

## DOWAGIAC CITY COUNCIL MEETING

Monday, July 14, 2014

A regular meeting of the Dowagiac City Council was called to order by Mayor 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, Lori A. Hunt, James B. Dodd, and Randall G. Gross, Sr.

**ABSENT:** None

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

Councilmember Dodd moved and Councilmember Laylin seconded that the minutes of the June 23, 2014 regular meeting be approved.

Approved unanimously.

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

Mark De Varona, 107 Sherwood Street, Dowagiac MI 49047

### COMMUNICATIONS

1. Summer in the City Festival, July 24<sup>th</sup> – 27<sup>th</sup>.
2. Steve's Run, July 26<sup>th</sup>.

Councilmember Laylin moved and Councilmember Burling seconded to grant the requests.

### RESOLUTIONS

1. Resolution to approve the Russom Park Rules and Regulations.

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

**WHEREAS**, in 2009, the City of Dowagiac and Silver Creek Township created a joint advisory committee consisting of City and Township residents to aid in the planning and development of Russom Park; and

**WHEREAS**, the Russom Park Committee has extensively reviewed rules and regulations that would be appropriate for the park; and

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**WHEREAS**, at their May 19, 2014 Russom Park Committee meeting, the attached Rules and Regulations for Russom Park were finalized.

**NOW, THEREFORE, BE IT RESOLVED** that the Russom Park Committee recommends approval of the Russom Park Rules and Regulations by the Dowagiac City Council.

ADOPTED Unanimously.

2. Resolution to approve irrigation installation at the Dowagiac District Library.

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

**WHEREAS**, the City of Dowagiac leases property to the Dowagiac District Library in compliance with an agreement dated September 2003; and

**WHEREAS**, Exhibit D, Lease of Library, Section 3, requires that the tenant shall be responsible for and pay all of the costs of using, owning, operating, managing, insuring, repairing, maintaining and equipping the premises; and

**WHEREAS**, the Dowagiac District Library has requested permission to install an irrigation system on the leased premises in compliance with the lease agreement.

**NOW, THEREFORE, BE IT RESOLVED** the Dowagiac City Council, by affirmative vote of its City Council, does hereby approve and grant permission to the Dowagiac District Library to install an irrigation system on the leased premises in compliance with the lease agreement.

ADOPTED Unanimously.

3. Resolution to approve Wayne Township Fire Service Agreement.

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

**WHEREAS**, in 2013 the City of Dowagiac and Wayne Township entered into a Memo of Understanding (MOU) regarding cooperatively working to develop an extension of a water service to the Nubour Street area, and;

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WHEREAS, one of the components of the MOU involved updating the Fire Services Mutual Aid agreements to enhance response to structure fires in a newly established fire district in Wayne Township, and;

WHEREAS, the agreement is consistent with the terms stated in the MOU and has been approved by the Wayne Township Board on July 7, 2014.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby approve the Fire Service Agreement for the Nubour Street Water Service Area, and;

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to act as signatory for the execution of same.

ADOPTED Unanimously.

4. Resolution to approve a contract with Domestic and Sexual Abuse Services (DASAS).

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

**WHEREAS**, the Domestic And Sexual Abuse Services (DASAS) provides emergency services, outreach, and advocacy for victims of domestic violence and sexual assault in Cass County and St. Joseph County; and,

**WHEREAS**, the DASAS relies upon community funding to support its operations and efforts; and,

**WHEREAS**, the City Council of Dowagiac endorses and supports the mission and objectives of the DASAS.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council, by the affirmative vote of its City Council, does hereby approve the attached contract with the Domestic And Sexual Abuse Services to provide funding equal to \$0.25 per resident, based on a population of 5,786 representing a total allocation of \$1,446.50.

**BE IT FURTHER RESOLVED**, the Dowagiac City Council directs the Mayor and the City Manager to be the authorized signatory for execution of the same.

ADOPTED Unanimously.

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5. Resolution to approve an agreement for property management services with Parker Property Management.

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

**WHEREAS**, the City Council has authorized the purchase of storage facilities at 28733 Middle Crossing Road that will support the operations of Russom Park, and

**WHEREAS**, it is in the best interest of the City of Dowagiac to have the storage facilities operated by a property management professional, and

**WHEREAS**, the City Manager has negotiated an agreement with Parker Property Management and recommends the approval of said agreement which is attached.

**NOW, THEREFORE, BE IT RESOLVED** that that the City of Dowagiac does hereby authorize the City Manager to execute the attached agreement for property management with Parker Property Management.

ADOPTED Unanimously.

6. Resolution to appoint Mowitt Drew, III, as the City Attorney and approve an agreement for legal services.

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

**WHEREAS**, Chapter 7 of the Dowagiac City Charter specifies the Administrative Officers of the City and provides for their appointment; and

**WHEREAS**, the Administrative Officer position of City Attorney is currently vacant; and

**WHEREAS**, the Charter requires the City Attorney to be appointed by and compensation set by City Council; and

**WHEREAS**, the City Manager proposes the appointment of Mowitt S. Drew, III, of of Kotz Sangster Wysocki, PC, to fill the City Attorney vacancy.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its Council, does hereby appoint Mowitt S. Drew, III, of Kotz Sangster Wysocki, PC, as the City Attorney.

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**BE IT FURTHER RESOLVED** that the City of Dowagiac does hereby authorize the City Manager to execute the attached Contract Services Agreement with Mowitt S. Drew, III, for City Attorney services.

ADOPTED Unanimously.

7. Resolution to set a public hearing for Monday, July 28, 2014 at 7:00 PM for consideration of declaring the garage at 305 Pennsylvania Avenue a public nuisance.

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

**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:

**305 PENNSYLVANIA AVE**

**Tax # 14-160-100-089-00**

**Described as follows: . DW 156 LOT 148, EX S 1 RD. ORIGINAL PLAT  
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 July 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.

8. 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 payrolls #20 and #21 for the period ending 7/10/14:

Invoices:	713,834.33
Payroll #22:	162,487.78
Payroll #23:	124,386.92
Total:	<u>\$1,000,709.03</u>

**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>\$713,834.33</u>	<u>\$286,874.70</u>	<u>\$1,000,709.03</u>

ADOPTED on a roll call vote.

Ayes: Six (5) Burling, Dodd, Gross, Hunt, Laylin and Schuur

Nays: None (0)

Absent: None (0)

Abstain: None (0)

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ORDINANCES

1. First reading of an ordinance to approve the rezoning of 415 E. Prairie Ronde from the I-2 Heavy Industrial District to a Planned Unit Development (PUD).

**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:

“Designate as "Planned Unit Development," certain described property in the City of Dowagiac, County of Cass, State of Michigan, 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: Hunt

Seconded by: Dodd

COMMENTS FROM CITY OFFICIALS –

RESOLUTIONS, Continued (CLOSED SESSION)

9. Resolution to adjourn to a closed session to consider the purchase or lease of real property.

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

**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 of discussing collective bargaining negotiations; and

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**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 to discuss collective bargaining negotiation issues and the purchase or lease of real property.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council will hereby adjourn to closed session to discuss collective bargaining issues and the purchase or lease of real property.

ADOPTED on a roll call vote

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

Nays: None (0)

Absent: None (0)

Abstain: None (0)

CLOSED SESSION

TIME: 7:30 PM

LATER: 8:22 PM

Upon motion by Councilmember Burling and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 8:22 PM.

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Donald D. Lyons, Mayor

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Kevin P. Anderson, City Manager