

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

A regular meeting of the Dowagiac City Council was called to order by Mayor Donald D. 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 Charles K. Burling, James B. Dodd, Randall G. Gross, Sr. and Bob B. Schuur.

ABSENT: Councilmember Lori A. Hunt

STAFF: City Manager Kevin P. Anderson and City Clerk James E. Snow.

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the January 14, 2012 meeting be approved.

Approved unanimously.

PUBLIC HEARING

1. Public hearing to consider the declaration of a public nuisance for property at 515 S. Front Street.

Mayor Lyons opened the public hearing at 7:02 p.m. There being no public comments, Mayor Lyons closed the public hearing at 7:02 p.m.

2. Public hearing to consider the declaration of a public nuisance for property at 228 E. High Street.

Mayor Lyons opened the public hearing at 7:03 p.m. There being no public comments, Mayor Lyons closed the public hearing at 7:03 p.m.

COMMUNICATIONS

1. Memorial Day Parade and Ceremonies, May 27, 2013.

Councilmember Schuur moved and Councilmember Gross seconded to grant the request.

Approved unanimously.

APPOINTMENTS

1. Museum Advisory Committee- Recommended by Mayor and offered by Mayor Pro-Tem:

Appoint Randy Gross for a term expiring July 2016.

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Two

Appoint Joan Lyons for a term expiring July 2016.

Councilmember Burling moved and Councilmember Dodd seconded to approve the Mayor's appointment.

Approved unanimously.

DISCUSSION

1. Motion to accept the 2011-12 audited Financial Statements and place on file.

Carol Light, Yeo and Yeo, gave a short summary of the audit and answered questions from Councilmembers.

Councilmember Dodd moved and Councilmember Laylin seconded to accept the 2011-12 audited Financial Statements and place on file.

Approved unanimously.

CITY MANAGER REPORT

1. Bid Award- Rudolphi Tower Repair and Repainting Project

From the City Manager:

RUDOLPHI WATER TOWER REPAINTING/REPAIR PROJECT

In the summer 2012 Dixon Engineering inspected the 150,000 gallon Rudolphi Water Tower on Riverside Drive. Staff has reviewed the report and concurs with their recommendations. Bids for repainting and repairs were solicited based upon the engineer's report. Attached is a copy of that report along with a memo from Jim Bradford summarizing bids for repainting and repairs to the Rudolphi Water Tower on Riverside Drive. We received eight (8) bids, which were reviewed by Dixon Engineering, who recommends awarding the bid to Seven Brothers Painting, Inc. of Shelby Township, Michigan in the amount of \$113,500.

Also attached is a contract with Dixon Engineering for project administration, pre-construction meeting, surface preparation and paint inspection services for a not-to-exceed amount of \$13,781. If accepted, a budget amendment will be drafted to use cash reserves that are set aside each year for capital projects.

RECOMMENDATION

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013
Page Three

I recommend that City Council accept the bid for Seven Brothers Painting and authorize a contract with Dixon Engineering.

Councilmember Laylin moved and Councilmember Burling seconded that the recommendation of the City Manager be adopted.

ADOPTED unanimously.

2. MDOT CMAQ Proposals- Hill Street and Middle Crossing Road Pathway Projects

From the City Manager:

MDOT CONGESTION MITIGATION AND AIR QUALITY (CMAQ) PROGRAM
HILL STREET AND MIDDLE CROSSING ROAD PATHWAY PROJECTS

In 2012 the City applied for CMAQ funding for a sidewalk on Hill Street and a bike path on Middle Crossing Road from Prairie Ronde Street to Russom Park. The purpose of the funding is to reduce omissions and improve air quality. Each grant cycle has an allocation of money for projects in Cass County. The grant is for 80% of the construction cost. Design engineering is not funded by the grant, but construction engineering costs are funded by the grant.

The City of Dowagiac has been approved for the grant and now must prepare engineer stamped drawings for review. The attached agreements with Wightman & Associates will provide for design, construction engineering and grant administration.

<u>Location</u>	<u>Design Eng.</u>	<u>Construction Eng.</u>
Hill Street	\$6,100.00	\$ 9,500.00
Middle Crossing Road	\$8,200.00	\$10,900.00

RECOMMENDATION

I recommend that City Council authorize agreements with Wightman & Associates for the design, construction engineering and grant administration for the Hill Street sidewalk and Middle Crossing Road bike path CMAQ grant projects.

Councilmember Dodd moved and Councilmember Burling seconded that the recommendation of the City Manager be adopted.

ADOPTED unanimously.

