

DOWAGIAC CITY COUNCIL MEETING

Monday, April 28, 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 and Rozanne Scherr, Assistant City Manager.

Councilmember Laylin moved and Councilmember Hunt seconded that the minutes of the April 14, 2014 meeting be approved.

Approved unanimously.

PROCLAMATION

1. Proclamation declaring Friday, May 9 through Sunday, May 18, 2014 as “Dogwood Fine Arts Festival” week.

Mayor Lyons read the proclamation.

PUBLIC HEARING

1. Public hearing to consider the declaration of a public nuisance for property at 209 Andrews Street.

Mayor Lyons opened the public hearing at 7:06 p.m. There being no public comments, Mayor Lyons closed the public hearing at 7:06 p.m.

COMMUNICATIONS

2. National Day of Prayer, May 1, 2014
3. Dowagiac Union High School Commencement Parking/Block of Street, June 1, 2014
4. White Cane Drive, June 5-7, 2014

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

APPOINTMENTS

1. Citizens Review Commission – Recommended by Mayor and offered by Mayor Pro-Tem: Re-appoint Charles Burling for a term expiring May 2019.

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

Approved unanimously.

CITY MANAGER REPORTS

1. Waste Collection Services Bid Award

From the City Manager:

WASTE COLLECTION SERVICES

The Department of Public Services has completed the bidding process for waste collection services for all city facilities and operations. The bids are for three years and the last time this was done was in 2011.

Waste Management is the low bid for two of the three bid sections. The lowest combined bid is Reliable Disposal. However, the City is currently using Reliable for sludge disposal at the wastewater treatment plant and they do not have the equipment required to keep from regularly spilling sludge when moving the containers. For permit compliance reasons, we need to make sure sludge material is properly contained. Since Waste Management is the next lowest bidder and have different equipment for handling sludge materials, they are recommended.

Over the next three years the cost for waste collection will be \$16,000 less than our current costs.

RECOMMENDATION

I recommend that City Council award the waste collection services bid to Waste Management.

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

ADOPTED unanimously.

2. MSHDA-Third Party Administrator Plan for the Community Development Block Grant Program

From the City Manager:

MSHDA-THIRD PARTY ADMINISTRATOR MANAGEMENT PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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There are new rules regarding MSHDA Third Party Administration for grants involving the redevelopment of apartments on the second floor of downtown businesses. We have been working with Marilyn Smith for a number of years and she has done an excellent job of making sure the projects comply with all of MSHDA regulations. There is a relatively small pool of experts who do this type of work. We have been fortunate that all of our projects have been in compliance.

There are two items that are required; one is a Third Party Administrator Management Plan and the other is a Proposal of Administrative Tasks. Both will need Council approval so that the residential units above the new downtown theater can proceed.

The first action is to authorize the Third Party Administrator Management Plan.

RECOMMENDATION

I recommend that City Council approve the Third Party Administrator Management Plan.

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

ADOPTED unanimously.

3. MSHDA-Proposal of Administrative Tasks for the Community Development Block Grant Program

From the City Manager:

MSHDA-PROPOSAL OF ADMINISTRATIVE TASKS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

There are new rules regarding MSHDA Third Party Administration for grants involving the redevelopment of apartments on the second floor of downtown businesses. We have been working with Marilyn Smith for a number of years and she has done an excellent job of making sure the projects comply with all of MSHDA regulations. There is a relatively small pool of experts who do this type of work. We have been fortunate that all of our projects have been in compliance.

There are two items that are required; one is a Third Party Administrator Management Plan and the other is a Proposal of Administrative Tasks. Both will need Council approval so that the residential units above the new downtown theater can proceed.

The second action is to approve the Proposal of Administrative Tasks with Marilyn Smith/Smith Housing Consulting.

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RECOMMENDATION

I recommend that City Council approve the Proposal of Administrative Tasks.

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

ADOPTED unanimously.

