

**City of Swartz Creek  
AGENDA**

**Regular Council Meeting, Monday, September 27, 2021, 7:00 P.M.  
Paul D. Bueche Municipal Building, 8083 Civic Drive Swartz Creek, Michigan 48473  
THIS WILL BE A HYBRID MEETING, WITH IN PERSON ATTENDANCE BY COUNCIL MEMBERS.**

1. **CALL TO ORDER:**
2. **INVOCATION:**
3. **ROLL CALL:**
4. **MOTION TO APPROVE MINUTES:**  
4A. Council Meeting of September 13, 2021 MOTION Pg. 44
5. **APPROVE AGENDA:**  
5A. Proposed / Amended Agenda MOTION Pg. 1
6. **REPORTS & COMMUNICATIONS:**  
6A. City Manager's Report MOTION Pg. 8  
6B. Staff Reports & Meeting Minutes Pg. 55  
6C. ARPA Project List Pg. 64  
6D. Meijer Appraisal Proposal Pg. 65  
6E. Street Engineering Proposal Pg. 67  
6F. Jeepers Creekers & 5K Permit Applications Pg. 73  
6G. Dark Store Feature Article Pg. 80  
6H. Fire Budget Pg. 88  
6I. 8067 Miller Addendum Pg. 95
7. **MEETING OPENED TO THE PUBLIC:**  
7A. General Public Comments
8. **COUNCIL BUSINESS:**  
8A. Cross Connection Compliance Disconnection PUBLIC HEARING  
8B. Meijer Appraisal RESO Pg. 24  
8C. Winchester Village & Woods Street Engineering RESO Pg. 25  
8D. Rates and Fees RESO Pg. 26  
8E. 5K Race Permit RESO Pg. 36  
8F. Jeepers Creekers Market, Trunk or Treat, & 5K Race Permit RESO Pg. 37  
8G. Disposal of Fixed Assets RESO Pg. 39  
8H. 8067 Miller Addendum RESO Pg. 39  
8I. Finance Ordinance Amendment RESO Pg. 41  
8J. 8002 Miller DISCUSSION
9. **MEETING OPENED TO THE PUBLIC:**
10. **REMARKS BY COUNCILMEMBERS:**
11. **ADJOURNMENT:** MOTION Pg. 42

**Next Month Calendar**

Planning Commission:	Tuesday, October 5, 2021, 7:00 p.m., PDBMB
Park Board:	Wednesday, October 6, 2021, 5:30 p.m., Abrams Park
City Council:	Monday, October 11, 2021, 7:00 p.m., PDBMB
Downtown Development Authority:	Thursday, October 14, 2021, 6:00 p.m., PDBMB
Fire Board:	Monday, October 18, 2021, 6:00 p.m., Public Safety Building
Zoning Board of Appeals:	Wednesday, October 20, 2021, 6:00 p.m., PDBMB
City Council:	Monday, October 25, 2021, 7:00 p.m., PDBMB
Metro Police Board:	Wednesday, October 27, 2021, 10:00 a.m., Metro HQ

## **City of Swartz Creek Mission Statement**

The City shall provide a full range of public services in a professional and competent manner, assuring that the needs of our constituents are met in an effective and fiscally responsible manner, thus promoting a high standard of community life.

## **City of Swartz Creek Values**

The City of Swartz Creek's Mission Statement is guided by a set of values which serve as a common operating basis for all City employees. These values provide a common understanding of responsibilities and expectations that enable the City to achieve its overall mission. The City's values are as follows:

### ***Honesty, Integrity and Fairness***

The City expects and values trust, openness, honesty and integrity in the words and actions of its employees. All employees, officials, and elected officials are expected to interact with each other openly and honestly and display ethical behavior while performing his/her job responsibilities. Administrators and department heads shall develop and cultivate a work environment in which employees feel valued and recognize that each individual is an integral component in accomplishing the mission of the City.

### ***Fiscal Responsibility***

Budget awareness is to be exercised on a continual basis. All employees are expected to be conscientious of and adhere to mandated budgets and spending plans.

### ***Public Service***

The goal of the City is to serve the public. This responsibility includes providing a wide range of services to the community in a timely and cost-effective manner.

### ***Embrace Employee Diversity and Employee Contribution, Development and Safety***

The City is an equal opportunity employer and encourages diversity in its work force, recognizing that each employee has unlimited potential to become a productive member of the City's team. Each employee will be treated with the level of respect that will allow that individual to achieve his/her full potential as a contributing member of the City staff. The City also strives to provide a safe and secure work environment that enables employees to function at his/her peak performance level. Professional growth opportunities, as well as teamwork, are promoted through the sharing of ideas and resources. Employees are recognized for his/her dedication and commitment to excellence.

### ***Expect Excellence***

The City values and expects excellence from all employees. Just "doing the job" is not enough; rather, it is expected that employees will consistently search for more effective ways of meeting the City's goals.

### ***Respect the Dignity of Others***

Employees shall be professional and show respect to each other and to the public.

### ***Promote Protective Thinking and Innovative Suggestions***

Employees shall take the responsibility to look for and advocate new ways of continuously improving the services offered by the City. It is expected that employees will perform to the best of his/her abilities and shall be responsible for his/her behavior and for fulfilling the professional commitments they make. Administrators and department heads shall encourage proactive thinking and embrace innovative suggestions from employees.

**CITY OF SWARTZ CREEK  
VIRTUAL REGULAR CITY COUNCIL MEETING ACCESS INSTRUCTIONS  
MONDAY, SEPTEMBER 27, 2021, 7:00 P.M.**

The regular virtual meeting of the City of Swartz Creek city council is scheduled for **September 27, 2021** starting at 7:00 p.m. and will be conducted virtually (online and/or by phone), due to health concerns surrounding Coronavirus/COVID-19 and rules promulgated by the Michigan Department of Health and Human Services.

To comply with the **Americans with Disabilities Act (ADA)**, any citizen requesting accommodation to attend this meeting, and/or to obtain the notice in alternate formats, please contact Connie Olger, 810-429-2766 48 hours prior to meeting,

**Zoom Instructions for Participants**

**To join the conference by phone:**

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID** number (also provided below) when prompted using your touch-tone (DTMF) keypad.

**Before a videoconference:**

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. Details, phone numbers, and links to videoconference or conference call is provide below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 9-digit Meeting ID.

**To join the videoconference:**

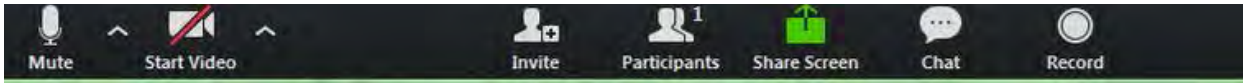
1. At the start time of your meeting, enter the link to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](https://join.zoom.us) on any browser and entering the Meeting ID provided below.

If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID number** (also provided below) when prompted using your touchtone (DMTF) keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your participant ID to be associated with your computer.

**Participant controls in the lower left corner of the Zoom screen:**



Using the icons in the lower left corner of the Zoom screen you can:

- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View participant list-opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand during Call to the Public
- Change your screen name that is seen in the participant list and video window
- Share your screen

Somewhere (usually upper right corner on your computer screen) on your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” show the active speaker.

**Connie Olger is inviting you to a scheduled Zoom meeting.**

**Topic: Swartz Creek City Council Meeting**

**Time: September 27, 2021 07:00 PM Eastern Time (US and Canada)**

**Join Zoom Meeting**

<https://us02web.zoom.us/j/83096401128>

**Meeting ID: 830 9640 1128**

**One tap mobile**

**+13017158592,,83096401128# US (Washington DC)**

**+13126266799,,83096401128# US (Chicago)**

**Dial by your location**

**+1 301 715 8592 US (Washington DC)**

**+1 312 626 6799 US (Chicago)**

**+1 929 205 6099 US (New York)**

**+1 253 215 8782 US (Tacoma)**

**+1 346 248 7799 US (Houston)**

**+1 669 900 6833 US (San Jose)**

**Meeting ID: 830 9640 1128**

**Find your local number: <https://us02web.zoom.us/u/kz4Jb4etg>**

**If you have any further questions or concern, please contact 810-429-2766 or email [colger@cityofswartzcreek.org](mailto:colger@cityofswartzcreek.org).**

**A copy of this notice will be posted at City Hall, 8083 Civic Drive, Swartz Creek, Michigan.**

## **CITY OF SWARTZ CREEK VIRTUAL (ELECTRONIC) MEETING RULES AND PROCEDURES**

In order to conduct an effective, open, accessible, and professional meeting, the following protocols shall apply. These protocols are derived from the standard practices of Swartz Creek public meetings, Roberts Rules of Order, the City Council General Operating Procedures, and other public board & commission procedures. These procedures are adopted to govern participation by staff, councilpersons and members of the public in all City meetings held electronically pursuant to PA 228 of 2020. Note that these protocols do not replace or eliminate established procedures or practices. Their purpose is to augment standing expectations so that practices can be adapted to a virtual meeting format.

The following shall apply to virtual meetings of the city's public bodies that are held in accordance with the Open Meetings Act.

