

## DOWAGIAC CITY COUNCIL MEETING

Monday, February 24, 2014

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

ABSENT: Mayor Donald D. Lyons.

STAFF: City Manager Kevin P. Anderson and Department of Public Services Director James Bradford.

Councilmember Dodd moved and Councilmember Burling seconded that the minutes of the February 10, 2014 meeting be approved.

Approved unanimously.

### COMMENTS FROM THE AUDIENCE (NON-AGENDA)

Junior Oliver, representing the Cass County Economic Development Corporation regarding County road opening.

### CITY MANAGER REPORTS

#### 1. Settlement Agreement

From the City Manager:

#### SETTLEMENT AGREEMENT

We have received notification from Allan Vander Laan of Cummings, McClorey, Davis & Acho, PLC, on behalf of our insurance carrier, the Michigan Municipal Risk Management Authority (MMRMA) that a settlement agreement has been reached in the personal injury case of Edmond Jaco, Jr. v City of Dowagiac, et al. The Stipulation and Order of Dismissal are expected to be filed in court at the end of this month or upon receipt of the signed Release and Settlement Agreement from Mr. Jaco's attorneys. Settlement is in the amount of \$75,000 which will be paid through our retention fund with MMRMA.

Under the terms of our policy with MMRMA, they have the right and duty to defend and settle any lawsuit seeking damages against the City. In this instance, MMRMA does not recommend continued litigation, which would result in additional attorney and court expenses.

#### RECOMMENDATION

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I recommend that City Council acknowledge and concur with the Michigan Municipal Risk Management Authority recommendation to settle the matter between Jaco v City of Dowagiac, et al, in the amount of \$75,000.

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

ADOPTED unanimously.

### 2. Purchase of Ford Pickup Truck

From the City Manager:

#### PURCHASE OF PICKUP TRUCK

The City's snow plow truck, unit number 9, has experienced problems with the transmission and is no longer operational. It is 13 years old and has over 133,000 miles on it. Staff looked seriously at replacing this vehicle during the previous budget year, but the decision was made to continue to operate the vehicle until the next large repair to the vehicle was necessary. Because the cost for repairing the transmission is quite costly, it is in the best interest of the City to replace the vehicle rather than repair it. The vehicle is fully depreciated and money for replacement has been set aside in the Motor Pool Fund.

Attached is information from DPS Director Jim Bradford, which includes three quotes for a new plow truck. His recommendation is to replace the above-noted unit with a new Ford F-250 4x4 with Western snowplow from C Wimberley Automotive Group in the amount of \$28,489.

#### RECOMMENDATION

I recommend that City Council authorize the purchase of a new Ford F-250 4x4 with Western snowplow from C Wimberley Automotive Group for a cost of \$28,489.

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

ADOPTED unanimously.

### 3. Purchase of John Deere Loader

From the City Manager:

#### PURCHASE OF FRONT END LOADER

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In 2012-13 the City's front end loader, unit number 150, has been pulled from service seven times for repairs ranging in cost from \$1,800 to \$3,875. Five of these repairs took place in 2013. Currently, it is out of service with a broken right rear axle and drive train, which will cost over \$25,000 to repair and lease a replacement. The loader is 13 years old and has over 10,000 hours on it.

Because of the hours on the equipment, the number of recurring breakdowns and the costs necessary to put this equipment back in service, it is in the best interest of the City to replace the vehicle rather than repair it. The vehicle is fully depreciated and money for replacement has been set aside in the Motor Pool Fund.

Attached is information from DPS Director Jim Bradford, including a quote for repair and quotes for a new front end loader. It is the recommendation that the City replace the above-noted unit with a new John Deere 344K Loader from West Side Tractor Sales in South Bend in the amount of \$112,900, less trade in value of \$8,000 and a 50% rebate of rental costs in the amount of \$4,185, for a total purchase cost of \$100,715. This unit is the same size as the old loader.

### RECOMMENDATION

I recommend that City Council authorize the purchase of a new John Deere 344K Loader for the total cost of \$100,715.

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

ADOPTED unanimously.

### RESOLUTIONS

1. Resolution to amend and extend the Professional Consulting Services/Confidentiality and Non-Compete Agreement with LaGrow Consulting for economic development services.

