

## DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

A regular meeting of the Dowagiac City Council was called to order by Mayor Donald D. Lyons at 6:00 p.m.

Mayor Lyons led the Pledge of Allegiance to the flag.

**PRESENT:** Mayor Donald D. Lyons; Mayor Pro-Tem Leon D. Laylin; Councilmembers James B. Dodd, Randall G. Gross, Sr. and Lori A. Hunt.

**ABSENT:** Councilmembers Bob B. Schuur and Charles K. Burling.

**STAFF:** City Manager Kevin P. Anderson and Assistant City Manager Rozanne H. Scherr.

Councilmember Dodd moved and Councilmember Hunt seconded that the minutes of the April 28, 2014 meeting be approved.

**APPROVED** unanimously.

### COMMUNICATIONS –

1. Beckwith Park Summer Concert Series
2. Dowagiac Farm & Artisan Market

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

**GRANTED** unanimously.

### RESOLUTIONS –

1. Resolution to confirm special assessment roll against properties remaining delinquent in the payment of code enforcement expenses (grass/weed) incurred by the City.

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

**WHEREAS**, Chapter 66, Section 66.19 of the Dowagiac City Code, "Single Lot Assessments-Generally," provides that the City of Dowagiac is authorized to levy a special assessment against single premises for expenses which are chargeable against such premises under the provisions of the Dowagiac City Code; and

**WHEREAS**, the Dowagiac City Council, upon due consideration and deliberations, determined that certain noxious weeds and grasses were present upon the various single premises described in Appendix A attached hereto and incorporated herein by reference, and that the cutting of such noxious weeds and grasses by the City was necessary by virtue of non-compliance with the provisions of Chapter 86, Section 86.59 of the Dowagiac City Code; and

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 2

**WHEREAS**, the expense incurred with respect to each parcel of land entered upon in carrying out the provisions of said Chapter 86 have been kept, which charges, together with an amount equal to fifty percent (50%) thereof to cover costs of publication, overhead and other expenses, are chargeable against such single premises as provided in Chapter 66 of the Dowagiac City Code; and

**WHEREAS**, the City Manager has directed the City Assessor to prepare a special assessment roll covering all such charges which have not been paid, together with an additional amount equal to fifty percent (50%) thereof, to cover the cost of publication, overhead and other expenses; and

**WHEREAS**, said roll has been filed with the City Clerk and is now being presented to the Council for confirmation and levy; and

**WHEREAS**, said special assessment roll is attached hereto and made a part of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby confirm the attached special assessment roll for the parcels more fully described in Appendix A attached hereto and incorporated herein by reference and directs the City Administration to levy said assessments against the individual properties therein set forth.

ADOPTED unanimously.

2. Resolution to confirm special assessment roll against properties remaining delinquent in payment of code enforcement expenses (blight /boarding /miscellaneous) incurred by the City.

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

**WHEREAS**, Chapter 66, Section 66.19 of the Dowagiac City Code, "Single Lot Assessments-Generally," provides that the City of Dowagiac is authorized to levy a special assessment against single premises for expenses which are chargeable against such premises under the provisions of the Dowagiac City Code; and

**WHEREAS**, the Dowagiac City Council, upon due consideration and deliberation, determined for the preservation of the public peace, health and safety of the city that certain deteriorating property condition(s) existed on private properties described in Appendix A, attached hereto and incorporated herein by reference, and that the abatement by the City of such deteriorating property condition(s) was necessary by virtue of non-compliance with the provisions of Chapter 18 of the Dowagiac City Code; and

**WHEREAS**, this expense is chargeable against such premises and the owner thereof under the provisions of the Charter, the Code and the law of the State of Michigan and is not

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 3

of the class required to be prorated among several lots and parcels of land in a special assessment district; and

**WHEREAS**, an account of labor, material, and services for which such expenses incurred has been billed to the property owner by the City Building Official, as provided in Chapter 66 of the Dowagiac City Code; and

**WHEREAS**, this bill had not been paid; and

**WHEREAS**, the City Manager has directed the City Assessor to prepare a special assessment roll covering all such charges which have not been paid; and

**WHEREAS**, said roll has been filed with the City Clerk and is now being presented to the Council for confirmation and levy; and

**WHEREAS**, said special assessment roll is attached hereto and made a part of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council hereby confirms the attached special assessment roll for the parcels more fully described in Appendix A attached hereto and incorporated herein by reference and directs the City Administration to levy said assessments against the individual properties therein set forth.