RESOLUTIONS

1. Resolution to declare a public nuisance property at 209 Andrews Street.

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

WHEREAS, the Dowagiac City Council has heretofore adopted its resolution scheduling a public hearing on the necessity of abatement of dangerous structures constituting a public nuisance within the meaning of Sections 38.42 et seq, of the Dowagiac City Code, which structures are described as:

209 Andrews Street

Tax #14-160-100-447-00

Described as follows: LOT 90 FORBES 5 ADD CITY OF DOWAGIAC.

WHEREAS, due notice of public hearing to consider the condemnation thereof has heretofore been given in accordance with the requirements of Chapter 66, Section 66.7 of the Dowagiac City Code, both by publication and by mailing to each owner or person in interest in said property as shown by the last general tax assessment roll of the City, at least ten full days prior to the date of said hearing; and;

WHEREAS, said hearing has been conducted and comments thereon received, and;

WHEREAS, the Dowagiac City Council, upon due consideration and deliberation, determines that condemnation of certain structures situated at **209 Andrews Street**, City of Dowagiac, is necessary due to the deteriorated and/damaged condition and the inability of the structures to be economically rehabilitated, and such action must be taken in order to properly and adequately safeguard the public interest, and;

WHEREAS, this Council does further determine that the whole of the cost of the repairs, improvements and/or demolition of the structures attached hereto and incorporated herein by reference shall be defrayed by use of the withholding funds, under PA 495, of 1980 upon the property hereinabove described in the event that said improvements and/or demolition shall not be made by the owner thereof within the time limits herein below proscribed.

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NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac by the affirmative vote of its Council does hereby determine that certain structures situated upon the properties hereinabove described constitutes a public nuisance as defined by Chapter 38, Sections 38.71(13) and 38.41 of the Dowagiac City Code justifying abatement by the City pursuant to the powers granted in Chapter 12 of the Dowagiac City Charter and Chapter 38 of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the improvements, repairs and/or demolition of said structures are those set forth in Appendix A attached hereto and incorporated herein by reference, and that said improvements, repairs and/or demolition is necessary in order to protect the public health, safety and welfare.

BE IT FURTHER RESOLVED that said premises by and hereby is determined to contain the following violations:

- Building Electrical Plumbing Heating
 Housing Fire Other

BE IT FURTHER RESOLVED that said nuisances be abated, and that the owner of said premises, to-wit: **Eric R. Smith**, be and hereby is directed to **demolish** said nuisance by commencement of actions necessary to accomplish same **within 30 days** from the date of this resolution, and that said acts be completed, and said nuisances abated, no later than **60 days** from the date of this resolution.

BE IT FURTHER RESOLVED that if, upon the commencement date herein provided, abatement has not been commenced or if, upon the completion date, such conditions constituting a nuisance have not been abated, the City Manager is directed to cause the abatement of such conditions and nuisances by:

- Demolition
 Correction of the above-listed Code violations.

BE IT FURTHER RESOLVED that any costs incurred in the abatement of such conditions and nuisances are to be assessed against the properties hereinabove described in accordance with the provisions of Chapter 66, Sections 66.1, et seq, of the Dowagiac City Code.

BE IT FURTHER RESOLVED that the City Manager be and hereby is directed to solicit and receive estimates of the costs and expenses associated with the abatement of said nuisances as hereinabove set forth and that such estimates shall be deposited with the City Clerk for examination in accordance with the requirements of Chapter 66 of the Dowagiac City Code.

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BE IT FURTHER RESOLVED that the City Clerk be and hereby is directed to forthwith send, by certified mail, return receipt requested, a copy of this resolution to the last known address of the property owner, or any person having an interest in said properties, as shown by the last general tax assessment roll of the City, together with copies of the Code Enforcement Report forms submitted in this matter.

ADOPTED unanimously.