1. Meetings of the City Council, Planning Commission, Zoning Board of Appeals, Downtown Development Authority, Park Board, or committees thereunder may meet electronically or permit electronic participation in such meetings insofar as (1) the Michigan Department of Health and Human Services restricts the number of persons who can gather indoors due to the COVID-19 pandemic; (2) persons have an illness, injury, disability or other health-related condition that poses a risk to the personal health or safety of members of the public or the public body if they were to participate in person; or (3) there is in place a statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or other person authorized to declare a state of emergency or disaster.
2. All meetings held hereunder must provide for two-way communication so that members of the public body can hear and respond to members of the general public, and vice versa.
3. Members of the public body who participate remotely must announce at the outset of the meeting that he/she is in fact attending the meeting remotely and by further identifying the specific physical location (by county, township, village and state) where he/she is located. The meeting minutes must include this information.
4. Notice of any meeting held electronically must be posted at the City Offices at least 18 hours before the meeting begins and must clearly explain the following:
  - (a) why the public body is meeting electronically;
  - (b) how members of the public may participate in the meeting electronically, including the specific telephone number, internet address or similar log-in information needed to participate in the meeting;
  - (c) how members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting;
  - (d) how persons with disabilities may participate in the meeting.

5. The notice identified above must also be posted on the City's website homepage or on a separate webpage dedicated to public notices for non-regularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes the meeting's purpose.
6. The City must also post on the City website an agenda of the meeting at least 2 hours before the meeting begins.
7. Members of the public may offer comment only when the Chair recognizes them and under rules established by the City.
8. Members of the public who participate in a meeting held electronically may be excluded from participation in a closed session that is convened and held in compliance with the Open Meetings Act.

## **MAINTAINING ORDER**

Public body members and all individuals participating shall preserve order and shall do nothing to interrupt or delay the proceedings of public body.

All speakers shall identify themselves prior to each comment that follows another speaker, and they shall also indicate termination of their comment. For example, "Adam Zettel speaking. There were no new water main breaks to report last month. That is all."

Any participants found to disrupt a meeting shall be promptly removed by the city clerk or by order of the Mayor. Profanity in visual or auditory form is prohibited.

The public body members, participating staff, and recognized staff/consultants/presenters shall be the only participants not muted by default. All other members must request to speak by raising their digital hand on the virtual application or by dialing \*9 on their phone, if applicable.

## **MOTIONS & RESOLUTIONS**

All Motions and Resolutions, whenever possible, shall be pre-written and in the positive, meaning yes is approved and no is defeated. All motions shall require support. A public body member whom reads/moves for a motion may oppose, argue against or vote no on the motion.

## **PUBLIC ADDRESS OF COUNCIL**

The public shall be allowed to address a public body under the following conditions:

1. Each person who wishes to address the public body will be first recognized by the Mayor or Chair and requested to state his / her name and address. This applies to staff, petitioners, consultants, and similar participants.
2. Individuals shall seek to be recognized by raising their digital hand as appropriate on the digital application.

3. Petitioners are encouraged to appropriately identify their digital presence so they can be easily recognized during business. If you intend to call in only, please notify the clerk in advance of your phone number.
4. The city clerk shall unmute participants and the members of the public based upon the direction of the mayor or chair. Participants not recognized for this purpose shall be muted by default, including staff, petitioners, and consultants.
5. Individuals shall be allowed five (5) minutes to address the public body, unless special permission is otherwise requested and granted by the Mayor or Chair.
6. There shall be no questioning of speakers by the audience; however, the public body, upon recognition of the Mayor or Chair, may question the speaker.
7. No one shall be allowed to address the public body more than once unless special permission is requested, and granted by the Mayor or Chair.
8. One spokesperson for a group attending together will be allowed five (5) minutes to address the public body unless special permission has been requested, and granted by the Mayor or Chair.
9. Those addressing the public body shall refrain from being repetitive of information already presented.
10. All comments and / or questions shall be directed to and through the Mayor or Chair.
11. Public comments (those not on the agenda as speakers, petitioners, staff, and consultants) are reserved for the two "Public Comment" sections of the agenda and public hearings.

## **VOTING RECORD OF PUBLIC BODIES**

All motions, ordinances, and resolutions shall be taken by "YES" and "NO" voice vote and the vote of each member entered upon the journal.

**City of Swartz Creek**  
**CITY MANAGER'S REPORT**  
Regular Council Meeting of Monday, September 27, 2021 - 7:00 P.M.

**TO:** *Honorable Mayor, Mayor Pro-Tem & Council Members*

**FROM:** Adam Zettel, City Manager

**DATE:** September 22, 2021

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## **ROUTINE BUSINESS – REVISITED ISSUES / PROJECTS**

✓ **MICHIGAN TAX TRIBUNAL APPEALS** (*Business Item*)

Concerning Meijer, I have consulted further with the city attorney and an appraiser that specializes in big box retail in Michigan. It is now time to start taking action. The state is requesting valuations by February and a pre-trial sometime in the first two weeks of May. With that said, we would want to have an appraiser working on the case.

Mr. Gildner has scoured the state for an appraiser that appears to be best situated to find the most success with the MTT and beyond. I am including a proposal to conduct the work. I hate to spend tax dollars to defend tax revenues, but the importance of this case to our community, both in direct and precedent terms, is massive. I recommend approval.

I am including a very recent article from Planning and Zoning News that Mr. Wyatt shared with us. It is on the topic of dark stores and is right on point in its description, problems, and possible solutions. Not to make this effort sound overly righteous, but this appeal could mean much more to the state than just our local financial wellbeing.

See the July 26, 2021 report for details on the Meijer appeal.

We continue with an appraisal of Family Farm and Home. This is for an appeal filed last year.

✓ **STREETS** (*See Individual Category*)

✓ **2020-2023 TRAFFIC IMPROVEMENT PROGRAM (TIP)** (*Update*)

Morrish Road is slated for 2022 federal funding. Note that the total scope of the project is around \$843,660, with 25% being the city's contribution (\$214,625). The city has committed the match portion to this project, which is 75-25. However, the federal allocation is capped at 75% of the original estimate, making the maximum federal reimbursement \$629,035. After three years and some project change orders, we are seeing an engineer's estimate that is \$1.1M prior to payment for construction engineering, which would add another \$150,000.

This is creating some obvious heartburn. The local match on this could easily balloon to 50%, which would place a tremendous strain on our road resources. We are working to reduce the project scope, as well as to seek a TIP amendment to increase this amount.



The project is slated to be complete in 2022. We are proceeding with preliminary engineering for this project. The engineers have included work scope regarding our desire to widen Paul Fortino to the north so that a left turn lane may be added. We are also including a mid-block crossing at Applecreek Station.

In addition, we expect to ramp up with the next round of TIP submissions. This is the phase in which we request funding of specific major streets through the federal programs next three year cycle. Andy and I have been working on a strategy, and we believe we have no choice but to submit Miller Road (Morrish to N. Seymour) and ONLY this segment. In the past, we have submitted other major streets as backup. While they have funded (Morrish and Fairchild), we have not been adequately addressing our largest and most crucial asset.

To better position our community, we are completing PE for Miller Road early and keeping it as a standby project for other unspent TIP funds in the county (e.g. if the GCRC or another community in Genesee receives funding for a project but cannot complete it for some reason, a 'shovel-ready' project can take its place). Doing so will put our project on stand by and also demonstrate to the selection committee the degree of our commitment to having Miller Road funded in the next cycle. We now have a proposal for this work. I recommend proceeding. The design needs to be complete anyway, and doing it sooner may open more doors for funding.

Lastly, the county has put Miller and Elms intersection on a short list for potential roundabout candidates. It is unclear if there will be any additional funds (safety, air quality, or other). However, we are taking the first steps to take this into consideration. This intersection certainly poses some safety and efficiency issues.

✓ **STREET PROJECT UPDATES (*Business Item*)**

*This is a standing section of the report on the status of streets as it relates to our dedicated levy, 20 year plan, ongoing projects, state funding, and committee work. Information from previous reports can be found in prior city council packets.*

There is a proposal for preliminary engineering services for the remainder of Winchester Village and Winchester Woods. This is a very large scope of work, but we feel the timing is right. If we were not pursuing the USDA phase II, we would likely engineer a single street, perhaps Greenleaf. We are also overdue to begin some rehabilitation in the Woods. However, with the USDA, it is possible that we will have a much larger scope of work to complete in the two year performance period.

This would require bonding to finish the streets in Winchester Village. As such, we recommend preparing preliminary engineering for all of those streets. This will give us the option to move quickly if we need to. If such a need does not arise, the plans remain valid and will not be wasteful. The notable exception to this is the omission of Don Shenk, which has newer water main.

Chelmsford and Oakview (to Seymour) is now underway and will be completed this year. Water main and services are done, with road work on the way. Forestry work

finished a while back, and we have communicated the schedule and impact letters to residents.

The city accepted the low bid by Glaeser Dawes for 2020 and 2021 work projects, including our street reconstruction projects. This is the company that completed the first three phases of the street/water main reconstruction projects in the city since 2017.

Lighting contracts with Consumers Energy have been approved.

Crack fill services have been conducted city-wide. We are happy with the results.

✓ **BRIDGE WORK** *(No Change of Status)*

We met with the MDOT representative and the city's bridge engineers (Rowe PSC) to go over our bridge inspection file in mid-September. This was an informal audit, and everything went well. During the process, I learned that there may be 95% match maintenance funds available for the bridge decks. This could be timely for us. With the understanding that cooperation is key to awards, I have asked Rowe to coordinate with the county or other agencies to create a work package. I hope to have something before the council soon. However, like with the TIP, work would be years out.

