

## DOWAGIAC CITY COUNCIL MEETING

Monday, April 14, 2014

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

Mayor Lyons led the Pledge of Allegiance to the flag.

PRESENT: Mayor Donald D. Lyons; 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: None.

STAFF: City Manager Kevin P. Anderson.

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the March 24, 2014 meeting be approved.

Approved unanimously.

### PROCLAMATION

1. Proclamation declaring the last day in April as “Arbor Day”.

Mayor Lyons read the proclamation.

### COMMUNICATIONS

1. Arbor Day Celebration, April 25, 2014

Councilmember Burling moved and Councilmember Dodd seconded to grant the request.

2. Borgess Nursing Shared Governance Committee Flower Sale, May 9, 2014

Councilmember Schuur moved and Councilmember Dodd seconded to grant the request.

### APPOINTMENTS

1. Building Authority – Recommended by Mayor and offered by Mayor Pro-Tem:  
Re-appoint Kevin Anderson for a term expiring May 2020.  
Re-appoint Rose Scherr for a term expiring May 2020.
2. Cemetery/Tree Board – Recommended by Mayor and offered by Mayor Pro-Tem:  
Re-appoint Janet Brezen for a term expiring May 2019.  
Re-appoint Janis Hadley for a term expiring May 2019.  
Appoint William Bobik to fill the unexpired term of May 2015.
3. DART Local Advisory Board – Recommended by Mayor and offered by Mayor Pro-Tem:

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Re-appoint Lucille Holloway for a term expiring May 2019.

Re-appoint EJ Jerz for a term expiring May 2019.

4. Electric Facilities Board – Recommended by Mayor and offered by Mayor Pro-Tem:

Re-appoint Rudy Klobucar for a term expiring May 2019.

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

Approved unanimously.

### CITY MANAGER REPORTS

1. 2014 Lawn Mowing Bid Award

From the City Manager:

#### **2014 LAWN MOWING BID AWARD**

This year the Department of Public Services has taken bids to contract out for lawn mowing services. Attached you will find bids from four vendors. The low bid is Greenway Quality Lawn Care of Dowagiac in the amount of \$25.00 per standard residential lot and \$17.00 per acre for mowing the Commercial Center.

The proposal is for one year only so we can fully compare the quality and cost of contracting for lawn mowing services to hiring staff, maintaining equipment and other associated costs for internally providing the same service.

#### **RECOMMENDATION**

I recommend that City Council authorize to contract with Greenway Quality Lawn Care in the amount of \$25.00 per standard residential lot and \$17.00 per acre for mowing the Commercial Center.

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

ADOPTED unanimously.

2. 2014 Local Street Paving Project Bid Award

From the City Manager:

#### **2014 LOCAL STREET PAVING PROJECT BID AWARD**

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Bids for the Local Street Paving Projects have been received. Four bids were received and the low bidder is Wyoming Asphalt Paving, Inc., of Plainwell, MI. The attached memo from Public Services Director James Bradford specifies the projects slated for resurfacing. You will see that the bid amount is higher than the proposed amount to authorize. The reason for the reduction in the proposed paving is the much higher than normal cost to plow snow this winter.

### **RECOMMENDATION**

I recommend that City Council award the bid to Wyoming Asphalt Paving, Inc. in the amount of \$59,744.58

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

ADOPTED unanimously.

### RESOLUTIONS

1. Resolution to approve the third amendment to the Elevated Water Storage Tank Space Lease for installation of an emergency backup generator on the water tank located at 917 Riverside Drive.

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

**WHEREAS**, AT&T wishes to improve coverage and expand services to their customers in and around the City of Dowagiac; and

**WHEREAS**, AT&T and the City has an antenna lease at the elevated storage tank on Riverside Drive, which has operated without incident for many years; and

**WHEREAS**, the additional lease funds will be used to support capital projects in the City of Dowagiac.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and City Clerk are hereby authorized to execute the attached second amendment to the elevated storage tank lease.

ADOPTED unanimously.

2. Resolution for support for transportation improvement project on Marcellus Highway from Colby Street to city limits.

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

**WHEREAS**, Marcellus Highway from Colby Street to city limits is in deteriorating condition; and

**WHEREAS**, a structural evaluation has been performed for Marcellus Highway, and the inspection has identified maintenance measures that if implemented in a timely manner will avoid more extensive and costlier repairs in the future; and

**WHEREAS**, the Board of Cass County Road Commissioners is committing their share of the funding for the 2014 fiscal year; and

**WHEREAS**, the engineering estimate for the Marcellus Highway project is as follows:

<u>Total Construction Cost</u>	<u>Fed STP Funding</u>	<u>City of Dowagiac Share</u>
\$207,000	\$165,600	\$41,400

**WHEREAS**, the Dowagiac Small Urban Program requires documentation of local match for all federal aid requested projects; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Cass County Road Commissioners hereby certifies its support of the local share of the project's cost that will be included in the 2014-2017 Michigan Statewide Transportation Improvement Program and that failure to provide for the local match will cause the project's allocation of Dowagiac Small Urban local Surface Transportation Funding to be reconsidered by the Dowagiac Small Urban Area Committee.

