

DOWAGIAC CITY COUNCIL MEETING

Monday November 26, 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 Charles K. Burling, James B. Dodd, Randall G. Gross, Sr., Lori A. Hunt and Bob B. Schuur.

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

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the November 12, 2012 meeting be approved.

Approved unanimously.

COMMENTS FROM THE AUDIENCE (NON-AGENDA)

Ron Leatz 402 Main St., Dowagiac, MI 49047

COMMENTS FROM THE AUDIENCE (AGENDA)

Junior Oliver 416 Chestnut St., Dowagiac, MI 49047
Lori Pung, First Housing Corporation for Vineyard Place

CITY MANAGER REPORT

1. Replacement Vehicle for the Department of Public Safety

From the City Manager:

REPLACEMENT OF CCDET VEHICLE

The City of Dowagiac is scheduled to replace one plain vehicle for the detective assigned to the Cass County Drug Enforcement Team (CCDET). The vehicle will be purchased by the City and reimbursed by the County through the drug millage. The vehicle is titled in the City's name and the City is responsible for insuring the vehicle.

The budget for this purchase was placed at \$25,000. Competitive pricing has been received.

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RECOMMENDATION

I recommend that City Council authorize the purchase of a vehicle for CCDET in the amount of \$19,957.50.

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

ADOPTED unanimously.

RESOLUTIONS

1. Resolution to amend the loan agreement for Premier Tool and Die Cast Corporation.

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

WHEREAS, the City of Dowagiac and Premier Tool and Die Cast Corporation entered into an economic development loan agreement in December 2009 to aid in the purchase and redevelopment of the former ICG Tech building on North Paul Street; and

WHEREAS, Premier Tool and Die Cast Corporation now employs approximately 70 employees; and

WHEREAS, a balloon payment of \$309,019.31 is due and payable on December 1, 2012; and

WHEREAS, Premier Tool and Die Cast Corporation has requested that the balloon payment be extended until December 1, 2013 with all of the terms of the agreement remaining unchanged.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac does hereby amend the terms of the December 2009 loan agreement with Premier Tool and Die Cast Corporation to change the balloon payment date to December 1, 2013.

ADOPTED unanimously.

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2. Resolution to approve a Fire Protection Services Agreement with the Pokagon Band of Potawatomi Indians for the period 2012 through 2015.

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

WHEREAS, terms of an agreement between the City of Dowagiac and the Pokagon Band of Potawatomi Indians for providing of fire protection coverage services, for the period 2012 through 2015, have been negotiated; and

WHEREAS, the City of Dowagiac has the capability to provide fire protection coverage as provided for in the agreement as attached hereto and by reference made a part hereof; and

WHEREAS, the City Administration recommends approval of the contract as written.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt and enter into a fire protection coverage agreement, as attached hereto and by reference made a part hereof, with the Pokagon Band of Potawatomi Indians for the period 2012 through 2015.

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

ADOPTED unanimously.

3. Resolution to eliminate the 3-way stop at the intersection of W. Railroad Street and E. Telegraph Street.

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

WHEREAS, traffic patterns have changed throughout the community due to factors such as road realignment, school closings and business relocations; and

WHEREAS, it is good practice to review the appropriateness of current traffic signage in light of those changes; and

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WHEREAS, the Department of Public Services and Department of Public Safety has reviewed these changing conditions and indicate that a change in a 3-way condition is appropriate at the following location:

1. Remove the stop signs on W. Railroad Street at its intersection with E. Telegraph Street.

NOW, THEREFORE, BE IT RESOLVED that the 3-way stop at the intersection of W. Railroad Street and E. Telegraph Street will be eliminated.

ADOPTED unanimously.

4. Resolution to approve a Municipal Emergency Services Agreement with First Housing Corporation for Vineyard Place.

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

WHEREAS, Vineyard Place has been in the community for over 30 years; and

WHEREAS, First Housing Corporation, owner of Vineyard Place, is seeking to make improvements to the facilities and use Michigan State Housing Development Authority (MSHDA) financing to assist in these improvements; and

WHEREAS, MSHDA financing requires that a payment in lieu of tax (PILOT) be initiated prior to financing; and

WHEREAS, the City of Dowagiac has worked with First Housing Corporation to develop a mutually agreeable PILOT and an emergency services agreement that is approximately equal to the amount of property taxes paid to the City of Dowagiac in the past.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac does hereby enter into an agreement for emergency management services with First Housing Corporation in care of the facilities going forward.