✓ **WATER – SEWER ISSUES PENDING** *(See Individual Category)*

✓ **SEWER REHABILITATION PROGRAM** *(Update)*

We are ramping up for a new slate of inspections, cleaning, and lining. Revenues and fund balance are still adequate for an aggressive program. This is true even with the added expense of the District 3 expansion. All of this is good because we have learned that there is more clay pipe in the system than we originally thought, including Springbrook.

With that said, we are going to include more routine cleanings and inspections on an annual basis. In fact, we are looking to return to Winchester Village to inspect more lines that were rehabilitated in the early 2000s. This will include Daval, Chesterfield, Chelmsford, and Helmsley. There have been some issues off of Helmsley, so this is a priority.

We are also looking to clean and inspect the remaining major street lines that have yet to be inspected. Inspections will include manholes. This will propel us well into the future as it relates to understanding the next round of priorities. It will also ensure we are staying on top of pipe maintenance from a routine cleaning standpoint.

Lastly, we have a plan that is being priced to reline the remainder of the downtown lines and Miller Road, from Elms to Morrish. I expect pricing at the previously bid rates by Granite (formally Liquiforce). This should be before the council in October. Moving forward, we may also be looking to work with Rowe or another engineering firm to better track our inspections, cleanings, and rehabilitation work in GIS. I will look into options.

✓ **WATER MAIN REPLACEMENT - USDA** *(Update)*

The west Miller, Morrish, Bristol Road, and Village segments are complete. The contractor will be starting soon on the final component of USDA phase I, which is the Miller Road segment from Elms to Raubinger.

Note that Morrish Road paving and paint markings are temporary. We have timed this so that repairs commence next year with the Transportation Improvement Program funds.

OHM is working on an application for another round of USDA grant/loans. This will help us afford the remainder of the Winchester Village Streets:

Greenleaf  
Winshall  
Durwood  
Norbury  
Whitney  
Seymour (South of Miller)

If we are going to do this, we may need to skip a street reconstruction in 2022 so that the USDA process is ready to go. The upside is that 2023 and 2024 could see the total completion of all Village water main and streets. Doing so will also require another street bond (funded with existing revenues). This is something we can probably arrange for ten years like we did with the first segment of road work.

If the USDA application is approved, we will know our obligations towards additional notes or access to grants. We can then formalize a workable financial and construction plan to finish the Village streets and water main. Note that we seek preliminary engineering for the streets at this meeting (not water main at this time).

As presented by the GCDC on April 12, the new county Master Plan includes a northern loop and southern loop option to provide redundancy and stability to the system. This is good news since Gaines and Clayton Township rely on the overstressed Miller line. There will not be any cost participation by the city, but the timeline is unclear. There are rumors that recovery act funds may be put forth to accelerate a loop.

The city is revisiting an effort to work with the county to abandon the 8" Dye Road water main in the vicinity of the rail line (west side of Dye). This line is prone to breaks, which can be very costly and dangerous near the rail spur. The intention would be to connect our customers to the other side of the street, onto the county 16" line. It appears the transition cost would be about \$25,000. Mr. Harris and I have learned of the needs from the county and are ready to proceed. We may look to add this as USDA work or bring back a separate proposal. Note that the city line will be abandoned, but the city will still retain the customers.

✓ **WATER SYSTEM MASTER PLAN** *(No Change in Status)*

OHM is proceeding with the plan. While we are not on schedule for all facets, we are still in a good spot. Flow testing has been done and analysis is underway. Note that the flow testing is conducted with open hydrants and has resulted in some

water quality complaints. We should have some interesting things to show the community soon.

We are completing a Water System Master Plan by mid-2021 for compliance with America's Water Infrastructure Act of 2018 (AWIA). The city must also update a Risk and Resilience Assessment (RRA) and Emergency Response Plan (ERP). The Water System Master Plan will address the requirements of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Safe Drinking Water Act (Act 399) for both the Water Reliability Study (Part 12) and General Plan (Part 16) portions.

This Water Master plan will ultimately be used by the City to address high-priority asset needs that are critical to the City's infrastructure performance, hydraulic capacity, and planning for future capital and operating expenditures. The City last completed an update in 2013.

Under AWIA, the RRA & ERP must certify to the Environmental Protection Agency (EPA) that the RRA has been completed by June 30, 2021. The certification that the ERP has been completed is due 6 months after RRA certification. The RRA identifies key water system assets and potential threats to those assets, and the Emergency Response Plan identifies the procedures and processes the City will employ to address the identified threats.

The investigation and analysis to complete these tasks is highly sophisticated. As such, we have retained OHM to provide these studies and reports. They are at work on the matter.

✓ **HERITAGE VACANT LOTS** (*No Change of Status*)

The last of the lots acquired prior to the special assessment have been sold. The city also has two more lots that were acquired through the tax reversion process. There is interest by the builder to proceed with acquisition and construction. This would finally clear us of the subdivision and put the association in a better position to build membership and dues for their operations.

Though the city cannot retain funds in addition to expenses for these lots, we are still expected to sell them at market value. Listings in Heritage for vacant units are \$10,000-\$12,000, and none of them are moving. I propose a price of \$10,000 for each lot. If there is no objection, I will bring this back to the council for the first step of the sale process.

✓ **NEWSLETTER** (*No Change of Status*)

The fall newsletter is out for distribution.

✓ **CONSTRUCTION & DEVELOPMENT UPDATE** (*See Individual Category*)

This will be a standing section of the report that provides a consolidated list for a brief status on public and private construction/developmental projects in the city.

1. **(Update)** The city has been recommended for funding through the **DNR Trust funds for 2021 construction of the Genesee Valley Trail**. The MDOT grant

is conditionally awarded. We hope to combine this with the Safe Routes to School initiative for 2021 construction. We await filing of a final boundary map prior to bringing the grant agreement to council. As of writing the SRTS project appears to be a 2023 project.

2. The **raceway owner appears ready to move on**. The owner will be looking to repurpose the site and cooperate with our master plan process. See details below.
3. **(Update)** Communities First has a purchase option for **Mary Crapo**. This option has apparently been extended by the School Board through February of 2022. Their first application and second applications were denied. The zoning, site plan, and PILOT for the 40 unit building conversion have been approved by the city. The land purchase and state approvals are still pending. The park board recommends against the lease unless terms are dramatically improved to allow flexible public use.
4. **(Update)** The **school bond** passed and many improvements have occurred and many are expected throughout the district. Total investment for this effort will exceed \$50 million over two to three years. The improvements so far are very impressive, especially what is occurring at the middle and high schools. The project is likely to result in another access to Cappy Lane for the high school. It also appears that the school will be adding a walking path on their high school campus that should be integrated with other pedestrian features.
5. **(Update)** **Street repair in 2021** will be wrapping up soon. We will be completing the remainder of Chelmsford and Oakview to Seymour in October. The city also has a section on Miller Road to replace yet this year, between Raubinger and Elms.
6. The **Applecreek Station** development of 48 townhomes is on hold due to construction material availability and cost. They continue to seek final review by the county. These units range in size from 1,389 to 1,630 square feet, with garages. Construction will occur on vacant land in the back of the development, by Springbrook Colony. Site engineering plans have just been submitted by the owner. Rents are expected to be about \$1.00 per square foot (~ \$1,600 a month) which matches rents in Winchester Village. This project is on hold pending the sewer relief project.
7. **(Update)** The **Brewer Condo Project** is all systems go. Site work is underway, and building permits are expected in September. The project includes 15 townhome condos off Morrish Road in downtown. They are approximately 1,750 square feet, with two car garages and basements (or shelters, in accordance with the applicable ordinance).
8. **(Update)** The next **Springbrook East** phase is under construction. They have pulled many home permits. There is currently an issue with a home that is under construction, with said home being placed outside the building footprint. A variance will be held regarding this matter on October 20th. We are requiring staking of all building footprint and foundation walls prior to commencement.

✓ **TAP/DNR TRAIL (Update)**

We are making great progress affirming easements with the MDOT. They have some procedural requirements for easement acquisition that are very different for current projects, as well as past projects. Our project is being caught in the transition period,

and it is not obvious to MDOT that all the boxes are checked. This is delaying us. The previous report follows.

The DNR indicates that funds are now officially obligated for the Trust Fund grant, in the amount of \$300,000! We now have a grant agreement to approve. This is a standard form instrument that we must abide by to get the funds. I have included the agreement and a resolution in the packet.

It appears there might still be an opportunity to roll this in with the SRTS trail. Either way, we expect to bid in about six months. As always, the bids could come in high or construction change orders could add costs, but we are definitely in a good spot. I suspect high exposure will be \$150,000 of local funds at this point. Hopefully, this will cover most of it!

✓ **SAFE ROUTES TO SCHOOL** (*Update*)

We are working on the four easements that are required for this project. Two have been signed already (school and Kincaid Apartments). We continue to communicate with the farmers (Jaworsky) and the Kincaid fairgrounds. I do not recommend we proceed with the condemnation proceedings at this point. I will monitor our progress and report back to the city council.

Preliminary engineering is underway. This project is likely to be done in 2022. There is still a chance that this will be combined with the TAP/DNR project.