ADOPTED unanimously.

3. Resolution for support for transportation improvement project on W. Railroad Street from E. Telegraph to E. Prairie Ronde.

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

**WHEREAS**, W. Railroad Street from E. Telegraph to E. Prairie Ronde is in deteriorating condition; and

**WHEREAS**, a structural evaluation has been performed for W. Railroad Street, and the inspection has identified maintenance measures that if implemented in a timely manner will avoid more extensive and costlier repairs in the future; and

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**WHEREAS**, the Board of Cass County Road Commissioners is committing their share of the funding for the 2015 fiscal year; and

**WHEREAS**, the engineering estimate for the W. Railroad Street project is as follows:

<u>Total Construction Cost</u>	<u>Fed STP Funding</u>	<u>City of Dowagiac Share</u>
\$75,000	\$60,000	\$15,000

**WHEREAS**, the Dowagiac Small Urban Program requires documentation of local match for all federal aid requested projects; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Cass County Road Commissioners hereby certifies its support of the local share of the project's cost that will be included in the 2014-2017 Michigan Statewide Transportation Improvement Program and that failure to provide for the local match will cause the project's allocation of Dowagiac Small Urban local Surface Transportation Funding to be reconsidered by the Dowagiac Small Urban Area Committee.

4. Resolution for support for transportation improvement project on Oak Street from Front Street to E. Prairie Ronde.

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

**WHEREAS**, Oak Street from Front Street to E. Prairie Ronde is in deteriorating condition; and

**WHEREAS**, a structural evaluation has been performed for Oak Street, and the inspection has identified maintenance measures that if implemented in a timely manner will avoid more extensive and costlier repairs in the future; and

**WHEREAS**, the Board of Cass County Road Commissioners is committing their share of the funding for the 2015 fiscal year; and

**WHEREAS**, the engineering estimate for the Oak Street project is as follows:

<u>Total Construction Cost</u>	<u>Local Program Funding</u>	<u>City of Dowagiac Share</u>
\$20,000	\$16,000	\$4,000

**WHEREAS**, the Dowagiac Small Urban Program requires documentation of local match for all federal aid requested projects; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Cass County Road Commissioners hereby certifies its support of the local share of the project's cost that will be included in the 2014-2017 Michigan Statewide Transportation

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Improvement Program and that failure to provide for the local match will cause the project's allocation of Dowagiac Small Urban local Surface Transportation Funding to be reconsidered by the Dowagiac Small Urban Area Committee.

ADOPTED unanimously.

5. Resolution authorizing no parking on the west side of James Street from E. Telegraph Street to Wayne Street by Justus Gage Elementary School.

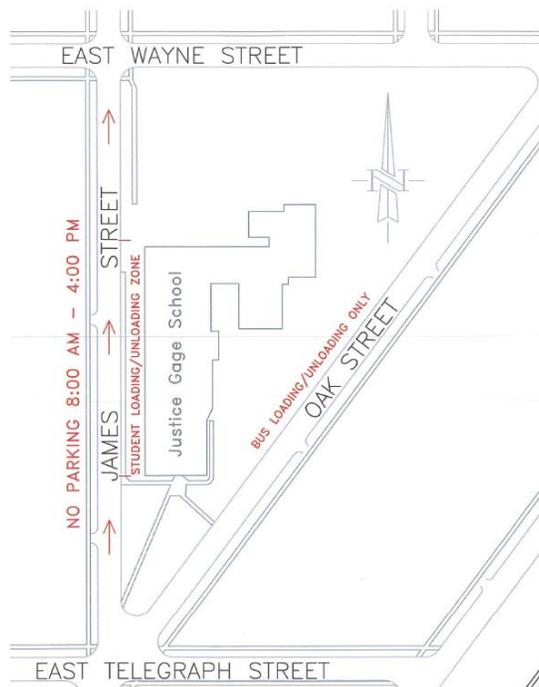
Councilmember Laylin offered and moved the adoption of the following resolution; seconded by Councilmember Dodd.

