

## DOWAGIAC CITY COUNCIL MEETING

Wednesday, November 18, 2015

A special meeting of the Dowagiac City Council was called to order by Mayor Lyons at 12:04 p.m.

PRESENT: Mayor Donald D. Lyons, Mayor Pro-Tem Leon D. Laylin; Councilmembers Charles K. Burling, James B. Dodd, Danielle E. Lucas, Bob B. Schuur and City Clerk Jane P. Wilson.

ABSENT: Lori A. Hunt

STAFF: City Manager Kevin P. Anderson, Deputy Clerk Rozanne H. Scherr

### RESOLUTIONS

1. Resolution to propose an amendment to the City Charter to change the City Clerk's office from an elected office to an appointed office.

#### RESOLUTION TO PROPOSE AN AMENDMENT TO THE CITY CHARTER TO CHANGE THE CITY CLERK'S OFFICE FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE

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

WHEREAS, since approximately July 2014, the City has been considering whether to place before the electors of the City the question of amending the City Charter to make the City Clerk's position an appointed position and has been gathering public input this matter;

WHEREAS, Charter Section 4.1 of the Dowagiac City Charter currently provides that the position of City Clerk is an elective position and Section 4.3 provides that the elected City Clerk is to serve a term of four years from the second Monday following the regular City election in which the Clerk was elected;

WHEREAS, the Dowagiac City Council has determined it to be in the best interests of the City to change the position of the City Clerk from an elected officer to one that is an Administrative Officer appointed by the City Manager, with the approval of City Council, which amendment will be effective at the end of the City Clerk's term of office in November 2019 or upon a vacancy in the office of City Clerk, whichever occurs first;

WHEREAS, City Council has determined it necessary that Charter Section 4.1 be amended to delete the position of City Clerk from the list of elective officers, Charter Section 4.3 be amended to delete the position of City Clerk from the list of elective officers subject to terms of office;

WHEREAS, effective at the end of the City Clerk's term of office in November 2019 or upon a vacancy in the office of City Clerk, whichever occurs first, the list of position duties of the City Clerk must be transferred from City Charter Chapter 5, entitled "Elective Officer of the City: Duties," to Charter Chapter 7, in a new Charter Section 7.9A ; and

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WHEREAS, the City has determined that the electors of the City should determine whether the City Clerk should be appointed in the same manner as other Administrative Officers of the City, and that this charter amendment question should be submitted to the electors at a special election to be held on March 8, 2016.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The electors of the City be asked whether, effective at the end of the City Clerk's term of office in November 2019 or upon a vacancy in the office of City Clerk, whichever occurs first, the City Charter should be amended to make the City Clerk an appointed position using the method of appointment for the appointment of administrative officers of the City under Charter Chapter 7.

2. The amendment is being proposed because the City Clerk is an elected position for which there are no minimum educational or work experience/ skills requirements to assume the Clerk's office and it is in the best interests of the City to appoint the City Clerk in a manner identical to the appointment of City Administrative Officers, as such officers are selected with reference to their qualifications for a position. If the proposed Charter amendment is approved by the electors, the City Manager, with the approval of City Council, will be authorized to select a City Clerk who would assume that position only when the Charter amendment becomes effective at the end of the City Clerk's term of office in November 2019 or upon a vacancy in the office of City Clerk.

3. This resolution supersedes any prior resolutions regarding amending the Charter to make the City Clerk an appointed position.

4. The proposed amendment to be submitted to the City's electors at a special election to be held on March 8, 2016 consists of changes to Sections 4.1, 4.3, and 5.11, of the Charter and a creation of a new Section 7.9A, as set forth herein.

Section 4.1 of the Dowagiac City Charter shall be amended as follows:

### **Elective Officers.**

**Section 4.1. In the manner and at such times as there are prescribed in this charter, there shall be elected in the City of Dowagiac, one Mayor, one Supervisor at large, one Treasurer, six Councilmen, being two Councilmen from each of the City's three wards, two Justices of the Peace, three Supervisors, being one from each ward, and three Constables, being one from each ward.**

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The current Section 4.1 of the Charter being changed by this amendment provides as follows:

**Elective Officers.**

**Section 4.1. In the manner and at such times as there are prescribed in this charter, there shall be elected in the City of Dowagiac, one Mayor, one Supervisor at large, one Clerk, one Treasurer, six Councilmen, being two Councilmen from each of the City's three wards, two Justices of the Peace, three Supervisors, being one from each ward, and three Constables, being one from each ward.**