This is a substantial grant for another \$600,000+ for trails and walkways in the community! This will enable installation of paths near the middle school, Elms, and Syring for student safety. These connections will also enhance our trail network.

✓ **REDEVELOPMENT READY COMMUNITIES** (*Update*)

MEDC has been great to work with overall! The master plan is moving, the city will be receiving funds any day to assist with this (\$30,000), and they continue to offer much in-kind support to our efforts.

Our community needs to find specific projects to exercise a crowd funding match for a public place enhancement. This is a big deal and can provide up to \$50,000 towards a downtown project!

A link to this program is here: <https://www.miplace.org/programs/public-spaces-community-places/>

Perhaps Otterburn Park would be a good place to start, if nothing downtown presents itself.

✓ **TAX REVERTED PROPERTY USE** (*No Change of Status*)

We have some interest in the Wade Street property from J.W. Morgan. Since this property is just taking up space and generating mowing bills, we should consider unloading it. This is especially true since it is likely to lose its tax exempt status. An infill bungalow house might be the way to go. The floodplain is complicating matters. We will be looking into this.



There is also the matter of a fire pit that has been left onsite. While the city has been actively caring for this property. It is possible that the house to the north continues to use it for recreation. Like other properties, we have not actively excluded use. However, it might be wise to do so for liability reasons. Since there were no objections at the first August meeting, I have ordered staff to clear the site of the fire pit and other features not belonging to the city. We will get to it when we can.

✓ **8002 MILLER (*Business Item*)**

The tenant indicated a payment by September 3<sup>rd</sup>. As of writing (September 22<sup>nd</sup>), we have not gotten anything. The property is now behind to the value of \$11,650. I reached out in mid-September, but there has not been communication. I have this back on the agenda. It appears the business cannot be profitable enough to cover any significant rent.

✓ **CDBG (*No Change of Status*)**

Applications were submitted for the 2022-2024 cycle which will go towards senior services and new downtown residential neighborhood sidewalks. We signed updated agreements to receive and use this funds on September 2<sup>nd</sup>. Work will be in 2023 for the downtown sidewalks though.

✓ **GIS MAPS (*No Change of Status*)**

Staff is now able to edit the maps and accompanying data fields for our GIS system. Mr. Harris educated the office staff on some of the platform functionality at our June 23<sup>rd</sup> staff meeting. This further expands its use and will put the city in a position to be a bit more efficient and productive on the customer service end.

The GIS platform includes underground water, sewer, and storm facilities. We are also mapping basic street data. This system is accessible by our field staff anywhere in the city by mobile device and will enable locational support, as well as important maintenance and related data fields related to infrastructure.

We are also exploring the use of work order applications with GIS that will save some time and better integrate data analytics for our infrastructure. Some of these features may be viewable by the public as well once we are established.

✓ **DISC GOLF (*No Change of Status*)**

Otterburn Park and the disc golf course is moving into the next phase! Basket 18 (the sledding hill) is looking amazing! The contractor is smoothing out some fairways and adding some topography to the rest of the course. We also have a plan for a circle-drive parking lot, with pavilion.

The disc golf committee met on August 4<sup>th</sup>, and a build weekend is tentatively set for October 16<sup>th</sup> and 17<sup>th</sup>. **A GoFundMe page IS set up to raise funds for trees, signs, and landscape restoration materials. You can find this linked on the city's Facebook page.** The baskets and tee pads are already ordered. With that said, we should have a functional course in October!

✓ **8067 MILLER ROAD (*Business Item*)**

The city has accepted a contingent offer for \$192,500. The 30 day public inspection period expired without comment and the city proceeded with finalizing the sale. The general terms of the sale are:

Purchase Price: \$192,500  
Method: Conventional Mortgage (80/20)  
Closing: September 15, 2021  
Inspection: 7 day general inspection  
Contingency: Offer on existing home  
Appraisal Guarantee: None

However, both the first and second appraisals did not support the sale price, with the first being in the \$160,000s and the second at \$183,000. The buyers seek to change the purchase price to \$185,000 to proceed with lending. They also seek to lease the property between September 28<sup>th</sup> and closing on or about October 28<sup>th</sup>. Lease terms have been drafted but are not complete as of writing. Note that staff has the ability to grant short term easements, but I desire to have the council review and approve the provision, at least in concept.

This is not ideal, but it appears to be the best path forward. We will recover our purchase and investment, but we will not recover the funds put towards the easement and other carrying costs. However, we have a much-improved home for sale downtown.

I am including the addendum and a resolution that covers both the sale and the lease. I recommend the city proceed.

✓ **MASTER PLAN UPDATE (Update)**

CIB, in conjunction with Smith Group, are working on the Master Plan/DDA Plan. We held a steering committee meeting on September 7<sup>th</sup> and September 23<sup>rd</sup>. This workgroup explored the initial plan audit and will help guide the process. There was also a special meeting of the planning commission, including invitations to DDA members, on September 14<sup>th</sup>. This meeting covered much of the same material, but it was much more in-depth.

At this point, the process is well established and the audit is substantially complete. The consultants have much work completed on design guidelines and area plans for the downtown, which are the focus of the plan update. We should have some good feedback and preliminary draft material by October.

The Planning Commission will be the forum for most of the review, with the DDA invited to participate in all PC meetings. Updates will be completed in conjunction with the focus groups (downtown) and steering committee. Formal review and public hearings will be conducted at the PC, DDA, and Council level as required by statute.

Formalization of the plan is likely going to be in early 2022.

✓ **RACEWAY (No Change of Status)**



There are rumblings that the state may yet explore historical wagering. I have been able to touch base, and it appears the owner is not putting much stock in this. They continue to proceed with reuse, and it appears there is interest. GM is temporarily storing cars onsite. The owner is also looking to engage in our master plan process. Again, I think they are considering marijuana uses so start pondering that and seeking input from constituents.

The previous report follows.

I have reached out to the state MEDC folks to see what assistance we may get to plan, market, or rehabilitate the site. I am getting positive feedback so far, but we have not concluded anything.

The raceway owner is ready to move on. They are going to test the market for possible buyers and users of the site. We have been communicating with them concerning the city's ability to provide services, specifically traffic to the site. We have also been stressing our desire to place low-impact uses there that compliment (or at least are not detrimental) to the adjacent properties.

This conversation has led us away from high-traffic retail and apartment uses. We are leaning towards consideration of a modern light industrial park. This could provide daily users that complement the downtown and retail of the city, while having a low impact on services and the surrounding areas. Of course, a site this size is likely to have multiple users and might still offer sites for hospitality, hotel, or condo space. We would need to work on a plan together to ascertain how the community should proceed.

I also suspect that the owner will get potential buyers in the marijuana growing or production industries. This is something that the city considered when the five medical marijuana license types were decriminalized in Michigan. All such licenses were prohibited. With the impact of such sites (growing and production only; not retail) being observable in more and more Michigan communities, our community should revisit this as a potential springboard to getting the site functional.

✓ **FIRE DEPARTMENT (EMS) SERVICES (Update)**

This is up and running. The chief gave a very good rundown on the matter in the September 13 report. The FD will be reporting on activities, performance, and cost moving forward. I will remove this item from future reports until such time that a department report is available.

✓ **COVID AID (Update)**

Staff is including a preliminary list of funding ideas for ARPA funds. We need to send this to the state by the end of October. As noted, I think we can easily fill this list up with COVID related matters and deferred maintenance projects that can be funded through the revenue loss component of ARPA.

**MAKE NO MISTAKE, THIS MONEY WILL NOT GO FAR!** Our community is ahead of most in terms of basic infrastructure and maintenance. However, planned investments in our existing capital improvement plan and deferred maintenance will chew through

this very rapidly. Especially when considering the funding demands that are forthcoming for fire equipment, potential overages in streets/trails, and inflationary costs.

With that said, we still should include every essential or potential expenditure on the list so that the prioritization and options remain on the table in future years. We definitely have some things to do sooner than later, but the funds will be with us for many fiscal years to come.

Please let me know directly or at the meeting if you have items to place on the list.

The previous report follows:

It appears that our community will be receiving about ~\$550,000 in stimulus funds. This allocation is supposed to be a direct federal allocation (via the State of Michigan) under the American Rescue Plan Act of 2021. We are going to be able to apply for the first distribution (50%) in early July. We will do so, with the understanding that we still have time to commit to an eligible expense. These funds will need to be spent in approximately 24 months and are not to be comingled with other operating funds.

Initial recommendations from the National League of Cities include expenditures on essential sanitation infrastructure, such as water and sewer. They also note the importance of economic recovery. This MAY include allocations to improvements related to downtown and recreation. It MAY also include direct allocations to businesses in the form of loans or grants. While the categories have been laid out, it is not obvious what specific expenses are permitted.

Another available option is the recovery of revenues below the ~4% bench mark set by the feds. What this boils down to is that we can place said funds into our general fund to the extent that revenues are not meeting national benchmarks. We continue to educate ourselves and make inquiries.

✓ **PAVILION COMMITMENT** *(No Change in Status)*

The city council has committed to installing a pavilion at Otterburn Park, including a commitment of \$20,000. The family joined us at the August 4 Park Board meeting. After discussion, it appears that a relatively large pavilion, with electricity and a concrete slab is desired. This could have the potential for bathrooms at some point. If not, port-a-johns can be placed at the site, giving the community yet another pavilion for general use and events.

