

DOWAGIAC CITY COUNCIL MEETING

Monday, October 13, 2014

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 Bob B. Schuur, Charles K. Burling, Lori A. Hunt, James B. Dodd and Randall G. Gross, Sr.

ABSENT: None.

STAFF: City Manager Kevin P. Anderson, City Manager; Rozanne H. Scherr, Assistant City Manager.

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the September 22, 2014 regular meeting be approved.

Approved unanimously.

COMMENTS FROM THE AUDIENCE (NON-AGENDA) –
Linda Keesler, 29451 M-62, Dowagiac, Michigan

PUBLIC HEARING

1. Public hearing to receive comment on the declaration of a public nuisance property for the structure located at 311 Grove Street.

Mayor Lyons opened the public hearing at 7:11 pm.

Audience speaking: None

Mayor closed the public hearing at 7:11 pm.

COMMUNICATIONS

1. Optimist Club Children's Halloween Parade, Saturday, October 25th at 10:00 a.m.

Councilmember Dodd moved, and Councilmember Gross seconded to grant the request.

RESOLUTIONS

1. Resolution to declare the structure at 311 Grove Street a public nuisance property.

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

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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:

311 GROVE ST

Tax #14-160-100-118-00

Described as follows: . DW 367 COM 16 RDS W OF NW COR LOT 56, B. MC CONNELL'S ADD S 8 RDS, W 4 RDS, N 8 RDS E 4 RDS 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 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 **311 GROVE ST**, 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.

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

- (xxxxx) 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: **DAVIS, ANNIE & HALLIBURTON, JESSE**, be and hereby is directed to demolish said nuisance by commencement of actions necessary to accomplish same **within 30 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

(xxxxx) 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, Section 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.

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2. Resolution to confirm special assessment roll against properties remaining delinquent in the payment of code enforcement expenses (grass/weeds) incurred by the City.

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

WHEREAS, Chapter 66, Section 66.19 of the Dowagiac City Code, "Single Lot Assessments- Generally," provides that the City of Dowagiac is authorized to levy a special assessment against single premises for expenses which are chargeable against such premises under the provisions of the Dowagiac City Code, and;

WHEREAS, the Dowagiac City Council, upon due consideration and deliberations, determined that certain noxious weeds and grasses were present upon the various single premises described in Appendix A attached hereto and incorporated herein by reference, and that the cutting of such noxious weeds and grasses by the City was necessary by virtue of non-compliance with the provisions of Chapter 86, Section 86.59 of the Dowagiac City Code, and;

WHEREAS, the expense incurred with respect to each parcel of land entered upon in carrying out the provisions of said Chapter 86 have been kept, which charges, together with an amount equal to fifty percent (50%) thereof to cover costs of publication, overhead and other expenses, are chargeable against such single premises as provided in Chapter 66 of the Dowagiac City Code, and;

WHEREAS, the City Manager has directed the City Assessor to prepare a special assessment roll covering all such charges which have not been paid, together with an additional amount equal to fifty percent (50%) thereof, to cover the cost of publication, overhead and other expenses, and;

WHEREAS, said roll has been filed with the City Clerk and is now being presented to the Council for confirmation and levy, and;

WHEREAS, said special assessment roll is attached hereto and made a part of this resolution.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby confirm the attached special assessment roll for the parcels more fully described in Appendix A attached hereto and incorporated herein by reference and directs the City Administration to levy said assessments against the individual properties therein set forth.

ADOPTED unanimously.

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3. Resolution to confirm special assessment roll against properties remaining delinquent in the payment of code enforcement expenses (blight/boarding/miscellaneous) incurred by the City.

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

WHEREAS, Chapter 66, Section 66.19 of the Dowagiac City Code, "Single Lot Assessments- Generally," provides that the City of Dowagiac is authorized to levy a special assessment against single premises for expenses which are chargeable against such premises under the provisions of the Dowagiac City Code; and

WHEREAS, the Dowagiac City Council, upon due consideration and deliberation, determined for the preservation of the public peace, health and safety of the city that certain deteriorating property condition(s) existed on private properties described in Appendix A, attached hereto and incorporated herein by reference, and that the abatement by the City of such deteriorating property condition(s) was necessary by virtue of non-compliance with the provisions of Chapter 18 of the Dowagiac City Code; and

WHEREAS, this expense is chargeable against such premises and the owner thereof under the provisions of the Charter, the Code and the law of the State of Michigan and is not of the class required to be prorated among several lots and parcels of land in a special assessment district; and

WHEREAS, an account of labor, material, and services for which such expenses incurred has been billed to the property owner by the City Building Official, as provided in Chapter 66 of the Dowagiac City Code; and

WHEREAS, this bill had not been paid; and

WHEREAS, the City Manager has directed the City Assessor to prepare a special assessment roll covering all such charges which have not been paid; and

WHEREAS, said roll has been filed with the City Clerk and is now being presented to the Council for confirmation and levy; and

WHEREAS, said special assessment roll is attached hereto and made a part of this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council hereby confirms the attached special assessment roll for the parcels more fully described in Appendix A attached hereto and incorporated herein by reference

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and directs the City Administration to levy said assessments against the individual properties therein set forth.

ADOPTED unanimously.

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

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

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 payrolls #26 for the period ending 8/21/14:

Invoices FY2013-14:	705,064.03
Invoices FY2014-15:	51,957.05
Payroll #26:	177,783.31

Total:	<u>\$934,804.39</u>
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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
\$757,021.08	\$177,783.31	\$934,804.39

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: None (0)

Abstain: None (0)

ORDINANCES

First reading of an ordinance to approve the rezoning of 512 Keene Avenue from "R-2" residential to "OS" Office Service.

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ORDINANCE NO. _____, 2014

ORDINANCE-----

AN ORDINANCE TO AMEND SECTION 22.5 (C) (6), MAP OF CHAPTER 22, CHANGES AND AMENDMENTS, OF THE DOWAGIAC CITY CODE BY AMENDMENT OF THE ZONING MAP.

THE CITY OF DOWAGIAC ORDAINS:

Section 1: That Section 22.5 (C) (6) of Chapter 22, of the Dowagiac Zoning Code be is hereby amended by changing the official zoning map as follows:

“Designate as "OS – Office Service," certain described property in the City of Dowagiac, County of Cass, State of Michigan, more specifically described in Appendix "A", attached hereto and incorporated herein by reference ”

Section 2: That this ordinance shall take full force and effect immediately upon its publication in a newspaper of general circulation within the City of Dowagiac.

Moved by: Laylin

Seconded by: Gross

COMMENTS FROM CITY OFFICIALS

Upon motion by Councilmember Schuur and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 7:25 PM.

Donald D. Lyons, Mayor

Kevin P. Anderson, City Manager