Section 4.3 of the Dowagiac City Charter shall be amended as follows:

**Section 4.3. The Mayor, the Treasurer, one Councilman from each of the city's three wards, one Justice of the Peace, the Supervisor of the first Ward, the Supervisor of the third ward, and the Constable of the second ward shall be nominated and elected at the regular city election to be held in the year 1965, and in every fourth year thereafter. One Councilman from each of the City's three wards, one Justice of the Peace, the Supervisor at-large, the Supervisor from the second ward, the Constable from the first ward, and the Constable from the third ward shall be nominated and elected at the regular city election held in the year 1967, and in every fourth year thereafter. Each officer elected as in this section provided shall hold office for a period of four years from the second Monday following the regular city election in which he was elected, except that Justices of the Peace shall hold office from the 4th day of July following their election.**

The current Section 4.3 of the Charter being changed by this amendment provides as follows:

**Section 4.3. The Mayor, the Treasurer, one Councilman from each of the city's three wards, one Justice of the Peace, the Supervisor of the first Ward, the Supervisor of the third ward, and the Constable of the second ward shall be nominated and elected at the regular city election to be held in the year 1965, and in every fourth year thereafter. The Clerk, one Councilman from each of the City's three wards, one Justice of the Peace, the Supervisor at-large, the Supervisor from the second ward, the Constable from the first ward, and the Constable from the third ward shall be nominated and elected at the regular city election held in the year 1967, and in every fourth year thereafter. Each officer elected as in this section provided shall hold office for a period of four years from the second Monday following the regular city**

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**election in which he was elected, except that Justices of the Peace shall hold office from the 4th day of July following their election.**

Section 5.11 of the Dowagiac City Charter shall be amended as follows:

**Clerk.**

**Section 5.11. The elective office of City Clerk will terminate at the end of the City Clerk's term of office in November, 2019 or whenever there is a vacancy in the office of the City Clerk, whichever occurs first. Until that time, when there shall be an appointed City Clerk as provided by Chapter 7 of the City Charter with duties as set forth in Section 7.9A, the elected Clerk's duties shall include the following:**

- (a) The Clerk shall perform the duties required of city clerks by law and the ordinances of the city.**
- (b) He shall keep and preserve the corporate seal and all documents, official bonds, papers, files, and records of the city, not by law or the ordinances of the city entrusted to some other officer.**
- (c) He shall be Clerk of the Council and shall record and preserve all the proceedings and resolutions of the Council.**
- (d) He shall sign or countersign all bonds issued and all licenses granted by the city.**
- (e) He shall, under seal of the city, make and certify copies of papers and records filed and kept in his office when needed and shall have authority to administer oaths and affirmations,**
- (f) All claims against the city shall be filed with him for adjustment. After examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him to the City Manager who shall, if the same be in order, certify such claims to the Council for approval of the payment thereof,**
- (g) He shall account for all moneys belonging to the city which have been received by him and shall, forthwith, deposit any such moneys with the Treasurer.**
- (h) He shall be responsible for the calling and conduct of elections in the city as required by law.**

The current Section 5.11 of the Charter being changed by this amendment provides as follows:

**Clerk.**

**Section 5 .11. (a) The Clerk shall perform the duties required of**

city clerks by law and the ordinances of the city.

(b) He shall keep and preserve the corporate seal and all documents, official bonds, papers, files, and records of the city, not by law or the ordinances of the city entrusted to some other officer.

(c) He shall be Clerk of the Council and shall record and preserve all the proceedings and resolutions of the Council.

(d) He shall sign or countersign all bonds issued and all licenses granted by the city.

(e) He shall, under seal of the city, make and certify copies of papers and records filed and kept in his office when needed and shall have authority to administer oaths and affirmations,

(f) All claims against the city shall be filed with him for adjustment. After examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him to the City Manager who shall, if the same be in order, certify such claims to the Council for approval of the payment thereof,

(g) He shall account for all moneys belonging to the city which have been received by him and shall, forthwith, deposit any such moneys with the Treasurer.

(h) He shall be responsible for the calling and conduct of elections in the city as required by law.

