH (B) OF THE DOWAGIAC CITY CODE.

THE CITY OF DOWAGIAC ORDAINS:

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Section 1. That Chapter 82, Utilities; Article I. "In General", Section 82-24 "Landlord/Tenant Policy for Rental Properties", Sub-paragraph (b) be and hereby is amended to read as follows:

- b. To avoid having delinquent utility charges from their tenants assessed against their premises, landlords must file with the city before the tenant occupies the premises a signed copy of the lease agreement and a sign and notarized "AFFIDAVIT OF TENANT RESPONSIBILITY FOR CITY OF DOWAGIAC UTILITY CHARGES AND THIRD PARTY AUTHORIZATION FORM." The lease must contain language that the tenant is responsible for the utility bills. Upon the filing of the lease agreement, the tenant will be responsible for a utility deposit in accordance with section 82-7 of this Code that is payable at the time service is established. The utility deposit will be applied to the tenant's final bill for that premises, with any excess amount being refunded to the tenant.

**Starting August 31<sup>st</sup> 2016, on all active and future Affidavits, if a tenant vacates the premise leaving an unpaid balance on a utility bill, that unpaid balance and applicable interest and penalties must be paid in full in order for that premise to be eligible to avoid having subsequent tenant utility charges assessed against that premises by filing the Affidavit and Third Party Authorization Form as provided above.**

Section 2: That pursuant to the provisions of Chapter 1, Section 1-4 of the Dowagiac Charter and due to the length of this Ordinance, the Dowagiac City Clerk be and is hereby directed to forthwith cause posting and publication of this Ordinance on the bulletin board of the Dowagiac City Hall, the same being the usual place of posting for the actions of the City Council.

First Reading: July 11, 2016

Moved by: Laylin

Seconded by: Burling

Second Reading: August 8, 2016

ADOPTED by rollcall vote.

Ayes: Four (4) Laylin, Dodd, Hunt, Lucas

Nays: None (0)

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Absent: Two (2) Burling, Schuur

Abstain: None (0)

\_\_\_\_\_  
Donald L. Lyons, Mayor

\_\_\_\_\_  
Jane P. Wilson, City Clerk

**AFFIDAVIT OF TENANT RESPONSIBILITY FOR CITY OF DOWAGIAC UTILITY CHARGES  
AND THIRD PARTY AUTHORIZATION FORM**

\_\_\_\_\_, being duly sworn, deposes and says:  
(Property Owner Name)

1. That the undersigned is the owner and/or authorized representative of the owner of certain property situated in the City of Dowagiac (City), County of Cass, and State of Michigan, as more fully described in the **attached Lease Agreement**, service address:

\_\_\_\_\_  
(Service Address, City, State, Zip)

2. That the undersigned makes this Affidavit pursuant to the provisions of Section 21 of the Revenue Bond Act of 1933, 1933 PA 94, MCL 141.121, Section 5 of the Municipal Water Liens Act, 1939 PA 178, MLC 123.165, Section 4-j of the Home Rule City Act, 1909 PA 279, MCL 117.4-j and CHAPTER 82 UTILITIES, Section 82-12(a) and Section 82-24(b) of the Dowagiac City Code;

3. That the undersigned hereby confirms and represents, upon oath, that the real property described in the attached Lease Agreement is subject to a legally-executed lease containing a provision that the leasee shall be liable for payment of City utility bills as therein provided; further, that the name(s) and mailing address(es) of **all known occupants** are:

\_\_\_\_\_  
A copy of the subject lease is attached hereto, incorporated herein by reference, and designated Appendix A.

