

## DOWAGIAC CITY COUNCIL MEETING

Monday, July 28, 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 Lori A. Hunt, James B. Dodd, and Randall G. Gross, Sr.

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

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

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the July 14, 2014 regular meeting be approved.

Approved unanimously.

Mayor Lyons moved Communication #2 on to Agenda.

COMMENTS FROM THE AUDIENCE (NON-AGENDA) –

Bob Sills, Three Rivers, MI, 59<sup>th</sup> District Candidate for House of Representatives (R)

### PUBLIC HEARING

1. Public hearing to receive comment on the declaration of a public nuisance for the garage structure located at 305 Pennsylvania Avenue.

Mayor Lyons opened the public hearing at 7:15 pm.

Audience speaking: None

Mayor closed the public hearing at 7:15 pm

### COMMUNICATIONS

1. 24<sup>th</sup> Annual Rod & Roll Classic Auto Show, August 16, 2014.

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

2. Amendment to Russom Park grant extending end date to November 1, 2014.

Councilmember Gross moved and Councilmember Hunt seconded to grant the request.

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RESOLUTIONS

1. Resolution to declare the garage structure at 305 Pennsylvania Avenue a public nuisance.

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

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:

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, 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 305 PENNSYLVANIA AVE, 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.

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

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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:

- (xxxxx) 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: PEET, DIANE, be and hereby is directed to demolish said nuisance by commencement of actions necessary to accomplish same within 5 days from the date of this resolution, and that said acts be completed, and said nuisances abated, no later than 10 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:

- (xxxxx) 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 recovered through use of the withholding funds deposited with the City on July 29, 2014, issued under Public Act 495, 1980.

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.

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

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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 budget amendments for FY 2013-14 through the period July 22, 2014.

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

WHEREAS, the City administration has reviewed the attached budgets for the 2013-14 fiscal year and the actual revenues and expenditures through July 22, 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.

3. Resolution to authorize the rebuilding of a pump motor for Well 21A.

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

WHEREAS, the City of Dowagiac Department of Public Services (DPS) Staff has reviewed alternatives for repairing the pump motor at Well 21A, and;

WHEREAS, DPS recommends rebuilding the pump motor, and;

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby approve the quote of \$26,000 from Peerless Midwest to rebuild the pump motor at Well 21A.

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

ADOPTED Unanimously.

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4. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due:

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 payrolls #22 for the period ending 7/24/14:

Invoices:	134,715.16
Payroll #22:	162,487.78
Total:	<u>\$305,867.29</u>

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

<u>Invoices</u>	<u>Payroll</u>	<u>Total</u>
\$134,715.16	\$162,487.78	\$305,867.29

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

**ORDINANCES**

1. Second 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.

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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.

ADOPTED on a Roll Call vote

Moved by: Dodd

Seconded by: Laylin

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

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

COMMENTS FROM CITY OFFICIALS –

RESOLUTIONS, Continued (CLOSED SESSION)

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

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

**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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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 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 litigation; and

**WHEREAS**, the Mayor and City Council desire to meet with the City Manager to discuss collective bargaining negotiation issues, litigation 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, litigation and the purchase or lease of real property.

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: Two (2) Burling, Schuur

Abstain: None (0)

CLOSED SESSION

TIME: 7:29 PM

LATER: 7:48 PM

Closed Session Recess and return to Open Session.

RESOLUTIONS, Continued (CLOSED SESSION RECESS)

6. Resolution to authorize agreement with Forrest Finn for limited funding for the completion of the theatre project at 115 South Front Street.

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

**WHEREAS**, the City of Dowagiac has determined that it is in the best interest of the community to facilitate improvements to 115/117 Front Street, and;

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WHEREAS, the developer, Forrest Finn LLC, has here-to-fore operated under the terms of the Blight Elimination Grant, and;

WHEREAS, the remainder of the project has been deemed ineligible for the MSHDA Grant in the amount of \$120,000, and:

WHEREAS, a settlement agreement between the City of Dowagiac and Forrest Finn, LLC has been developed to allow for completion of the project.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby approve the settlement agreement with Forrest Finn, LLC.

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

ADOPTED Unanimously.

CLOSED SESSION (RESUME)

TIME: 7:50 PM

LATER: 8:06 PM

Upon motion by Councilmember Laylin and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 8:06 PM.

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Donald D. Lyons, Mayor

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Kevin P. Anderson, City Manager