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

**WHEREAS**, the City of Dowagiac currently contracts with LaGrow Consulting for the services of Cindy LaGrow to provide certain economic development services for the City of Dowagiac; and,

**WHEREAS**, both the City and LaGrow Consulting mutually agree that it would be beneficial for Ms. LaGrow to continue those current responsibilities; and,

**WHEREAS**, the City and Ms. LaGrow would like to extend and amend the current agreement (Exhibit A) for economic development services.

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**NOW THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes execution of an agreement between the City of Dowagiac and LaGrow Consulting for economic development consulting.

ADOPTED unanimously.

2. Resolution to authorize the City Manager to execute a "Final Form Agreement for Sale of Real Estate" for sale of City-owned property located at 317 Pokagon Street to Mr. and Mrs. Trevor Nilson.

**City Property Sale; 317 Pokagon Street; Mr. and Mrs. Trevor Nilson; \$300.00**

Council member Dodd offered and moved the adoption of the following resolution, seconded by Council Member Burling.

**WHEREAS**, at the January 27, 2014 City Council meeting by way of an adopted resolution introducing same, the Dowagiac City Council approved of a final-form resolution authorizing the conveyance of City-owned, real property in accordance with the provisions of Section 14.9 of the City Charter, and the specifications outlined in the City Council Policy enacted on June 21, 1993, and;

**WHEREAS**, having now remained on file for public inspection with the Office of the City Clerk for in-excess-of the minimum twenty-one (21) day period required by the City Charter, the City of Dowagiac wishes to formally convey and sell the parcel of surplus real property legally described in Exhibit "A", commonly known as 317 Pokagon Street in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-100-264-00, to Mr. and Mrs. Trevor Nilson, for the total sale price of three hundred dollars (\$300.00).

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council, by the affirmative roll call vote of five or more of its City Council Members, does hereby adopt and approve the sale and conveyance of City-owned real property legally described in Exhibit "A", commonly known as 317 Pokagon Street in the City of Dowagiac, according to the recorded plat thereof, and more commonly referred to as Parcel Code No. 14-160-100-264-00, to Mr. and Mrs. Trevor Nilson, for the total sale price of three hundred dollars (\$300.00).

**BE IT FURTHER RESOLVED** that the said conveyance shall be accomplished by means of the transfer of a Quit-claim Deed, as prepared by the City Attorney, signed by the Mayor and Clerk respectively of the City of Dowagiac, and executed within thirty (30) days following adoption of this resolution.

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ADOPTED unanimously on a roll call vote.

3. Resolution to revise Building Department permit fees.

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

**WHEREAS**, the Dowagiac City Code provides that under Chapter 18, Article II, Section 18-29; Dowagiac Zoning Ordinance; Chapter 15, Section 15.5(B); Section 15.9(B), Chapter 21, Section 21.7; Chapter 22, Section 22.2(C), the City Council may set fees for the various permits required by the State Construction Code (including building, electrical, plumbing and mechanical), zoning fees (including ordinance amendments, conditional use permits and variances), and swimming pool permits, and;

**WHEREAS**, the City Administration has prepared the attached proposed fee schedule for review and approval by the City Council.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council hereby adopts the attached fee schedules to be effective April 1, 2014.

ADOPTED unanimously.

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

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

**WHEREAS**, the City administration has reviewed the attached budgets for the 2013-14 fiscal year and the actual revenues and expenditures through February 15, 2014; 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.

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ADOPTED unanimously.

5. Resolution to establish poverty exemption guidelines for 2014.

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

**WHEREAS**, the adoption of guidelines for poverty exemptions is required of the City Council; and

**WHEREAS**, the principal residence of persons, who the Assessor and Board of Review determines by reason of poverty to be unable to contribute to the public charge, is eligible for exemption in whole or in part from taxation under Public Act 390 of 1994 (MCL 211.7u); and

**WHEREAS**, the City Assessor has drafted and recommended to City Council guidelines and policy that complies with applicable state laws.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that City Council does approve the attached Poverty Exemption Policy & Guidelines (Revised February 2014); and

**BE IT FURTHER RESOLVED** that the Assessor and Board of Review shall follow the above stated policy and federal guidelines in granting or denying an exemption, unless the Assessor and Board of Review determines there are substantial and compelling reasons why there should be a deviation from the policy and federal guidelines and these reasons are communicated in writing to the claimant.

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 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 #11 for the period ending 2/20/14:

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Invoices: 580,104.27  
Payroll: 178,611.72  
Total: \$758,715.99

**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
\$580,104.27	\$178,611.72	\$758,715.99

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)

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

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Donald D. Lyons, Mayor

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Kevin P. Anderson, City Manager