RESOLUTIONS

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Four

1. Resolution to declare a public nuisance property at 515 S. Front Street. Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

WHEREAS, the Dowagiac City Council has heretofore adopted its resolution scheduling a public hearing on the necessity of abatement of dangerous structures constituting a public nuisance within the meaning of Sections 38.42 et seq, of the Dowagiac City Code, which structures are described as:

515 S. Front Street

Tax #14-160-100-459-00

Described as follows: LOT 5, EX COM AT NELY COR, NWLY ON NELY LINE TO NWLY COR, SWLY ON NWLY LINE 21 FT, SELY PARALLEL WITH NELY LINE TO SELY LINE, NELY ON SELY LINE 21 FT TO PL OF BEG. ALSO EX COM AT SELY COR, NWLY ON SWLY LINE TO SWLY COR, NELY ON NWLY LINE 13 FT, SELY PARALLEL WITH SWLY LINE TO SELY LINE, SWLY ON SELY LINE 13 FT TO PL OF BEG. JUSTUS GAGE'S ADD CITY OF DOWAGIAC.

WHEREAS, due notice of public hearing to consider the condemnation thereof has heretofore been given in accordance with the requirements of Chapter 66, Section 66.7 of the Dowagiac City Code, both by publication and by mailing to each owner or person in interest in said property as shown by the last general tax assessment roll of the City, at least ten full days prior to the date of said hearing; and;

WHEREAS, said hearing has been conducted and comments thereon received, and;

WHEREAS, the Dowagiac City Council, upon due consideration and deliberation, determines that condemnation of certain structures situated at **515 S. Front Street**, City of Dowagiac, is necessary due to the deteriorated and/damaged condition and the inability of the structures to be economically rehabilitated, and such action must be taken in order to properly and adequately safeguard the public interest, and;

WHEREAS, this Council does further determine that the whole of the cost of the repairs, improvements and/or demolition of the structures attached hereto and incorporated herein by reference shall be defrayed by use of the withholding funds, under PA 495, of 1980 upon the property hereinabove

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Five

described in the event that said improvements and/or demolition shall not be made by the owner thereof within the time limits hereinbelow proscribed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac by the affirmative vote of its Council does hereby determine that certain structures situated upon the properties hereinabove described constitutes a public nuisance as defined by Chapter 38, Sections 38.71(13) and 38.41 of the Dowagiac City Code justifying abatement by the City pursuant to the powers granted in Chapter 12 of the Dowagiac City Charter and Chapter 38 of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the improvements, repairs and/or demolition of said structures are those set forth in Appendix A attached hereto and incorporated herein by reference, and that said improvements, repairs and/or demolition is necessary in order to protect the public health, safety and welfare.

BE IT FURTHER RESOLVED that said premises by and hereby is determined to contain the following violations:

Building Electrical Plumbing
 Heating Housing Fire
 Other

BE IT FURTHER RESOLVED that said nuisances be abated, and that the owner of said premises, to-wit: **Horizon Land Sales LLC**, be and hereby is directed to **repair** said nuisance by commencement of actions necessary to accomplish same **within 20 days** from the date of this resolution, and that said acts be completed, and said nuisances abated, no later than **60 days** from the date of this resolution.

BE IT FURTHER RESOLVED that if, upon the commencement date herein provided, abatement has not been commenced or if, upon the completion date, such conditions constituting a nuisance have not been abated, the City Manager is directed to cause the abatement of such conditions and nuisances by:

Demolition

Correction of the above-listed Code violations.**BE IT FURTHER RESOLVED** that any costs incurred in the abatement of such conditions and nuisances are to be assessed against the properties hereinabove described in accordance with the provisions of Chapter 66, Sections 66.1, et seq, of the Dowagiac City Code.

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Six

BE IT FURTHER RESOLVED that the City Manager be and hereby is directed to solicit and receive estimates of the costs and expenses associated with the abatement of said nuisances as hereinabove set forth and that such estimates shall be deposited with the City Clerk for examination in accordance with the requirements of Chapter 66 of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the City Clerk be and hereby is directed to forthwith send, by certified mail, return receipt requested, a copy of this resolution to the last known address of the property owner, or any person having an interest in said properties, as shown by the last general tax assessment roll of the City, together with copies of the Code Enforcement Report forms submitted in this matter.

ADOPTED unanimously.