ADOPTED unanimously.

3. Resolution to confirm special assessment roll against properties remaining delinquent in the payment of utility bills due to the City.

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

**WHEREAS**, Chapter 82, Section 82.24 (c) of the Dowagiac City Code, "UTILITIES", provides that the City of Dowagiac is authorized to place as a lien on the premises to which electric, water and/or sewer service is provided for delinquent utilities for six (6) months or more; and

**WHEREAS**, delinquent utilities with such lien are charged on the next property tax bill for the premises; and

**WHEREAS**, the Dowagiac City Council upon review of the various single premises described in Appendix A attached hereto and incorporated herein by reference, determined by virtue of non-compliance with the provisions of Chapter 82, Section 82-24 (c) of the Dowagiac City Code; and

**WHEREAS**, the City Manager has directed the City Assessor to prepare a special assessment roll covering all such charges which have not been paid; and

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 4

**WHEREAS**, said roll has been filed with the City Clerk and is now being presented to the Council for confirmation and levy; and

**WHEREAS**, said special assessment roll is attached hereto and made a part of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby confirm the attached special assessment roll for the parcels more fully described in Appendix A attached hereto and incorporated herein by reference and directs the City Administration to levy said assessments against the individual properties therein set forth.

ADOPTED unanimously.

4. Resolution to reschedule the May 26, 2014 City Council meeting to May 27, 2014 due to the Memorial Day holiday.

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

**WHEREAS**, the regularly scheduled City Council meeting for Monday, May 26, 2014 falls during the Memorial Day holiday; and

**WHEREAS**, in an effort to eliminate a conflict for the public and elected officials because City offices are closed on May 26<sup>th</sup>, the Mayor and Council desire to reschedule the May 26<sup>th</sup> meeting to Tuesday, May 27<sup>th</sup> at 7:00 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 26, 2014 City Council meeting to Tuesday, May 27, 2014 at 7:00 p.m.

ADOPTED unanimously.

5. Resolution to approve a Project Authorization Agreement with MDOT relating to the FY 2014 operating grant for the Dial-A-Ride program.

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

**WHEREAS**, pursuant to a grant agreement between the Michigan Department of Transportation and the City of Dowagiac it is necessary for the City of Dowagiac to enter into a project authorization agreement for its local transportation program for the fiscal year 2014 in order to receive State and Federal financial assistance under provision of Act 51; and

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 5

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize Transportation Coordinator Rozanne Scherr to execute the Project Authorization, FY 2014 Section 5311 Operating, attached hereto and by reference made a part hereof as required to receive financial assistance from the Michigan Department of Transportation, in accordance with Act 51; and

**BE IT FURTHER RESOLVED** that, for all public transportation matters, the Transportation Coordinator shall provide such information as deemed necessary by the State Transportation Commission or Department for its administration of Act 51 for fiscal year 2014.

ADOPTED unanimously.

6. Resolution to schedule a public hearing for the May 27, 2014 City Council meeting to receive comment on the FY 2014-15 budget.

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

**WHEREAS**, the Dowagiac City Charter requires that a complete itemized budget proposal must be presented to the City Council; and

**WHEREAS**, City Council has begun a review of the proposed budget so that action can be taken on a budget pursuant to City Charter requirements; and

**WHEREAS**, prior to adoption of a budget the public is to be notified of a public hearing regarding the proposed budget.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council acknowledges that the tentative budget for the fiscal year ending September 30, 2015 has been received for further review by the City Council.

**BE IT FURTHER RESOLVED** that the City Clerk be instructed to place on display copies of this proposed budget and to publish notice of a public hearing thereon at least six (6) days in advance of the May 27, 2014 City Council Meeting.

ADOPTED unanimously.

7. Resolution to adopt a budget amendment to the Cemetery Perpetual Care Fund.

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

**WHEREAS**, the City administration has reviewed the Cemetery budgets for the 2013-14 fiscal year and the actual revenues and expenditures through March 31, 2014; and

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 6

**WHEREAS**, the Cemetery Board has recommended certain capital projects that would not exceed the annual interest earned on investments from Perpetual Care fees;

**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 of support for Small Urban Program Funding for the repair of Depot Drive/Lester Street/High Street/Pennsylvania Avenue.