ADOPTED unanimously.

5. Resolution to set a public hearing for Monday, December 10, 2012 at 7:00 p.m. for consideration of declaring 311 N. Paul Street a public nuisance property.

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

WHEREAS, the City Council has received and considered a report from the City's Building Official relating to the following-described property and premises within the City of Dowagiac, County of Cass, State of Michigan:

311 N. Paul Street

Tax #14-160-215-009-00

Described as follows: DW 2355V Lot 9

Hastings Addition

City of Dowagiac

WHEREAS, it appears to the City Council that the condition of the property described above may constitute a nuisance as defined by Chapter 38; Article II, Sections 38-41, 38-42, 38-43 and 38-45, justifying abatement by the City pursuant to the powers granted in Chapter 12 of the City Charter and procedures set forth in Chapter 38 of the Code of Ordinances of the City of Dowagiac; and

WHEREAS, the City Council believes it is warranted in conducting a public hearing and investigation pursuant to such provisions of Chapter 38 of said Code for the purpose of ascertaining and determining for itself whether such condition or conditions exist.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac will conduct a public hearing and investigation on December 10, 2012 at 7:00 p.m. in the City Council Chambers, Dowagiac City Hall, for the purposes and according to the procedures referred to above; and

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to:

1. Notify, by certified mail directed to the last known address, persons known to have an interest in the property described above and all property owners thereof according to the most recent City Assessor's records, at least ten (10) days in advance of the date herein set for such hearing and investigation.
2. Cause a notice to be published in the *Dowagiac Daily News* at least ten (10) days in advance of said hearing. Then notice herein required shall include time and place of said hearing and legal description and address of the property involved, and specify in what respects said property may constitute a nuisance within the meaning of Chapter 38, Sections 38-41, 38-42, 38-43 and 38-45.

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3. Provide for the recording of such hearings.

ADOPTED unanimously.

6. Resolution authorizing the City Manager to submit a CDBG pre-application for a downtown infrastructure grant (DIG).

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

CITY OF DOWAGIAC
PART 1 APPLICATION FOR A
COMMUNITY DEVELOPMENT BLOCK GRANT FOR
DOWNTOWN INFRASTRUCTURE GRANT PROGRAM

WHEREAS, the City of Dowagiac desires to improve its employment, tax base and the overall quality of life of its residents; and

WHEREAS, the Michigan Economic Development Corporation (MEDC) announced Community Development Block Grants (CDBG) through the Downtown Infrastructure Grant (DIG) Program; and

WHEREAS, the City of Dowagiac qualifies for the CDBG funding based on the City's 56.0% low and moderate income status and other factors; and

WHEREAS, the City of Dowagiac will be submitting a pre-application (Part 1 Application) for improvements to parking areas, lighting, burying utilities, crosswalks and streetscape improvements as detailed in the application with an expected cost of \$250,000; and

WHEREAS, the proposed infrastructure improvements meet the goals and the grant program and are consistent with the City's Master Economic Development Plan; and

WHEREAS, the City of Dowagiac intends to request funding assistance from the CDBG Program and must designate a Certifying Officer and responsible Official; and

WHEREAS, the City of Dowagiac must commit local funds as a match for the proposed project funding by the CDBG-DIG program.

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NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac by the affirmative vote of its City Council, hereby designates, Kevin P. Anderson, City Manager, as the Certifying Officer for the Environmental Review and the Authorized Government Official to execute the documents for the City of Dowagiac.

BE IT FURTHER RESOLVED that the City will commit local funds up to \$50,000 from the Electric Utility Fund and Capital Improvement Funds as a local match if awarded CDBG grants funds, for which the amounts and availability will be available and encumbered immediately upon receipt of the grant award.

ADOPTED unanimously.

7. Resolution authorizing cancellation of the December 24, 2012 City Council meeting.

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

WHEREAS, the regularly scheduled December 24, 2012 City Council meeting falls during the Christmas holiday; and

WHEREAS, the Mayor and City Council desire to cancel the December 24, 2012 City Council meeting; and

WHEREAS, cancellation of the December 24, 2012 City Council meeting will not have an adverse effect on the conduct of City business.

NOW, THEREFORE, BE IT RESOLVED that the Dowagiac City Council hereby cancels the regularly scheduled City Council meeting of Monday, December 24, 2012.

ADOPTED unanimously.

