

DOWAGIAC CITY COUNCIL MEETING

Monday, September 22, 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 Charles K. Burling, Lori A. Hunt, James B. Dodd and Randall G. Gross, Sr.

ABSENT: Bob B. Schuur.

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

Councilmember Dodd moved and Councilmember Laylin seconded that the minutes of the September 8, 2014 regular meeting be approved.

Approved unanimously.

COMMENTS FROM THE AUDIENCE (NON-AGENDA) –
Mike Moroz, Dowagiac, Candidate for State Representative District 59

PUBLIC HEARING

1. Public hearing to consider an application for an Industrial Facilities Tax (IFT) Exemption Certificate for Ameriwood Corporation.

Mayor Lyons opened the public hearing at 7:06 pm.

Audience speaking: None

Mayor closed the public hearing at 7:06 pm.

2. Public hearing to consider an application for an Industrial Facilities Tax (IFT) Exemption Certificate for Premier Tool and Die Cast.

Mayor Lyons opened the public hearing at 7:07 pm.

Audience speaking: None

Mayor closed the public hearing at 7:07 pm.

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COMMUNICATIONS

1. Borgess Lee-Memorial Tree of Love in Farr Park, November 24-December 31, 2014.

Councilmember Laylin moved, and Councilmember Burling seconded to grant the request.

2. Yeo & Yeo Engagement Letter for Audit Services.

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

RESOLUTIONS

1. Resolution to approve the Industrial Facilitied Tax (IFT) application for Ameriwood Corporation.

RESOLUTION FOR APPLICATION OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR Ameriwood Furniture

Motion by Laylin, supported by Gross for the adoption of the following resolution.

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on September 22, 2014, by the Dowagiac City Council, a resolution established an Industrial Development District, as requested by Ameriwood Furniture; and

WHEREAS, Ameriwood Furniture has filed an application for an Industrial Facilities Exemption Certificate with respect to personal property improvements; and

WHEREAS, before acting on said application, the Dowagiac City Council held a hearing on Monday, September 22, 2014, at the City Hall, 241 S. Front Street, Dowagiac at 7:00 PM. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, construction of real property and installation of new machinery and equipment had not begun earlier than six (6) months before the date of the acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the real property and installation of equipment will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Dowagiac; and

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WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Dowagiac, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the Dowagiac City Council that:

1. The City of Dowagiac finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of Dowagiac, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Dowagiac.
2. The application of Ameriwood Furniture for an Industrial Facilities Exemption Certificate with respect to real property and new machinery and equipment on the following described parcel of real property situated within the an Industrial Development District is hereby approved.
3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of twelve (12) years after completion.

YEAS: Five (5)
NAYS: None

RESOLUTION DECLARED ADOPTED.

2. Resolution to approve the Industrial Facilities Tax (IFT) application for Premier Tool and Die Cast.

RESOLUTION FOR APPLICATION OF
INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
FOR Premier Tool and Die Cast

Motion by Burling, supported by Dodd for the adoption of the following resolution.

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on September 22, 2014, by the Dowagiac City Council, a resolution established Industrial Development District, as requested by Premier Tool and Die Cast; and

WHEREAS, Premier Tool and Die Cast has filed an application for an Industrial Facilities Exemption Certificate with respect to personal property improvements; and

WHEREAS, before acting on said application, the Dowagiac City Council held a hearing on Monday, September 22, 2014 at the City Hall, 241 S. Front Street, Dowagiac at 7:00 PM. at

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which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, installation of new machinery and equipment had not begun earlier than six (6) months before the date of the acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the installation of equipment will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Dowagiac; and

WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Dowagiac, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the Dowagiac City Council that:

1. The City of Dowagiac finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974 and Act No. 255 of the Public Acts of 1978, shall not have the effect of substantially impeding the operation of the City of Dowagiac, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Dowagiac.
2. The application of Premier Tool and Die Cast for an Industrial Facilities Exemption Certificate with respect to new machinery and equipment on the following described parcel of real property situated within the Industrial Development District is hereby approved.
3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of twelve (12) years after completion.

YEAS: Five (5)

NAYS: None

RESOLUTION DECLARED ADOPTED.

3. Resolution to approve MERS Health Care Savings Program Participation Agreements for the POLC Sergeant Union and the POLC Patrol Union.

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

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WHEREAS, the City of Dowagiac approved participation in the Michigan Employees' Retirement System Health Care Savings Program on May 9, 2005, and;

WHEREAS, members of the Police Officers Labor Council have negotiated an amendment to the health Care Savings Program for both the Sergeants and the Patrol Officers Collective Bargaining Agreements, and;

WHEREAS, amendments to the Health Care Savings Program require formal approval by City Council;

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, authorizes the City Manager to sign the amended participation agreement with the Michigan Employees' Retirement System effective October 1, 2014.

