

DOWAGIAC CITY COUNCIL MEETING

Monday October 14, 2013

A regular meeting of the Dowagiac City Council was called to order by Mayor Pro-Tem Leon D. Laylin at 7:00 p.m.

Mayor Pro-Tem Laylin led the Pledge of Allegiance to the flag.

PRESENT: Mayor Pro-Tem Leon D. Laylin; Councilmembers James B. Dodd, Randall G. Gross, Sr., Lori A. Hunt and Bob B. Schuur.

ABSENT: Mayor Donald D. Lyons; Councilmember Charles K. Burling.

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

Councilmember Dodd moved and Councilmember Hunt seconded that the minutes of the September 23, 2013 meeting be approved.

Approved unanimously.

APPOINTMENT

1. Local Officers Compensation Commission- Recommended by Mayor and offered by Mayor Pro-Tem:
Appoint Leon Anderson, Jr for a term expiring December 2016.

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

Approved unanimously.

CITY MANAGER REPORT

1. Memorandum of Understanding with Wayne Township

From the City Manager:

WAYNE TOWNSHIP MEMORANDUM OF UNDERSTANDING

Wayne Township has received notification from staff at the USDA that they are eligible for a grant in the amount of 45% of the total project cost to extend a water line to connect to the City's water system and extend the water line on Nubour Road past the City's former landfill. Additionally, they are also eligible for a low interest loan for a 40-year time period. The USDA is awaiting congressional approval of the federal budget before they can finalize agreements with Wayne Township. The total project cost is estimated to be \$1,050,000. The grant will be in the amount of \$472,500 and the loan will be in the amount of \$577,500.

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Over the past several years the City has been in conversations with Wayne Township elected officials regarding both City and Township commitments to the project. Those conversations have now been reduced to writing and I have attached a Memorandum of Understanding (MOU). The MOU was approved by the Wayne Township Board on October 7, 2013. The following points are intended to give further background of the items listed in the MOU:

- The City will pay a special assessment of 15% of the water line construction project. A special assessment agreement is necessary because one municipality cannot special assess another without the other municipality's permission. Since the City is an owner of property in the special assessment district, it is appropriate and fair to participate in the construction costs for this project. 15% of the total projected cost is \$157,500. By contracting for a special assessment, it will allow the City to pay its special assessment over the 40-year term of the loan if the City so chooses.
- The only caveat to making payments over a long period of time is that if there is a cash flow problem that arises because of the timing of when assessments are levied and collected and the first bond payment for interest comes due, the City will prepay a portion of the City's special assessment agreement to make sure there is enough money in the fund to pay the interest cost. The first interest payment is projected to be about \$37,000. If the City prepays, the balance of special assessments would be reduced by \$37,000 leaving only \$127,500 to pay over 40 years at a fixed interest rate. The only potential cash flow timing issue is in the first year.
- This water line will run along one road with city residents on one side and township residents on the other. The Township cannot assess properties outside of their jurisdiction so the MOU commits the City to charge a tap fee for those city residents that want to be served by city water. The tap fee would be an amount equal to what the special assessments are for property owners in Wayne Township. These tap fees would then be used to reduce the debt for the project. The goal is that each user of the water system pays their fair share.
- Wayne Township agrees that if there is any new construction within this special assessment district, those residents would be required to connect to the municipal water system.
- The final piece of the agreement calls for the City's fire department to be automatically called to respond to any structure fires within Wayne Township. Historically, there have been between 4-7 structure fires in Wayne Township per year. The City of Dowagiac Fire Department is normally called to help in these situations. The only difference with this agreement is that the City's Fire Department will be automatically called by County Dispatch when this situation arises.

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RECOMMENDATION

I recommend that City Council approve the attached Memorandum of Understanding with Wayne Township.

Councilmember Schuur moved and Councilmember Gross seconded that the recommendation of the City Manager be adopted.

ADOPTED unanimously.

RESOLUTIONS-

1. Resolution to appoint and enter into a contract service agreement for City Attorney services.

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

WHEREAS, Chapter 7 of the Dowagiac City Charter specifies the Administrative Officers of the City and provides for their appointment; and

WHEREAS, with the closure of long time City Attorney Westrate's office, the Administrative Officer position of City Attorney is currently vacant; and

WHEREAS, the Charter requires the City Attorney to be appointed by and compensation set by City Council; and

WHEREAS, proposals for City Attorney were solicited and interviews have been conducted; and

WHEREAS, the City Manager proposes the appointment of Sarah Mathews, of Mathews Law Office, PLLC, to fill the City Attorney vacancy.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its Council, does hereby appoint Sarah Mathews, of Mathews Law Office, PLLC, as the City Attorney.

BE IT FURTHER RESOLVED that the City of Dowagiac does hereby authorize the City Manager to execute the attached Contract Services Agreement with Sarah Mathews for City Attorney services.

ADOPTED unanimously.

2. Resolution to authorize the Museum Advisory Committee to implement a fund-raising project for the Dowagiac Area History Museum.

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

WHEREAS, the Museum Advisory Committee has been developing a plan to raise funds for the growth, expansion and operation of the Dowagiac Area History Museum; and

WHEREAS, raising private funds would enhance museum experience for local residents and visitors; and

WHEREAS, it is typical for local museums to raise private funds for a variety of projects and operations.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the Museum Advisory Committee to implement a fundraising project for the Dowagiac Area History Museum and authorizes that funds raised will be placed in a non-reverting fund for exclusive use at the museum.

ADOPTED unanimously.

3. Resolution to authorize budget amendments for fiscal year 2013-14.

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

WHEREAS, the City administration has reviewed the attached budgets for the 2013-14 fiscal year and the actual revenues and expenditures through September 30, 2013; 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.

ADOPTED unanimously.

4. Resolution to confirm the special assessment roll against properties remaining delinquent in the payment of code enforcement expenses incurred by the City.

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

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

ADOPTED unanimously.

5. Resolution to confirm the special assessment roll against properties remaining delinquent in the payment of utility bill expenses incurred by the City.

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

WHEREAS, Chapter 82, Section 82.24 (c) of the Dowagiac City Code, "UTILITIES", provides that the City of Dowagiac is authorized to place as a lien on the premises to which electric, water and/or sewer service is provided for delinquent utilities for six (6) months or more; and

WHEREAS, delinquent utilities with such lien are charged on the next property tax bill for the premises; and

WHEREAS, the Dowagiac City Council upon review of the various single premises described in Appendix A attached hereto and incorporated herein by reference, determined by virtue of non-compliance with the provisions of Chapter 82, Section 82-24 (c) 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; 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.

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 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 payroll #1 for the period ending 10/10/13:

| | |
|----------------------|------------|
| Invoices FY2012-13: | 670,332.82 |
| Invoices FY 2013-14: | 35,048.25 |

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Payroll: 113,429.14

Total: 818,810.21

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 |
|--------------|--------------|--------------|
| \$705,381.07 | \$113,429.14 | \$818,810.21 |

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: One (1) Burling

Abstain: None (0)

RESOLUTIONS, Continued (CLOSED SESSION)

7. Resolution to adjourn to a closed session to discuss strategies to deal with litigation.

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

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 to discuss strategies for dealing with litigation; and

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

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

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: One (1) Burling

Abstain: None (0)

TIME: 7:37 P.M.

LATER: 8:37 P.M.

Upon motion by Councilmember Schuur and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 8:37 p.m.

Leon D. Laylin, Mayor Pro-Tem

James E. Snow, City Clerk