2. Resolution to declare a public nuisance property at 228 E. High Street.

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

WHEREAS, the Dowagiac City Council has heretofore adopted its resolution scheduling a public hearing on the necessity of abatement of dangerous structures constituting a public nuisance within the meaning of Sections 38.42 et seq. of the Dowagiac City Code, which structures are described as:

228 E. High Street

Tax #14-160-100-234-00

Described as follows: COM 209.7 FT N & 34.17 FT N 75 DEG W FRM W 1/4 POST SEC 6, T6S,R15W, AT CEN DOW CRK & W LINE CASS AVE, TH N 75 DEG W IN CEN CRK 138.23 FT, TH N 17 DEG 57' E 277.4 FT TO SLY LINE HIGH ST, TH S 60 DEG 31' E ON SD SLY LINE 58 FT TO W LINE CASS AVE, TH S ON W LINE CASS AVE 271.5 FT TO PL OF BEG. UNPLATTED POKAGON SEC 1 CITY OF DOWAGIAC.

WHEREAS, due notice of public hearing to consider the condemnation thereof has heretofore been given in accordance with the requirements of Chapter 66, Section 66.7 of the Dowagiac City Code, both by publication and by mailing to each owner or person in interest in said property as shown by

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Seven

the last general tax assessment roll of the City, at least ten full days prior to the date of said hearing; and;

WHEREAS, said hearing has been conducted and comments thereon received, and;

WHEREAS, the Dowagiac City Council, upon due consideration and deliberation, determines that condemnation of certain structures situated at **228 E. High Street,** City of Dowagiac, is necessary due to the deteriorated and/damaged condition and the inability of the structures to be economically rehabilitated, and such action must be taken in order to properly and adequately safeguard the public interest, and;

WHEREAS, this Council does further determine that the whole of the cost of the repairs, improvements and/or demolition of the structures attached hereto and incorporated herein by reference shall be defrayed by use of the withholding funds, under PA 495, of 1980 upon the property hereinabove described in the event that said improvements and/or demolition shall not be made by the owner thereof within the time limits hereinbelow proscribed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac by the affirmative vote of its Council does hereby determine that certain structures situated upon the properties hereinabove described constitutes a public nuisance as defined by Chapter 38, Sections 38.71(13) and 38.41 of the Dowagiac City Code justifying abatement by the City pursuant to the powers granted in Chapter 12 of the Dowagiac City Charter and Chapter 38 of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the improvements, repairs and/or demolition of said structures are those set forth in Appendix A attached hereto and incorporated herein by reference, and that said improvements, repairs and/or demolition is necessary in order to protect the public health, safety and welfare.

BE IT FURTHER RESOLVED that said premises by and hereby is determined to contain the following violations:

Building Electrical Plumbing Heating
 Housing Fire Other

BE IT FURTHER RESOLVED that said nuisances be abated, and that the owner of said premises, to-wit: **Dorothy Loeding,** be and hereby is directed to **repair** said nuisance by commencement of actions necessary to

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Eight

accomplish same **within 20 days** from the date of this resolution, and that said acts be completed, and said nuisances abated, no later than **60 days** from the date of this resolution.

BE IT FURTHER RESOLVED that if, upon the commencement date herein provided, abatement has not been commenced or if, upon the completion date, such conditions constituting a nuisance have not been abated, the City Manager is directed to cause the abatement of such conditions and nuisances by:

() Demolition

() Correction of the above-listed Code violations.

BE IT FURTHER RESOLVED that any costs incurred in the abatement of such conditions and nuisances are to be assessed against the properties hereinabove described in accordance with the provisions of Chapter 66, Sections 66.1, et seq, of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the City Manager be and hereby is directed to solicit and receive estimates of the costs and expenses associated with the abatement of said nuisances as hereinabove set forth and that such estimates shall be deposited with the City Clerk for examination in accordance with the requirements of Chapter 66 of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the City Clerk be and hereby is directed to forthwith send, by certified mail, return receipt requested, a copy of this resolution to the last known address of the property owner, or any person having an interest in said properties, as shown by the last general tax assessment roll of the City, together with copies of the Code Enforcement Report forms submitted in this matter.

ADOPTED unanimously.

3. Resolution of intent to apply for funding and to approve a projected 2014 Dial-A-Ride budget in accordance with the master contract with the Michigan Department of Transportation.