A consultation with Tri-City building indicates that we are probably in for about \$50,000 of expenses to get a good sized pavilion of durable composition. I suspect a project like this could get much in terms of donations and in-kind assembly help. The details of which were be discussed at the September 1, 2021 meeting.

✓ **WATER OPERATIONS SERVICES** *(No Change of Status)*

We are in a position to proceed with an agreement with the GCDC-WWS to supply operational services to the city regarding the water distribution system. This has enabled us to have a broader array of options in selecting the next DPW Director. However, there is no rush to act quickly. We have the ability to take our time further

study and consider options. One of the first items of business as we onboard a new director is to consider this option. I will keep the council informed.

✓ **BUILDING RELOCATION SERVICES** (*No Change of Status*)

A contractor agreement has been prepared and we have reached out to establish a start date.

✓ **PARK ORDINANCE AND GATES** (*Update*)

The ordinance has been approved. Based upon pricing of custom gates, which are not readily quoted, we are bidding the gates out. This will be coming back for final approval.

Metro PD has also been communicating with us about increasing enforcement and patrols within the park, especially on weekends. I will remove this section from future reports barring any changes to status.

✓ **SECURITY CAMERAS** (*No Change of Status*)

We are looking at pricing to run conduit in the park. This will have the benefit of providing power (potentially) to additional pavilions. It is also essential if we are to power cameras and provide a feed to the recording device. Once complete, we can better plan for a security system.

✓ **SIRENS** (*Update*)

It has come to our attention that the siren upgrades will cost three times what the proposal appeared to indicate. Suffice it to say, our current purchase order is invalid and no work will occur unless the city council authorizes the upgrades at the increased amount. I do NOT recommend we do this. The sirens are very reliable and are tested regularly. The added two-way communication for operational readiness is useful, but I do not think it is worth the price quoted. If there is any interest in revisiting this, please let me know. The communication from West Shore is below.

Hi Adam,

Made it back to the office. Yes, the quote I am looking at here is for the 3 sites at \$8,690 for each cabinet and the additional cost of \$1,480 to upgrade all the control points total. If you do one or all 3 sirens in your area, plus the one in Clayton, it would be the same fee. However, the cabinet upgrades are \$8,690 each, times 3, for a total of \$26,070. Can you please confirm if you want to do one cabinet upgrade or all three?

Thanks again for your business!

✓ **HYDROCORP ISSUES & NOTICES** (*Business Item*)

There are some commercial water users in the city that have not complied with required testing of their commercial backflow prevention devices. Staff has been working with the attorney and Hydrocorp to come up with the best method of enforcement. We decided to send out shut-off notices per our ordinance to get faster results. Under our ordinance, we need to provide a chance for a hearing. As such, we will have a section on the current

agenda to hear appeals to our notices that require testing or will result in a shut off. Letters were mailed as of September 3<sup>rd</sup>.

Note that the other option is to take each offender to court. That is not in the best interest of safety, cost, or efficiency in our opinion.

Concerning the lack of participation for residential cross connection inspections, Rob and I met with Hydrocorp on the 22<sup>nd</sup>. They are making some changes moving forward that should help. They include the following:

1. Evening hours
2. Potential Saturday hours
3. Smaller scheduling windows likely (2 hours instead of 4 hours)
4. Display signs (sandwich signs) in neighborhoods that are undergoing inspections
5. Dedicated community webpage for reference on Swartz Creek's program
6. Reduction in scheduling pool until current notices are resolved

✓ **OTHER COMMUNICATIONS & HAPPENINGS** *(See Individual Category)*

✓ **MONTHLY REPORTS** *(Update)*

We have a fair amount of routine departmental reports!

✓ **BOARDS & COMMISSIONS** *(See Individual Category)*

✓ **PLANNING COMMISSION** *(Update)*

The Planning Commission met on September 7, 2021. They discussed the community master plan (see above). Mr. Cramer is new to the commission and has attended his first meeting. The planning commission reviewed and recommended updates to the city's residential basement requirement. They also began exploring a pond ordinance to assist in the review of the few ponds that are applied for.

There was also a special meeting regarding the master plan on September 14<sup>th</sup>. This was a master plan primer and audit meeting. Their next regular meeting, which will include deliberation on ponds, as well as the master plan, is scheduled for October 5<sup>th</sup>.

✓ **DOWNTOWN DEVELOPMENT AUTHORITY** *(Update)*

The DDA met on August 12<sup>th</sup>. They went over the master plan process, and appointed Mr. Plumb to the steering committee. We also discussed the Meijer appeal and current happenings in the community. They did not meet in September, however, they did participate informally with the special master plan meeting of September 14<sup>th</sup>. Mr. Jason Keene has been appointed to the DDA. Their next meeting is scheduled for October 14.

✓ **ZONING BOARD OF APPEALS** *(Update)*

The September 15 meeting was cancelled. The ZBA is scheduled for October 20 to hear a variance related to the construction of a new condominium outside of the building envelope in Springbrook East. This will be a public hearing.

✓ **PARKS AND RECREATION COMMISSION** *(No Change of Status)*

The Park Board met on September 1st. There were updates on disc golf, Otterburn Park, and the trails (see above). The park board debriefed the slip and slide, discussed inspections of the playscape, went over the potential for cameras, began investigating 'green bathrooms', and held an audit of Elms Park as it relates to secure design. It was a very productive meeting.

The park board is working with our partners on fundraising and promotion for the disc golf course and Otterburn pavilion. Their next meeting is October 6 at the city offices.

✓ **BOARD OF REVIEW** *(No Change of Status)*

The Board of Review met for their July meeting on the 20<sup>th</sup>. This session was to hear errors and omissions. I do not have a tally of petitioners or outcomes at this time.

✓ **CLERK'S OFFICE/ELECTION UPDATE** *(No Change of Status)*

Nothing new to update. I'm continuing to work on retention of records.

✓ **DEPARTMENT OF COMMUNITY SERVICES UPDATE** *(Update)*

Street and water main projects on Oakview and Chelmsford are progressing and moving toward completion. Recent days of rain have set the projects back some. At the time you're reading this sidewalks and curb and gutter are completed on Oakview. As soon as weather allows they will move forward with driveway approaches and then onto to asphalt and final restoration. Road demolition and road base installation on Chelmsford should be finishing up and final grades are set and ready for sidewalks, curb and gutter, pavement and final restoration. Both projects are nearing completion and remain on schedule less a few lost days to weather. DPS, the school district and the contractor continue to work very closely to ensure the safety of the children coming to and from school.

DPS will be starting fall hydrant maintenance, winterization and flushing in the coming weeks.

✓ **TREASURER UPDATE** *(Update)*

Work continues on various projects around the office. Final audit work is close to completion and a draft meeting with the audit team will take place in early October. Calculations for the quarterly water/sewer bills have been completed and the file has been sent to the printer for processing and mailing. Routine operations include, but not limited to, daily/weekly/monthly journal entries, bank wires, review/approval of accounts payable invoices, building department permits and rental inspection collections, park reservations, processing payroll, receipt of tax and utility billing payments, accounting for grants and projects and other financial matters impacting the city.

## **NEW BUSINESS / PROJECTED ISSUES & PROJECTS**

✓ **JEEPERS CREEKERS PERMITS** *(Business Item)*

Jeepers Creekers is back for another year. While 2021 will present more than 2020, it is scaled back a bit from 2019. The applications are attached and a set of resolutions is prepared. In short, the event will consist of a daytime fall market in Holland Square and on Holland Drive on Saturday, October 9<sup>th</sup>. During the late afternoon, Miller will close down between Morrish and Hayes for the trunk or treat event and an outdoor movie at Holland Square.

All of these events and closures have occurred in the past and are very manageable, especially on a Saturday. Note there will also be a 5k costumer race on the 9<sup>th</sup>, but this event is all within the sidewalk right-of-ways and does not require any additional permitting. Also note, that the DDA participates by providing a port-a-jon for the event at a cost of about \$100. Lastly, a pub crawl is planned in the community for October 23<sup>rd</sup>, but there are no public places or permits for that event.

✓ **5K RACE STEET USE PERMIT** (*Business Item*)

There is a morning foot race planned for Saturday, October 23<sup>rd</sup>. A street closure permit has been submitted. Based upon the course and request, a street closure will not be necessary. However, the race does indicate use of right of ways and private grounds, including the school. I recommend the council enable the event with conditions. A resolution and accompanying materials is included.

✓ **FIRE BUDGET** (*Update*)

The fire budget is attached. The fire board recommended approval of this at their meeting on September 20<sup>th</sup>. The fire chief will be at our October 11<sup>th</sup> meeting to go over it. The standard operations budget is not remarkable (this part of the budget is split between Clayton and Swartz Creek with operational costs being prorated and fixed costs being split 50/50). The more remarkable features is the purchase of two utility trucks, totaling \$120,000. This cost will also be split 50/50, with the city share coming from Fund 402 savings. We have the resources to do so, and the equipment purchase schedule seems reasonable.

Let myself or our other fire board members know if you have any comments, questions, or concerns. This appears to be a workable budget. I will have a resolution prepared for the October 11<sup>th</sup> meeting.