2. Resolution to authorize an Agreement for Prosecution Services.

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

WHEREAS, it is in the mutual interest of the City of Dowagiac and Cass County to efficiently handle the prosecution of all ordinance violations that occur within the city limits; and

WHEREAS, the Cass County Prosecutor is willing and able to handle the caseload that is generated by the City; and

WHEREAS, the Cass County Board of Commissioners has agreed to the contract for these services; and

WHEREAS, the Public Safety Director and City Manager have recommended that an agreement with the County Prosecutor be approved.

NOW, THEREFORE, BE IT RESOLVED that City Council approves the attached Agreement for Prosecution Services with the Cass County Prosecuting Attorney.

ADOPTED unanimously.

3. Resolution to authorize a contract with the Michigan Department of Transportation for crack sealing and paint marking the runway at the airport.

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

WHEREAS, the City of Dowagiac owns, maintains, and operates an airport, the Dowagiac Municipal Airport; and

WHEREAS, federal and state funds are available to the City of Dowagiac for the purpose of crack sealing and paint marking the airport runway, as further defined in the attached contract.

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NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by affirmative vote of its City Council, hereby approves the contract under the direction of the Michigan Department of Transportation related to the crack sealing and paint marking on the airport runway at the Dowagiac Municipal Airport; and

BE IT FURTHER RESOLVED, that the City Council directs the City Clerk to be authorized as the signatory for execution of the same.

ADOPTED unanimously.

4. Resolution to set a public hearing date for an IFT application from Creative Foam Corporation.

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

WHEREAS, Creative Foam Corporation has made formal application for an Industrial Facilities Exemption Certificate, pursuant to new equipment at its manufacturing facility at 55210 Rudy Road in the City of Dowagiac, and;

WHEREAS, pursuant to P.A. 198 (1974) as amended, a public hearing is to be conducted by the local governmental unit in which the application facility is located, and;

WHEREAS, P.A. 198 requires that the Assessor for the City of Dowagiac and the legislative body of each unit levying ad valorem property taxes against the facility in question be notified of the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dowagiac does hereby schedule a public hearing to be conducted on May 27, 2014 at 7:00 p.m. in the City Council Chambers for the purpose of hearing public comment on the application filed by Creative Foam Corporation for an Industrial Facilities Exemption Certificate for new equipment at its manufacturing facility at 55210 Rudy Road in the City of Dowagiac.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to send notices, by certified mail, of said public hearing to the following:

1. Creative Foam Corporation
2. City Assessor, City of Dowagiac
3. The County Board of Commissioners, County of Cass
4. The Board of Education, Dowagiac Union Schools
5. The Board of Trustees, Southwestern Michigan College
6. The Board of Education, Lewis Cass Intermediate School District
7. Dowagiac District Library

ADOPTED unanimously.

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5. Resolution to change the meeting time for the May 12th City Council meeting from 7:00 p.m. to 6:00 p.m. due to the Dogwood Fine Arts Festival event schedule.

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

WHEREAS, in the month of May there are local festivals that fall on regularly scheduled meeting days; and

WHEREAS, the regularly scheduled City Council meeting for May 12, 2014 falls during Dogwood Fine Arts Festival week of May 9-18; and

WHEREAS, in an effort to eliminate a conflict for the public and elected officials who desire to attend the Dogwood Festival event on May 12th, the Mayor and Council desire to reschedule the May 12th meeting time from 7:00 p.m. to 6:00 p.m.; and

WHEREAS, the rescheduling of this 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 reschedules the Monday, May 12, 2014 City Council meeting from 7:00 p.m. to 6:00 p.m.

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 recommendation to approve invoices and payroll #15 for the period ending 4/24/14:

Invoices: 88,562.58
Payroll: 192,390.50
Total: \$280,953.08

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
\$88,562.58	\$192,390.50	\$280,953.08

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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. 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.

Moved by Councilmember Dodd and seconded by Councilmember Laylin for adoption at the April 14, 2014 meeting is now presented to the Council for a second reading and vote.

ADOPTED on a roll call vote.

Moved by: Dodd

Seconded by: Laylin

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 7:31 p.m.

Donald D. Lyons, Mayor

Kevin P. Anderson, City Manager