ADOPTED unanimously.

4. Resolution to confirm special assessment roll against properties remaining delinquent in the payment of code enforcement expenses (grass/weeds) 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;

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

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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.

5. Resolution to confirm special assessment roll against properties remaining delinquent in the 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 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

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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.

6. 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.

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

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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.

7. Resolution to set a public hearing for Monday, October 13, 2014 at 7:00 pm for consideration of declaring the structure at 311 Grove Street a public nuisance property.

Councilmember Burling 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:

311 Grove Street

Tax # 14-160-100-118-00

Described as follows: .DW 367 COM 16 RDS W OF NW COR LOT 56, B. MC CONNELL'S ADD S 8 RDS, W 4 RDS, N 8 RDS E 4 RDS TO PL OF BEG UNPLATTED – POKAGON SEC 1 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, 38-45, and 39-45 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 October 13, 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,

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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.

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, 38-45, and 39-45.

3. Provide for the recording of such hearings.

ADOPTED unanimously.

8. Resolution establishing Trick or Treat hours for October 31, 2014 from 6:00-7:00 pm.

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

WHEREAS, traditionally the City Council has designated a specific day and time in which Halloween Trick or Treat activities will be conducted in the City of Dowagiac, and;

WHEREAS, this year Halloween falls on Friday, October 31, 2014, and;

WHEREAS, the Dowagiac City Administration and Police Department have recommended that the Trick or Treat hours for 2014 be established as 6:00 p.m. to 7:00 p.m. on Friday, October 31.

NOW, THEREFORE, BE IT RESOLVED that the City of Dowagiac, by the affirmative vote of its City Council, does hereby authorize and designate that Trick or Treat activities be conducted in the City of Dowagiac for 2014 on Friday, October 31, between the hours of 6:00 p.m. and 7:00 p.m.

BE IT FURTHER RESOLVED, that those that go out on Trick or Treat activities limit their solicitations to homes with porch lights on.

ADOPTED unanimously.

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9. Resolution to approve an agreement for professional services with SmithGroupJJR to conduct a planning study for areas in and around the downtown.

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

WHEREAS, a vibrant downtown is instrumental in the overall economic health of the City of Dowagiac; and

WHEREAS, the City Council desires to build on the past successes of the downtown revitalization that began over 25 years ago; and

WHEREAS, City Council will engage in a planning process to engage both public and professional input into identifying new opportunities in the areas adjacent to downtown; and

WHEREAS, the City Manager is recommending that SmithGroupJJR has the experience and expertise to assist and advise the City of Dowagiac during this process,

NOW, THEREFORE BE IT RESOLVED that the Mayor be and hereby is authorized to execute the attached Professional Services agreement with SmithGroupJJR.

ADOPTED unanimously.

10. Resolution to approve an agreement for professional services with Wightman & Associates to develop conceptual park plans for Rudy Park and 101 Cass Avenue.

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

WHEREAS, a quality park system is instrumental in the overall quality of life for the City of Dowagiac; and

WHEREAS, the City Council seeks to continue build upon the City of Dowagiac's park system by actively planning for the future development of the parks system,

NOW, THEREFORE BE IT RESOLVED that the Mayor be and hereby is authorized to execute the attached Professional Services agreement with Whiteman & Associates.

ADOPTED unanimously.

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11. Resolution authorizing budget amendments through September 22, 2014.

Councilmember Gross 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 September 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.

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

Councilmember Burling 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 payrolls #26 for the period ending 8/21/14:

Invoices:	619,405.68
Payroll #26:	172,696.85
Total:	<u>\$792,102.53</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>
\$619,405.68	\$172,696.85	\$792,102.53

ADOPTED on a roll call vote.

Ayes: Five (5) Burling, Dodd, Gross, Hunt, Laylin

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Nays: None (0)

Absent: One (1) Schuur

Abstain: None (0)

COMMENTS FROM CITY OFFICIALS

RESOLUTIONS (CONT)

13. Resolution to adjourn to a closed session to meet with the City Manager to discuss collective bargaining strategies between the City and IBEW Local #876.

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

ADOPTED on a roll call vote.

Ayes: Five (5) Burling, Dodd, Gross, Hunt, Laylin

Nays: None (0)

Absent: One (1) Schuur

Abstain: None (0)

CLOSED SESSION

TIME: 7:24 PM

LATER: 7:40 PM

Upon motion by Councilmember Laylin and seconded by Councilmember Burling, the Dowagiac City Council adjourned at 7:40 PM.

Donald D. Lyons, Mayor

Kevin P. Anderson, City Manager