✓ **FINANCE ORDINANCE AMENDMENT** (*Business Item*)

Our executive team has been debating the merits of the current purchasing thresholds in the finance ordinance. These amounts (\$2,500-\$5,000 for quotes and \$5,000+ for bids) were set many years ago as fixed costs. Periodically, these values should be revisited and increase for inflationary reasons. Given the most recent spikes in pricing for generally competitive goods, such as concrete, we believe now is the right time. We are recommending increasing the threshold for quotes to \$3,000 and the threshold for bids to \$7,500. I am including a resolution to amend the ordinance for discussion and possible approval.

✓ **DISPOSAL OF FIXED ASSETS** (*Business Item*)

With the replacement of the chipping truck, we are able to dispose of the old truck. Our DPW is also seeking to unload our old bucket truck, which has reached its useful

life. Given the price of trucks in the market place, we expect a better return than normal. We are including a resolution to authorize sale of these assets.

✓ **RATES AND FEES (*Business Item*)**

There are some recommended adjustments for rates and fees. The first includes wages that apply to cost recovery for police officers. These have gone up and are a direct reflection of what should be invoiced for recoverable calls under the city ordinance. The other recommendation is to increase the cost of commercial or road break right of way permits to \$250 (instead of \$100) and to add an escrow. We feel this is appropriate for jobs that require higher level plan review or in-person inspections, such as utility conflict operations and/or work in the road way.

**Council Questions, Inquiries, Requests, Comments, and Notes**

*Notable Code Issues:* The homes on Miller Road have been demolished. We hear that the owner may be taking down the old church on the corner as well. We are enforcing an unapproved excavation at the same site that had the unapproved camping activity. Atlas North is good to go.

*Jeepers Creekers:* This event will consist of a road race, small market, and trunk or treat in the downtown on October 9<sup>th</sup>. A pub crawl is planned for October 23<sup>rd</sup>.

**City of Swartz Creek  
RESOLUTIONS  
Regular Council Meeting, Monday, September 27, 2021, 7:00 P.M.**

**Motion No. 210927-4A**                      **MINUTES – SEPTEMBER 13, 2021**

Motion by Councilmember: \_\_\_\_\_

**I Move** the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday, September 13, 2021, to be circulated and placed on file.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Motion No. 210927-5A**                      **AGENDA APPROVAL**

Motion by Councilmember: \_\_\_\_\_

**I Move** the Swartz Creek City Council approve the Agenda as presented / printed / amended for the Regular Council Meeting of September 27, 2021, to be circulated and placed on file.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Motion No. 210927-6A**                      **CITY MANAGER’S REPORT**

Motion by Councilmember: \_\_\_\_\_

**I Move** the Swartz Creek City Council accept the City Manager’s Report of September 27, 2021, including reports and communications, to be circulated and placed on file.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8B**                      **RESOLUTION TO APPROVE APPRAISAL FOR MEIJER PROPERTY.**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the city assesses property and collects taxes per the Michigan General Property Tax Act; and



**WHEREAS**, the City Assessor is charged with determining values for property to be taxed under the same act and rules promulgated by the Michigan Department of Treasury, with the intent of valuing real and personal property in the city accurately, fairly, and consistently; and

**WHEREAS**, from time to time, the city finds it necessary to defend valuations that are appealed by owner interests in order to achieve those intentions.

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council amend the budget to allocate \$25,000 of unencumbered, unreserved general fund monies to the assessing department for the purpose of contesting the tax appeals by parties referred to as 4141 Morrish Road; PID 58-36-100-014; Meijer, Inc., costs to include an appraisal, legal services, and other related expenses to be provided by the city's legal counsel and an appraisal firm, as selected by the city manager or assessor, with the authority of the city council under Section 2-402(a)(2) of the city ordinances.

**BE IT FURTHER RESOLVED**, the City of Swartz Creek City Council approve the proposal from Integra Realty Resources, as included in the city council packet of September 27, 2021 and further direct the Mayor to execute said proposal on behalf of the city.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8C**

**RESOLUTION TO APPROVE THE WINCHESTER VILLAGE AND WINCHESTER WOODS PRELIMINARY ENGINEERING PROPOSAL**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the city owns, operates, and maintains a system of major and local street assets; and

**WHEREAS**, the city administers a street asset management plan that is funded by a local street levy, state revenue sharing road monies, and the general fund; and

**WHEREAS**, the city is also coordinating street reconstruction in Winchester Village with ongoing USDA water main replacement, which is on a two year schedule; and

**WHEREAS**, the asset management plan for street reconstruction would need to be expedited to coincide with any future USDA grant/loan awards; and

**WHEREAS**, rehabilitation of streets in Winchester Woods are also behind schedule; and

**WHEREAS**, the city needs to select a professional engineer to perform preliminary engineering design work for these projects in order to be able to bid and perform any such work; and

**WHEREAS**, OHM Advisors is a federally pre-qualified engineer that has been designing the city streets and water main projects, and they submitted a proposal to perform the engineering service as outlined in the attached proposal dated September 9, 2021; and

**WHEREAS**, the city finds OHM Advisors to be a qualified firm performing a professional service.

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek approve the design engineering proposal by OHM Advisors as dated September 9, 2021 and included in the September 27, 2021 city council packet, in the amount of \$228,160 for Winchester Village and Winchester Woods Road.

**BE IT FURTHER RESOLVED** the City of Swartz Creek authorizes and directs the Mayor to execute this proposal on behalf of the city.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8D**

**RESOLUTION TO AMEND AND RESTATE CITY-WIDE RATES, FEES, AND CHARGES**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the City sets rates and collects fees, fees for permits, charges for services, cost recovery's and cost recovery for consulting services (rates, fees, & charges), and;

**WHEREAS**, such rates, fees, & charges are a necessary and essential part of the funding for the services that the City provides, and:

**WHEREAS**, the City's Code of Ordinances defines and provides for certain rates, fees, & charges, and;

**WHEREAS**, other such rates, fees, & charges are provided for by resolution of the City Council, statutory provision, past practice, policy and other such actions, and

**WHEREAS**, the City has amended the City's Code of Ordinances to provide for various rates, fees, & charges to be set by resolution of the City Council, and;

**WHEREAS**, the City has need to implement additional rates, fees, & charges to be set by resolution of the City Council, and;

**WHEREAS**, the City desires to have all such rates, fees, & charges organized into a single resolution that can be visited periodically and adjusted accordingly.

**NOW, THEREFORE, BE IT RESOLVED** the City of Swartz Creek hereby sets its rates, fees, & charges in accordance with the following schedule, effective immediately or as soon as practical thereafter, table as follows:

**CITY OF SWARTZ CREEK RATES, FEES PERMITS & CHARGES FOR SERVICES**

**1. Chapter 1: Municipal Ordinance Violations Bureau (Parking Fines)**

The following parking violations shall be punishable by the fines indicated:

<b><u>Offense</u></b>	<b><u>Fine</u></b>
(a) Parking too far from curb	\$ 40.00
(b) Angle parking violations	\$ 40.00
(c) Obstructing traffic	\$ 40.00

**Prohibited parking (signs un-necessary)**

(d) On sidewalk	\$ 40.00
(e) In front of drive	\$ 40.00
(f) Within intersection	\$ 40.00
(g) Within 15 feet of hydrant	\$ 40.00
(h) On crosswalk	\$ 40.00
(i) Within 20 feet of crosswalk or 15 feet of corner lot lines	\$ 40.00
(j) Within 30 feet of street side traffic sign or signal	\$ 40.00
(k) Within 50 feet of railroad crossing	\$ 40.00
(l) Within 20 feet of fire station entrance	\$ 40.00
(m) Within 75 feet of fire station entrance on opposite side of street (signs required)	\$ 40.00
(n) Beside street excavation when traffic obstructed	\$ 40.00
(o) Double parking	\$ 40.00
(p) On bridge of viaduct or within tunnel	\$ 40.00
(q) Within 200 feet of accident where police in attendance	\$ 40.00
(r) In front of theater	\$ 40.00
(s) Blocking emergency exit	\$ 40.00
(t) Blocking fire escape or fire lane	\$ 50.00
(u) In a handicapped space	\$100.00
(v) In prohibited zone (signs required)	\$ 40.00
(w) In alley (signs required)	\$ 40.00

**Parking for prohibited purpose**

(x) Displaying vehicle for sale	\$ 40.00
(y) Working or repairing vehicle	\$ 40.00
(z) Displaying advertising	\$ 40.00
(aa) Selling merchandise	\$ 40.00
(bb) Storage over 48 hours	\$ 40.00
(cc) Wrong side boulevard roadway	\$ 40.00
(dd) Loading zone violation	\$ 40.00
(ee) Bus, parking other than bus stop	\$ 40.00
(ff) Taxicab, parking other than cab stand	\$ 40.00
(gg) Bus, taxicab stand violations	\$ 40.00
(hh) Failure to set brakes	\$ 40.00
(ii) Parked on grade wheels not turned to curb	\$ 40.00
(jj) Parked on lawn extension within right of way	\$ 40.00
(kk) Parked on front lawn	\$ 40.00

All \$40.00 violations not paid within 20 days will be assessed a \$20.00 late fee.

**2. Chapter 2: Liability for Expense of an Emergency Operation (Hazardous Materials Cleanup Cost Recovery)**

Cost shall be actual expenses inclusive of all Police & Fire Department wages, equipment and motor-pool and / or any sub-contracted actual expenses associated with hazardous materials clean-up.

