

DOWAGIAC CITY COUNCIL MEETING

Monday October 22, 2012

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

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, Randall G. Gross, Sr., Lori A. Hunt and Bob B. Schuur.

ABSENT: Charles K. Burling

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

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the October 8, 2012 meeting be approved.

Approved unanimously.

PROCLAMATION

1. Proclamation in Recognition of Franz Jackson

Mayor Lyons read the proclamation and presented it to Michelle Jewell, the daughter of Franz Jackson.

COMMENTS FROM THE AUDIENCE (NON-AGENDA)

Ron Leatz, 402 Main Street, Dowagiac, MI 49047

PUBLIC HEARING

1. Public hearing to consider an application for an Industrial Facilities Tax (IFT) Exemption Certificate for Creative Foam Corporation.

EDC Director Cynthia LaGrow gave a brief summary of the request.

Mayor Lyons opened the public hearing at 7:11 p.m.

There being no public comments, Mayor Lyons closed the public hearing at 7:11 p.m.

Dave Szynski, Creative Foam, answered questions from the council.

RESOLUTIONS

1. Resolution to approve the Industrial Facilities Tax (IFT) application for Creative Foam Corporation.

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

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on June 16, 1975, the Dowagiac City Council by resolution established an Industrial Development District, as requested by Creative Foam Corporation; and

WHEREAS, Creative Foam has filed an application for an Industrial Facilities Exemption Certificate with respect to personal property improvements; and

WHEREAS, before acting on said application, the Dowagiac City Council held a hearing on Monday, October 22, 2012 at the City Hall, 241 S. Front Street, Dowagiac at 7:00 p.m. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, installation of new machinery and equipment had not begun earlier than six (6) months before the date of the acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the installation of equipment will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Dowagiac; and

WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Dowagiac, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the Dowagiac City Council that:

1. The City of Dowagiac finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of Dowagiac, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Dowagiac.
2. The application of Creative Foam for an Industrial Facilities Exemption Certificate with respect to new machinery and equipment

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on the following described parcel of real property situated within the Industrial Development District is hereby approved.

3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of 12 years after completion.

ADOPTED unanimously.

2. Resolution to authorize an Industrial Facilities Certificate Agreement for Creative Foam Corporation.

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

WHEREAS, Michigan Public Act 198 (1974), as amended by Public Act 334, Section 22 (1993), requires that any application for Industrial Facilities Exemption Certificate, filed after December 31, 1993, shall include an agreement between the local governmental unit and operator of the facility receiving such exemption certificate, and;

WHEREAS, such agreement is to outline the conditions and terms under which such exemption certificate is both granted and revoked, and;

WHEREAS, Creative Foam Corporation has submitted an application for Industrial Facilities Exemption Certificate pursuant to new equipment at its manufacturing facility located at 55210 Rudy Road, Dowagiac, Michigan, necessitating the creation and approval of such agreement, and;

WHEREAS, the attached agreement, which would satisfy the requirements of Michigan Public Act 198, as amended, and which has been approved by Creative Foam Corporation, is hereby recommended for approval.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt and approve an agreement with Creative Foam Corporation, as attached herewith and by reference made a part hereof, pursuant to the issuance of an Industrial Facilities Exemption Certificate for new equipment located at 55210 Rudy Road, Dowagiac, Michigan and in complete compliance with the requirements of Michigan Public Act 198, as amended.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be authorized and directed to act as signatories for the execution of same.

ADOPTED unanimously.

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3. Resolution to establish a public arts non-reverting trust fund.

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

WHEREAS, the City of Dowagiac has a growing history of incredible public art through the gracious gifts of individuals and families whose love for this city is expressed through public care; and

WHEREAS, the public art collection has become a focal point for both residents and visitors alike; and

WHEREAS, long-term care of this public art collection needs to be assured in perpetuity; and

WHEREAS, individuals in the community have assisted the City in determining the best location to collect and hold funds for ongoing, long-term care of the public art collection.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac does hereby establish a non-reverting public arts trust fund for the purpose of long-term care of the public art collections.

BE IT ALSO RESOLVED that all donations made for care of the public art collection be deposited in this fund and that all interest earned on monies in the fund shall remain in the public arts trust fund.

BE IT ALSO RESOLVED that expenditures of the fund shall only be made for the maintenance and care of public art within the City of Dowagiac.

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

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

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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.

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

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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

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recommendation to approve invoices and payroll #2 for the period ending 10/18/12

Invoices FY2011-12:	43,295.21
Invoices FY2012-13:	143,774.40
Payroll:	<u>117,520.35</u>
Total:	\$304,589.96

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

<u>Invoices</u>	<u>Payroll</u>	<u>Total</u>
\$187,069.61	\$117,520.35	\$304,589.96

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)

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

Donald D. Lyons, Mayor

James E. Snow, City Clerk