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

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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 #4 for the period ending 11/20/12:

Invoices:	215,396.84
Payroll:	<u>137,514.85</u>
Total:	\$352,911.69

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
<u>\$215,396.84</u>	<u>\$137,514.85</u>	<u>\$352,911.69</u>

ADOPTED on a roll call vote.

Ayes: Six (6) Burling, Dodd, Gross, Hunt, Laylin and Schuur

Nays: None (0)

Absent: None (0)

Abstain: None (0)

ORDINANCES

1. First reading of an ordinance to approve an agreement between the City and First Housing Corporation for a payment in lieu of taxes (PILOT) for acquiring and renovating the property known as Vineyard Place through the Michigan State Housing Development Authority (MSHDA).

AN ORDINANCE TO ESTABLISH A TAX EXEMPTION ORDINANCE FOR A SERVICE CHARGE IN LIEU OF TAXES PURSUANT TO THE PROVISIONS OF ACT NO 364 OF THE PUBLIC ACTS OF MICHIGAN ON 1966 (MCL 125.1401, et. seq., MSA 116.114(1), et. seq., AS AMENDED). TITLE I COMMUNITY DEVELOPMENT, ARTICLE V MULTIPLE FAMILY DWELLING HOUSING TAX EXEMPTION

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THE CITY OF DOWAGIAC ORDAINS:

Sec. 30-101. Title. This subdivision shall be known and cited as the "City of Dowagiac Tax Exemption Ordinance".

Sec. 30-102. Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL 125.1401, et seq.). The city is authorized by this act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this act at any amount it chooses, not to exceed the taxes that would be paid but for this act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the city will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this subdivision for tax exemption and the service charge in lieu of taxes during the period contemplated in this subdivision are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that FHC Four Limited Dividend Housing Association Limited Partnership (the "Sponsor") has offered, subject to the receipt of an allocation under the LIHTC program from the Michigan State Housing Development Authority to rehabilitate, own and operate a housing development identified as Vineyard Place on certain property located in the City of Dowagiac to serve persons of low income, and that the Sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

Sec. 30-103. Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

- A. *Act* means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
- B. *Annual shelter rent* means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

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- C. *Authority* means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.
- D. *Housing development* means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low income.
- E. *LIHTC program* means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- F. *Utilities* means fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.
- G. *Sponsor* means a person(s) or entity which has applied to the Authority for an allocation under the LIHTC program to finance a housing development.

Sec. 30-104. Class of housing developments.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be elderly and/or family, which are assisted pursuant to the act. It is further determined that Vineyard Place is of this class.

Sec. 30-105 . Establishment of annual service charge.

This housing development identified as Vineyard Place and the property on which it is located shall be exempt from all property taxes from and after the acquisition by the Sponsor. The city, acknowledging that the sponsor and the authority have established economic feasibility of the housing development in reliance upon the enactment and continuing effect of this subdivision and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this subdivision, and in consideration of the sponsor's offer, subject to receipt of an allocation under the LIHTC program from the authority, to rehabilitate, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to eight percent (8%) of the annual shelter rent actually collected.

Sec. 30-106. Limitation on the payment of annual service charge.

Notwithstanding section 30-84 above, the service charge to be paid each year in lieu of

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taxes for the part of the housing development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

The term "low income persons or families" as used herein shall be the same meaning as found in Section 15(a)(7) of the act.

The sponsor shall submit annually documentation certifying what percentage of the housing development is occupied by "low income persons or families" as defined in Section 15(a)(7) of the act.

Sec. 30-107. Contractual effect of ordinance.

Notwithstanding the provisions of Section 15(a)(5) of the act to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this subdivision.

Sec. 30-108. Payment of service charge.

The annual service charge in lieu of taxes as determined under the division shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before September 15th of each year.

Sec. 30-109. Duration.

This subdivision shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; and provided that rehabilitation of the housing development commences within one year from the effective date of this subdivision.

Sec. 30-110. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

Sec. 30-111. Acknowledgment.

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The City hereby acknowledges receipt of documentation from the Authority indicating that the Authority's participation with the Housing Development is limited solely to the allocation of tax credits under the LIHTC Program.

Sec. 30-112. Effective date.

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: Schuur

This being the first reading, the Ordinance will be brought before the Council for a second reading and vote at the regular meeting December 10, 2012.

Upon motion by Councilmember Laylin, and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 7:32 p.m.

Donald D. Lyons, Mayor

James E. Snow, City Clerk