**WHEREAS**, the Dowagiac Union School District has expressed a concern for child safety on James Street near the Justus Gage Elementary School during drop-off and pick-up times; and

**WHEREAS**, the Police Department has worked with the School District to conduct a study of current traffic patterns and develop a recommendation for future traffic patterns; and

**WHEREAS**, the neighborhood has been informed on the proposed changes; and

**WHEREAS**, the Police Department has recommended the changes to parking on James Street, as depicted below:



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**NOW, THEREFORE, BE IT RESOLVED** that City Council does hereby authorize that no parking would be allowed on the west side of James Street from E. Wayne Street to E. Telegraph Street, 8:00 a.m. to 4:00 p.m., Monday through Friday.

ADOPTED unanimously.

6. Resolution to set a public hearing for Monday, April 28, 2014 at 7:00 p.m. for consideration of declaring 209 Andrews Street a public nuisance property.

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:

**209 Andrews Street**

**Tax #14-160-100-447-00**

**Described as follows: LOT 90 FORBES ADD 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(s) exist.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Dowagiac will conduct a public hearing and investigation on April 28, 2014 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.

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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.
3. Provide for the recording of such hearings.

ADOPTED unanimously.

7. Resolution to authorize budget amendments through the period March 31, 2014.

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 March 31, 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.

ADOPTED unanimously.

8. Resolution to declare May 10, 2014 as National Train Day.

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

**WHEREAS**, Amtrak provided statewide passenger rail travel to over 25 million travelers over the past five years; and

**WHEREAS**, for Dowagiac area residents, Amtrak represents the only major passenger transportation link to the rest of the country; and

**WHEREAS**, on May 10, 1869 the "golden spike" was driven into the final tie at Promontory Summit, Utah to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States; and

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**WHEREAS**, the City of Dowagiac embraces Amtrak's invitation to Discover the Rail Way<sup>SM</sup>; and

**WHEREAS**, we recognize and celebrate the pivotal role that a robust intercity passenger rail system can provide for better mobility for persons of all abilities.

**NOW, THEREFORE**, the City Council of the City of Dowagiac does hereby proclaim May 10, 2014, as *National Train Day*.

**BE IT FURTHER RESOLVED** that copies of this resolution be transmitted to the Michigan Association of Railroad Passengers, Amtrak, and the Michigan Environmental Council.

ADOPTED unanimously.

8a. Resolution to authorize an increase in the settlement payout of \$5,000.00 to Jaco per the recommendation of the Michigan Municipal Risk Management Authority.

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

**WHEREAS**, the City of Dowagiac has 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; and

**WHEREAS**, the terms of the settlement are slightly different than the recommendation from MMRMA in February 2014; and

**WHEREAS**, recommended settlement is \$5,000 greater than the amount previously approved by City Council.

**NOW, THEREFORE, BE IT RESOLVED** that City Council acknowledges and concurs with the Michigan Municipal Risk Management Authority recommendation to amend settlement to the matter between Jaco v City of Dowagiac, et al, by adding \$5,000 to the previously approved settlement.

ADOPTED unanimously.

9. 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.

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**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 #14 for the period ending 4/10/14:

Invoices: 596,350.70  
Payroll: 118,242.79  
Total: \$714,593.49

**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
\$596,350.70	\$118,242.79	\$714,593.49

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)

**ORDINANCE**

1. First reading of an ordinance to amend Section 22.5(C) (6), Map, of Chapter 22, Changes and Amendments, of the Dowagiac Zoning Code.

**ORDINANCE NO. \_\_\_\_\_, 2014**

**ORDINANCE-----**

AN ORDINANCE TO AMEND SECTION 22.5 (C) (6), MAP OF CHAPTER 22, CHANGES AND AMENDMENTS, OF THE DOWAGIAC CITY CODE BY AMENDMENT OF THE ZONING MAP.

THE CITY OF DOWAGIAC ORDAINS:

Section 1: That Section 22.5 (C) (6) of Chapter 22, of the Dowagiac Zoning Code be is hereby amended by changing the official zoning map as follows:

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“Designate as “Multi Family District” certain properties in the State of Michigan, County of Cass, City of Dowagiac, more specifically described in Appendix “A”, attached hereto and incorporated herein by reference.

Section 2: That 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: Jim Dodd

Seconded by: Leon Laylin

This being the first reading, the Ordinance will be brought before the Council for a second reading and vote at the regular meeting on April 28, 2014.

Upon motion by Councilmember Dodd and seconded by Councilmember Hunt, the Dowagiac City Council adjourned at 7:38 p.m.

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Donald D. Lyons, Mayor

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Kevin P. Anderson, City Manager