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

**WHEREAS**, Depot Drive/Lester Street/High Street/Pennsylvania Avenue is in deteriorating condition; and

**WHEREAS**, a structural evaluation has been performed for Depot Drive/Lester Street/High Street/Pennsylvania Avenue, 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 Dowagiac City Council is committing their share of the funding for the 2017 fiscal year; and

**WHEREAS**, the engineering estimate for the Depot Drive/Lester/High/Pennsylvania project is as follows:

<u>Total Construction Cost</u>	<u>Fed STP Funding</u>	<u>City of Dowagiac Share</u>
\$135,200	\$108,160	\$27,040

**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 Dowagiac City Council 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.

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 7

9. Resolution of support for Small Urban Program Funding for the repair of East Railroad Street.

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

**WHEREAS**, East Railroad Street is in deteriorating condition; and

**WHEREAS**, a structural evaluation has been performed for East 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

**WHEREAS**, the Dowagiac City Council is committing their share of the funding for the 2015 fiscal year; and

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

<u>Total Construction Cost</u>	<u>Fed STP Funding</u>	<u>City of Dowagiac Share</u>
\$82,900	\$66,320	\$16,580

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

**NOW, THEREFORE, BE IT RESOLVED**, that the Dowagiac City Council 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.

10. Resolution to authorize the purchase of storage facility on Middle Crossing Road from Chemical Bank.

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

**WHEREAS**, the City and Silver Creek Township have actively pursued the ongoing development of Russom Field; and

**WHEREAS**, it is in the long-term best interest of the City and Silver Creek Township to acquire properties for future development as they become available and as the City has resources available; and

**WHEREAS**, the City Manager and Silver Creek Township Supervisor have negotiated a purchase agreement, subject to City Council and Township Board approval, with

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 8

Chemical Bank for purchase of the property at 28733 Middle Crossing Street that would accommodate said development; and

**WHEREAS**, the attached “Real Property Purchase Agreement” has been prepared and reviewed by representatives of the City, the Township and Chemical Bank.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize the City Manager to execute the attached “Real Property Purchase Agreement” for the purchase of property from Chemical Bank and agrees to implement the provisions of said agreement.

ADOPTED unanimously.

11. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due: (Roll Call)

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

**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 #16 for the period ending 5/8/14:

Invoices: 532,043.38  
Payroll: 115,793.37  
Total: \$647,836.75

**BE IT RESOLVED** that the City Manager and City Treasurer are hereby authorized and directed to pay the following bills and payroll due:

<b><u>BILLS</u></b>	<b><u>PAYROLL (16)</u></b>	<b><u>TOTAL</u></b>
\$532,043.38	\$115,793.37	\$647,836.75

ADOPTED on a roll call vote.

Ayes: Four (4) Dodd, Gross, Hunt, Laylin

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

COMMENTS FROM CITY OFFICIALS –

DOWAGIAC CITY COUNCIL MEETING

Monday, May 12, 2014

Page 9

RESOLUTIONS, Continued (CLOSED SESSION)

12. Resolution to adjourn to a closed session to consider the purchase or lease of real property located at 204 Commercial Street.

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

**WHEREAS**, the Michigan Open Meetings Law, Public Act 267 of the Public Acts of 1976 as amended, provides that public bodies may meet in closed session for the purpose to consider the purchase or lease of real property up to the time an option to purchase or lease that property is obtained; and

**WHEREAS**, the Mayor and City Council desire to meet with the City Manager and the City Attorney to discuss the purchase of real property.

**NOW, THEREFORE, BE IT RESOLVED** the City Council will hereby adjourn to closed session to discuss the purchase of real property.

ADOPTED on a roll call vote.

Ayes: Four (4) Dodd, Gross, Hunt and Laylin

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

CLOSED SESSION

TIME: 6:15 PM

LATER: 6:31 PM

ADJOURNMENT –

Upon motion by Councilmember Laylin and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 6:31 p.m.

---

Donald D. Lyons, Mayor

---

Kevin P. Anderson, City Manager