**3. Chapter 2: Liability for Expense of an Emergency Response (Alcohol Related Arrests, Accidents)**

- A. A cost of \$150 shall be assessed to each defendant convicted of O.U.I.L. – O.U.I.D or O.W.I. The cost recovery shall be collected as a part of the fines and costs set by the 67<sup>th</sup> District Court.
- B. Actual costs shall be assessed to each defendant convicted of O.U.I.L. – O.U.I.D or O.W.I. in which a motor vehicle accident occurred. The cost recovery shall be collected as a part of the fines and costs set by the 67<sup>th</sup> District Court. In the event the court declines collection, they shall be billed direct to the defendant.
- C. For the purpose of determining costs for extensive investigation and cleanup recovery for emergency response for alcohol related arrests and accidents, the following table shall be used:

Fire

Pumper	\$250.00/hour
Tanker	\$350.00/hour
Squad/Utility	\$150.00/hour
Grass	\$200.00/hour
Command	\$150.00/hour
Officers	\$18.00/hour
Firefighters	\$15.00/hour

Police

Officers	\$47.30/hour
Officer Overtime	\$60.85/hour
Police Car	\$15.00/hour

**4. Chapter 5: Cemetery Lots - Purchase**

The cost for purchase of cemetery lots will be \$100.00 per lot.

**5. Chapter 5: Cemetery, Charges for Grave Openings, etc.**

Grave openings shall be actual costs, either as sub-contracted or performed by City Employees, plus a 15% administrative fee.

**6. Chapter 11: Park Reservation Fees**

Elms Park

Pavilion #1	\$ 70.00
Pavilion #2	\$ 120.00
Pavilion #3	\$ 70.00
Pavilion #4	\$ 120.00

Abrams Park

Pavilion #1	\$ 70.00
Pavilion #2	\$ 70.00
Pavilion #3	\$ 70.00

Deposit            \$100.00

**7. Chapter 12: Peddlers and Solicitors License and Background Check**

\$50.00

**8. Chapter 15: Permit, Sidewalk Installation**

\$25.00

9. **Chapter 15: Permit for Excavation, Right of Way or Other City Property**

\$100.00

10. **Chapter 19: Water System Use, Rates and Charges**

(A) Charges for water supply services to premises within the city connected with the water supply system shall be as follows:

*Rates for Quarterly Billings*

**Readiness to serve charge**

5/8", 3/4", 1"	\$56.88
1.5"	\$227.39
2"	\$363.83
3"	\$682.18
4"	\$1,136.97
6"	\$2,273.93

**Commodity charge (per 100 cubic feet of water): \$7.35**

Additional meters, connected for the exclusive purpose of registering water consumed and NOT returned to the sewer system shall be charged the commodity charge only (example: lawn sprinkler system).

(B) Any water customer may have water services temporarily shut off for any time period during which the premises, for which the water service is provided, will be unoccupied. The request for such shut off shall be made in writing on forms to be provided by the city. The written request shall specify the reason for the shut off and the date on which the water service shall be shut off.

(C) There shall be a Twenty Dollar (\$20.00) charge for shutting off the water service pursuant to such request and a Twenty Dollar (\$20.00) charge for turning the water service back on, if the shut off or turn on is performed during normal business hours. If this shut off or turn on is performed outside of normal business hours, the charge shall be One-Hundred Dollars (\$100.00). Such charges shall also apply if water is shut off or turned back on pursuant to account delinquency. The City Manager may waive shut off and turn on fees for reasonable cause.

(D) Water customers shall continue to be billed for a readiness to service charge while connected to the system.

(E) Bulk water sales shall be in accordance with the following fee schedule:

**Bulk Water Purchases**

1 cubic ft. = 7.4805

Gallons

Gallons	Cubic ft.	Cost
3,740	499.96658	\$104.00
5,000	668.40452	\$116.00
10,000	1336.809	\$160.00
15,000	2005.2136	\$204.00
20,000	2673.6181	\$247.00

11. **Chapter 19: Water & Sewer Tap Fees**

(A) There shall be paid, with respect to all premises connecting to the water and sanitary sewer system of the city, a tap-in fee pursuant to the following schedules:

- (1) Single-family residence--\$1,500 each for water & sanitary sewer

(2) Multiple-family residence--\$1,500 per unit each for water and sanitary sewer

(B) All other uses connecting to the water and/or sanitary sewer system of the city shall be required to pay tap-in fees at the rate of one-thousand, five hundred dollars (\$1,500) per unit factor, pursuant to the unit factor table provided for by the Genesee County Division of Water and Waste. In no case shall tap-in fees be less than one-thousand, five hundred dollars (\$1,500).

(C) Furthermore, for any structure used generally for more than one (1) purpose, connection fees shall be determined by applying the appropriate unit factors as set by the Genesee County Division of Water and Waste, to the various uses on any level, grade or sub-grade plane of the structure, provided that it is intended that the fees so derived shall be cumulative. Tap fees shall also apply for any additional units that may be calculated and applied by the County WWS pursuant to change in use or otherwise.

**12. Chapter 19: Sanitary Sewer Rates**

*Rates for Quarterly Billings*

Readiness to serve charge (per Residential Equivalent Unit):	\$52.50
Readiness to serve charge (non-metered accounts):	\$124.61
Commodity charge (per 100 cubic feet of water consumed):	\$2.14

A readiness to serve charge equal to the number of calculated sewer units shall be charged to all customers connected to the city's sewer system to offset fixed costs of system operation. In addition, a commodity charge shall be applied to the sewer bill in an amount equal to the above rate multiplied by the number of ccf that the accompanying water account registers. If the sewer connection is not accompanied by a water meter to register water usage, the charge shall be considered non-metered and no commodity charge shall be applied.

For the purposes of determining sanitary sewer rates, per unit sewage disposal calculations resulting in a fraction of a whole number shall be rounded up to the next highest whole number.

**13. Chapter 20: Weed Cutting Fees**

\$300 per cut

**14. Building & Trade Inspection Fees**

**A. Building Permit Fees:**

\$75.00 for first \$1,000 value \$5.00 per \$1,000 thereafter and \$50.00 for a one-time inspection fee.

The first \$75.00 of the application fee is non-refundable. The total cost of Improvement is based on the Bureau of Construction Codes Square Foot Construction Cost Table with the following exceptions:

Single Family Home	1 story.....	\$105.00 per sq. foot
	1.5 story.....	\$91.00 per sq. foot
	2.0 story.....	\$85.00 per sq. foot
Detached garage.....		\$25.00 per sq. foot
Pole Barn.....		\$16.50 per sq. foot
Open deck or porch.....		\$14.00 per sq. foot
Covered deck or porch.....		\$28.00 per sq. foot

Pre-manufactured unit fees are based upon 50% of the normal on-site construction fee.

Residential Roofing.....	\$100.00 fee per project
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Siding permits are based upon the project cost.

Commercial roofing is to be based upon the project cost.

Up to \$1,000 (includes one (1) inspection only).....	\$75.00
\$1,000.00 to \$10,000.00.....	\$75.00 plus \$10.00 per \$1,000.00 over \$1,000.00
\$10,000.00 to \$100,000.00.....	\$165.00 plus \$3.00 per \$1,000.00 over \$10,000.00
\$100,001.00 to \$500,000.00.....	\$435.00 plus \$2.00 per \$1,000.00 over \$100,000.00
\$500,000 plus.....	\$1,235.00 plus \$3.00 per \$1,000.00 over \$500,000.00

All work not involving a sq. foot computation:

Plan review and administration base fee (plus \$50.00 for each inspection)	\$75
Additional inspections	\$75
Certificate of Occupancy	\$50
Work Commencing Before Permit Issuance	\$75

**B. Electrical Inspection Fees**

Application Fee (non-refundable)	\$65
Work Commencing Before Permit Issuance	\$75

**New Residential Electrical System**

Up to 1,500.00 sq. foot	\$80.00
1,501 to 3,500 sq. foot	\$130.00
Over 3,500 sq. foot	\$180.00

**Service**

Through 200 Amp.	\$10
Over 200 Amp. thru 600 Amp.	\$15
Over 600 Amp. thru 800 Amp.	\$20
Over 800 Amp. thru 1200 Amp.	\$50
Over 1200 Amp. (GFI only)	\$75
Circuits	\$5
Lighting Fixtures-per 25	\$5
Dishwasher	\$5
Furnace-Unit Heater	\$5
Electrical-Heating Units (baseboard)	\$4
Power Outlets (ranges, dryers, etc.)	\$7

**Signs**

Unit	\$6
Letter	\$10
Neon-each 25 feet	\$20

Feeders-Bus Ducts, etc.-per 50'	\$6
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Mobile Home Park Site	\$5
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Recreational Vehicle Park Site	\$5
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**K.V.A. & H.P.**

Units up to 20	\$4
Units 21 to 50 K.V.A. or H.P.	\$6
Units 51 K.V.A. or H.P. & over	\$10

**Fire Alarm Systems (excl. smoke detectors)**

Up to 10 devices	\$50
11 to 20 devices	\$100
Over 20 devices	\$5 each
Low voltage - Per opening (devices)	\$5 each
Energy Retrofit-Temp. Control	\$45
Conduit only or grounding only	\$45