The Dowagiac City Charter shall be amended to add a new Section 7.9A, as follows:

**Clerk.**

**Section 7.9A**

Commencing with the Clerk's office being an appointed office either at the end of the elected Clerk's term of office in November 2019 or when there is a vacancy in the Clerk's office, whichever occurs first, the duties of the appointed Clerk shall include the following:

(a) The Clerk shall perform the duties required of city Clerks by law and the ordinances of the city.

(b) He shall keep and preserve the corporate seal and all documents, official bonds, papers, files, and records of the city, not by law or the ordinances of the city entrusted to some other officer.

(c) He shall be Clerk of the Council and shall record and preserve all the proceedings and resolutions of the Council.

(d) He shall sign or countersign all bonds issued and all licenses granted by the city.

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**(e) He shall, under seal of the city, make and certify copies of papers and records filed and kept in his office when needed and shall have authority to administer oaths and affirmations,**

**(f) All claims against the city shall be filed with him for adjustment. After examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him to the City Manager who shall, if the same be in order, certify such claims to the Council for approval of the payment thereof,**

**(g) He shall account for all moneys belonging to the city which have been received by him and shall, forthwith, deposit any such moneys with the Treasurer.**

**(h) He shall be responsible for the calling and conduct of elections in the city as required by law.**

5. The ballot language for this proposed amendment shall be as follows:

PROPOSED AMENDMENT TO THE DOWAGIAC CITY CHARTER TO CHANGE THE OFFICE OF CITY CLERK TO AN APPOINTED ADMINISTRATIVE OFFICE

The Charter states that the City Clerk is elected to a 4 year term. The proposed amendment requires the City Manager, with Council approval, to appoint the Clerk and set compensation.

Shall Sections 4.1, 4.3, and 5.11 of the Charter be amended and a new Section 7.9A added to provide for appointment of the City Clerk, effective at the end of the current Clerk's term of office or upon a vacancy in office, whichever occurs first?

YES: \_\_\_\_\_

NO: \_\_\_\_\_

A "Yes" vote is a vote in favor of the proposed amendment.

A "No" vote is a vote against the proposed amendment.

RESOLVED, this 18th day of November, 2015.

ADOPTED on a Roll Call vote.

Yeas: Five (5) Laylin, Burling, Dodd, Lucas, Schuur

Nays: None (0)

Absent: One (1) Hunt

2. Resolution for directive to City Clerk or Deputy City Clerk to send documents to the Governor and Attorney General of Michigan under stated time frame.

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

RESOLUTION FOR DIRECTIVE TO CITY CLERK OR DEPUTY CITY CLERK TO SEND RESOLUTION NO. 1 OF NOVEMBER 18, 2015 AND A CERTIFIED COPY OF THE CITY CHARTER TO THE GOVERNOR AND ATTORNEY GENERAL OF MICHIGAN FOR REVIEW AND APPROVAL

WHEREAS, at a special meeting held on November 18, 2015 the Dowagiac City Council passed a resolution (Resolution No. 1) to submit a ballot proposal to amend the City Charter to change the City Clerk's office from an elected to an appointed office, which if passed by the electorate, is effective at the end of the City Clerk's term of office in November 2019 or upon a vacancy in the Clerk's office, whichever occurs first;

WHEREAS, the City is required by law to submit Resolution No. 1 of November 18, 2015 to the Governor of the State of Michigan and the Michigan Attorney General for review and approval and such submission and review process must be concluded by the earliest possible date; and

WHEREAS the final form of the ballot proposal must be submitted to the Cass County Clerk on or before December 15, 2015, for placement on the March 8, 2016 election ballot.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The City Clerk, with the assistance of the Deputy City Clerk, or the Deputy City Clerk are directed to send copies of Resolution No. 1 of November 18, 2015 and a certification of Council adoption and one full certified copy of the Dowagiac City Charter by overnight mail before the close of business on November 18, 2015 to the office of the Governor of the State of Michigan and the office of the Michigan Attorney General.

RESOLVED, this 18th day of November, 2015.

ADOPTED on a roll call vote.

Ayes: Five (5) Laylin, Burling, Dodd, Lucas, Schuur

Nays: None (0)

Absent: One (1) Hunt

ADJOURNMENT

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Upon motion by Councilmember Laylin and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 12:14 p.m.

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Donald D. Lyons, Mayor

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Jane P. Wilson, City Clerk