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Nine

Michigan Department
of Transportation
3078 (10/2012)

FY2014 RESOLUTION OF INTENT

*The approved resolution of Intent to apply for state formula operating assistance for
fiscal year 2014 under Act 51 of the Public Acts of 1951, as amended.*

Moved by Burling; seconded by Gross

WHEREAS, pursuant to Act 51 of the Public Acts of 1951, as amended (Act 51), it is necessary for the
CITY OF DOWAGIAC, (hereby known as THE APPLICANT) established under
Name of Applicant (legal organization name)
Act 51, to provide a local transportation program for the state fiscal year of 2014 and, therefore, apply
for state financial assistance under provisions of Act 51; and

WHEREAS, it is necessary for the governing body, to name an official representative for all public transportation
matters, who is authorized to provide such information as deemed necessary by the State Transportation
Commission or department for its administration of Act 51; and

WHEREAS, It is necessary to certify that no changes in eligibility documentation have occurred during the
past state fiscal year; and

WHEREAS, the performance indicators have been reviewed and approved by the governing body

WHEREAS, THE APPLICANT, has reviewed and approved the proposed balanced (surplus) budget, and
funding sources of estimated federal funds \$ 32,669, estimated state funds \$ 78,587, estimated local
funds \$ 58,776, estimated fare box \$ 32,000, estimated other funds \$ 2,150, with
total estimated expenses of \$ 204,182

NOW THEREFORE, be it resolved that THE APPLICANT hereby makes its intentions known to provide public
transportation services and to apply for state financial assistance with this annual plan, in accordance with Act 51;
and

HEREBY, appoints ROZANNE H SCHERR as the Transportation Coordinator, for
all public transportation matters, who is authorized to provide such information as deemed necessary by the State
Transportation Commission or department for its administration of Act 51 for 2014.

ADOPTED unanimously.



I, JAMES E SNOW, CITY CLERK, of
(Name) (Secretary, Clerk)

THE APPLICANT, having custody of the records and proceedings of THE APPLICANT, does hereby certify that I
have compared this resolution adopted by THE APPLICANT at the meeting of JANUARY 28, 2013, with the original
minutes now on file and of record in the office and that this resolution is true and correct.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
affixed seal of said CITY CLERK, this ___ day of JANUARY,
A.D. 2013.

SIGNATURE

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Ten

4. Resolution to approve a Project Authorization Agreement with MDOT relating to the FY 2013 operating grant for the Dial-A-Ride operation.

Councilmember Burling offered and moved the adoption of the following resolution; seconded by Councilmember Gross.

WHEREAS, pursuant to a grant agreement between the Michigan Department of Transportation and the City of Dowagiac it is necessary for the City of Dowagiac to enter into a project authorization agreement for its local transportation program for the fiscal year 2013 in order to receive State and Federal financial assistance under provision of Act 51; and

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize Transportation Coordinator Rozanne Scherr to execute the Project Authorization, FY 2013 Section 5311 Operating, attached hereto and by reference made a part hereof as required to receive financial assistance from the Michigan Department of Transportation, in accordance with Act 51; and

BE IT FURTHER RESOLVED that, for all public transportation matters, the Transportation Coordinator shall provide such information as deemed necessary by the State Transportation Commission or Department for its administration of Act 51 for fiscal year 2013.

ADOPTED unanimously.

5. Resolution to establish poverty exemption guidelines for 2013.

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

WHEREAS, the adoption of guidelines for poverty exemptions is required of the City Council; and

WHEREAS, the principal residence of persons, who the Assessor and Board of Review determines by reason of poverty to be unable to contribute to the public charge, is eligible for exemption in whole or in part from taxation under Public Act 390 of 1994 (MCL 211.7u); and

WHEREAS, the City Assessor has drafted and recommended to City Council guidelines and policy that complies with applicable state laws.

NOW, THEREFORE, BE IT HEREBY RESOLVED that City Council does approve

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013
Page Eleven

the attached Poverty Exemption Policy & Guidelines (Revised January 2013); and

BE IT FURTHER RESOLVED that the Assessor and Board of Review shall follow the above stated policy and federal guidelines in granting or denying an exemption, unless the Assessor and Board of Review determines there are substantial and compelling reasons why there should be a deviation from the policy and federal guidelines and these reasons are communicated in writing to the claimant.

ADOPTED unanimously.

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

Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Burling.

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 and payroll #9 for the period ending 1/24/13:

Invoices: 191,114.35
Payroll: 170,644.60
Total: \$361,758.95

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

Invoices	Payroll	Total
\$191,114.35	\$170,644.60	\$361,758.95

ADOPTED on a roll call vote.

Ayes: Five (5) Burling, Dodd, Gross, Laylin and Schuur

Nays: None (0)

Absent: One (1) Hunt

Abstain: None (0)

DOWAGIAC CITY COUNCIL MEETING

Monday January 28, 2013

Page Twelve

Upon motion by Councilmember Dodd, and seconded by Councilmember Schuur, the Dowagiac City Council adjourned at 7:30 p.m.

Donald D. Lyons, Mayor

James E. Snow, City Clerk