4. That, by the filing of this Affidavit, and receipt by the City of a completed deposit card, cash deposit, and photo ID from the tenant, the undersigned acknowledges that any City utility charges incurred for services beginning on the first day of the billing cycle following the filing of this Affidavit with the City shall not be subject to a lien against said premises as authorized by the authority identified in paragraph 2 hereof;

5. That, by execution of this Affidavit, Affiant agrees to file with the City Utility Department written notice of any cancellation, change in, or termination of the attached Lease. Said written notice shall be filed not less than 20 days before the effective date of any such cancellation, change, or termination

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unless the facts giving rise to such event shall not be known to the landlord at least twenty (20) days in advance, in which event such notice shall be given and provided within 48 hours following such knowledge by the landlord;

6. That the undersigned further acknowledges and agrees that any City utility charges incurred from and after the effective date of any cancellation, change, or termination of the Lease shall constitute a lien against said premises as authorized by the authority identified in paragraph 2 hereof regardless of whether or when such notice of cancellation, change or termination is actually filed as required by the provisions of the immediately preceding paragraph.

7. I acknowledge it's my responsibility as the landlord/authorization representative to verify the tenant has completed the deposit card, paid a cash deposit, has provided the City with a photo ID, and completed the third party authorization section of this form in order for this premises to not be subject to a lien.

8. I acknowledge and understand that in order for the City Utility Department to release he tenant's account information to me, the tenant must complete the third party authorization section of this form.

9. If authorized, please send my copy of disconnect notices for the premises to the following location:

Email: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

I acknowledge and understand that my failure to receive a copy of the disconnect notice shall not impair the City's rights under the authority identified in paragraph 2 hereof.

\_\_\_\_\_  
(Property Owner Signature)

\_\_\_\_\_  
(Date)

BE IT KNOWN that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_, to me known to be the same person described in and who executed the within Affidavit and who acknowledged the same to be his/her free act and deed.

\_\_\_\_\_  
Notary Public, Cass County, MI

Utilities/Utility Lease Affidavit

My commission expires:

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Customer Name: \_\_\_\_\_

Service Address: \_\_\_\_\_

Service City, State, Zip: Dowagiac, MI 49047

Account Number: \_\_\_\_\_

I hereby consent and authorize the City of Dowagiac Utility Department, on my behalf, to notify the following designated person(s) and/or property owner to receive my account information as indicated:

<b>Billing</b>	<b>Disconnect Notice</b>	<b>Authorized Third Party</b>
<input type="checkbox"/>	Yes	Name: _____ Relationship to Customer: Landlord/Landlord Manager Email: _____ Mailing Address: _____
<input type="checkbox"/>	<input type="checkbox"/>	Name: _____ Relationship to Customer: _____ Email: _____ Mailing Address: _____

This authorization and consent will become void upon my notification to the Dowagiac Utility Department to terminate, or, upon my vacating this service address.

Customer Signature \_\_\_\_\_

Driver's License Number: \_\_\_\_\_  Verified \_\_\_\_\_

Social Security Number: \_\_\_\_\_  Verified \_\_\_\_\_

Phone Number: \_\_\_\_\_  Verified \_\_\_\_\_

(Tenant Affidavit & Third Party Auth)

COMMENTS FROM CITY OFFICIALS

RESOLUTIONS (CONTINUED)

5. Resolution to go into closed session for the purpose of discussing litigation.

Councilmember Laylin offered and moved the adoption of the following resolution; seconded by Councilmember Hunt.

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**WHEREAS**, the Michigan Open Meetings Law, Public Act 267 of the Public Acts of 1976 as amended, provides that public bodies may meet in closed session for the purpose discussing litigation; and

**WHEREAS**, the Mayor and City Council desire to meet with the City Manager and the City Attorney to receive an update and discuss the litigation.

**NOW, THEREFORE, BE IT RESOLVED** the City Council will hereby adjourn to closed session to discuss litigation.

APPROVED unanimously.

CLOSED SESSION

OPEN 7:19 PM

LATER 8:05 PM

ADJOURNMENT

Upon motion by Councilmember Laylin and seconded by Councilmember Hunt, the Dowagiac City Council adjourned at 8:05 PM.

  
\_\_\_\_\_  
Donald D. Lyons, Mayor

  
\_\_\_\_\_  
Jane P. Wilson, City Clerk