**Inspections**

Special/Safety Insp. (includes cert. fee)	\$65
Additional Inspection	\$65
Final Inspection	\$65
Certification Fee	\$25

**C. Mechanical Inspection Fees**

Application Fee (non-refundable)	\$65
Work Commencing Before Permit Issuance	\$75

**Residential Heating System**

(Includes duct & pipe)	
Up to 1,500 sq. feet	\$80
1,501 to 3,500 sq. feet	\$130
Over 3,500 sq. feet	\$180
Gas/Oil Burning Equipment Under 400,000 In	\$30
Gas/Oil Burning Equipment Under 400,000 In Boiler	\$40 \$30
Water Heater	\$5
Damper/Flue	\$5
Solid Fuel Equip. (includes chimney)	\$30
Gas Burning Fireplace	\$30
Chimney, factory built (installed separately)	\$25
Solar; set of 3 panels-fluid transfer (includes piping)	\$20
Gas piping; each opening-new installation (residential)	\$5
Air Conditioning (includes split systems)	
1.5hp to 15 hp	\$30
Over 15 hp	\$50
Heat Pumps (complete residential)	\$30
Dryer, Bath & Kitchen Exhaust	\$5

**Tanks**

Aboveground	\$20
Aboveground Connection	\$20
Underground	\$20
Underground Connection	\$20
Humidifiers/Air Cleaners	\$5

**Piping**

Piping-minimum fee \$25	\$.05/ft
Process piping	\$.05/ft
Duct-minimum fee \$25	\$.10/ft
Heat Pumps; Commercial (pipe not included)	\$20

**Air Handlers/Heat Wheels**

Conversion Burners (oil)	\$25 \$30
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Commercial Hoods/Exhausters	\$15
Heat Recovery Units	\$10
V.A.V. Boxes	\$10
Unit Ventilators	\$10
Unit Heaters (terminal units)	\$15

**Fire Suppression/Protection/Other**

(includes piping) –minimum fee \$20	\$.75/head
Limited Area Suppression (per head)	\$2
Fire Suppression Hood (per head)	\$4
Evaporator Coils	\$30
Refrigeration (split system)	\$30
Chiller	\$30
Cooling Towers	\$30
Compressor/Condenser	\$30
Manufactured Chimney	\$25
Exhaust Fans	\$20
Multi Zone Self Contained Units	\$25
Through Wall Units	\$25
Ranges (gas)	\$20

**Inspections**

Special/Safety Insp. (includes cert. fee)	\$65
Additional Inspection	\$65
Final Inspection	\$65
Certification Fee	\$25

**D. Plumbing Inspection Fees**

Application Fee (non-refundable)	\$65
Work Commencing Before Permit Issuance	\$75

**New Residential Plumbing System**

Up to 1,500 sf	\$80
1,501 to 3,500 sf	\$130
Over 3,500 sf	\$180

Mobile Home Park Site	\$5 each
Fixtures, floor drains, special drains,	\$4 each
Water connected appliances	\$4 each
Stacks (soil, waste, vent and conductor)	\$2 each
Sewage ejectors, sumps	\$5 each
Sub-soil drains	\$5 each

**Water Service**

Less than 2"	\$5
2" to 6"	\$25
Over 6"	\$50
Connection (bldg. drain-bldg. sewers)	\$5

**Sewers (sanitary, storm or combined)**

Less than 6"	\$5
6" and Over	\$25
Manholes, Catch Basins	\$5 each

**Water Distributing Pipe (system)**

¾" Water Distribution Pipe	\$5
1" Water Distribution Pipe	\$10
1 ¼" Water Distribution Pipe	\$15
1 ½" Water Distribution Pipe	\$20

2" Water Distribution Pipe	\$25
Over 2" Water Distribution Pipe	\$30
Reduced pressure zone back-flow preventer	\$5 each
Domestic water treatment and filtering equipment only	\$5
Medical Gas System	\$45

**Inspections**

Special/Safety Insp. (includes cert. fee)	\$65
Additional Inspection	\$65
Final Inspection	\$65
Certification Fee	\$25

**15. Chapter 22: General Emergency Response Fees**

Fire

Pumper	\$250.00/hour
Tanker	\$350.00/hour
Squad/Utility	\$150.00/hour
Grass	\$200.00/hour
Command	\$150.00/hour
Officers	\$18.00/hour
Firefighters	\$15.00/hour

Police

Officers	\$50.56/hour
Officer Overtime	\$61.87/hour
Police Car	\$15.00/hour

**16. Appendix B: Franchises**

\$250 application fee plus actual expenses related to preparation by City Attorney.

**17. Miscellaneous Fees**

A. *Copies:*

Black & White: 10¢ for page.  
Color or Mixed Color and Black & White: 25¢ per page

B. *Freedom of Information Act Requests:*

See the City of Swartz Creek Freedom of Information Act Procedures & Guidelines: adopted June 22, 2015 for details. Standard requests shall be charged 10¢ for 8.5 x 11 page (25¢ for color or mixed color) plus all actual costs for outside re-production (i.e. photo re-prints, blueprint copies, digital media storage, etc.). Extensive search requests shall have an additional per hour fee equal to wages only of the lowest paid clerical position employed with the City (\$8.15/hour with a 1.1 fringe multiplier, totaling \$8.97/hour).

C. *Weddings:*

\$50 per ceremony

D. *Fax Services:*

50¢ per page for the first 10 pages, then \$0.25 per page thereafter

E. *Notary Services:*

\$10.00 per item

F. *Insufficient Funds:*

\$25 each for any check returned unpaid for account insufficient, closed or stopped

- G. *Penalties on Outstanding Invoices/Miscellaneous Receivables:*  
\$10 penalty for unpaid miscellaneous receivables, including but not limited to: utility bills, mowing invoices, sidewalk repair, project reimbursements, charges for services, and retiree coverage contributions. This penalty shall be applied once to “past due” invoices.
- H. *Interest on Outstanding Invoices/Miscellaneous Receivables:*  
1.5% interest per month on outstanding invoices that are 30 days “past due”.

\*Payments made toward outstanding balances shall be applied in the following order: interest, penalties, principle.

**18. Chapter 13 & 16: Development Plans, Administrative Fees, Subdivision Site Plan & Review Fees**

- A. Site Plan Review:

Property Re-Zoning	\$250
Single & Multiple-Family (non-plat)	\$300 plus \$5.00 per lot
Cluster Housing Development	\$300 plus \$5.00 per unit
Mobile Home Park	\$400 plus \$5.00 per unit
Commercial Development	\$450 plus \$50.00 per acre/fraction
Industrial Development	\$400 plus \$50.00 per acre/fraction
Office Development	\$350 plus \$50.00 per acre/fraction
Institutional	\$300 plus \$50.00 per acre/fraction
Public/semi-public uses	\$300 plus \$50.00 per acre/fraction
Special Approval or Conditional Use	\$250 plus \$5.00 per acre/fraction
PUD/Mixed Use Review	\$500 plus \$50.00 per acre/fraction
Consulting Fees (All Reviews)	Actual consultant costs
Revisions	½ of original review fee
  
- B. Building and Zoning:

Swimming Pool Permit	\$25
Misc. Zoning Permit	\$25
Sidewalk Permit	\$25
Sign Permit	See Building Permits
Structure Movement Permit	\$95
Demolition Permit (Including ROW Permit)	\$150
Right of Way Permit (Residential)	\$100
Right of Way Permit (Commercial and/or Road Break)	\$250+review/inspection escrow
Home Occupation Permit	\$95
Variance Review	\$250 per variance
Zoning Board of Appeals: Petitioned Interpretation Review	\$150
Zoning Board of Appeals: Appeal Review	\$250
Lot Split/Combination: City Ordinance Section 16.2	\$150 plus \$5.00 per lot
Public or Private Road Plan Reviews	\$400 per mile/fraction
Consulting Fees	Actual consultant costs
Zoning Code	\$10 CD, \$25 Paper Copy
Engineering Standards Manual	\$10 CD, \$25 Paper Copy
Medical Marijuana Dispensary/Facility Review	\$500
  
- C. Subdivision Review

Preliminary Subdivision Review-Tentative	\$300 plus \$5.35 per lot
Preliminary Subdivision Review- Final	\$160 plus \$2.70 per lot
Final Plat Review	\$160 plus \$1.00 per lot

**19. Chapter 1: Municipal Civil Infraction Fines**  
Civic Infraction Citation Fines:

First Offense	\$100
Second Offense	\$200
Third Offense	\$300

Civic Infraction Notice Fines:

First Offense	\$75
Second Offense	\$150
Third Offense	\$250

**20. Rental Inspection Program Fees**

Registration	\$75 for the first unit, plus \$20 for each additional unit on a shared premises, with common ownership and management, or within recognized apartment complexes
Follow up inspections	The initial and one follow-up inspection will be performed without additional fees. Subsequent inspections shall be charged at the rate of \$25/unit
Registration Updates/Amendments Coverage	No charge The initial fee covers the registration and first inspection and is valid until the resulting certificate of compliance expires
Pro-ration	There shall be no pro-ration of fees

ADOPTION & REVISION HISTORY:

Resolution No. 050711-07	Dated July 11, 2005
Resolution No. 100208-06	Dated February 8, 2010
Resolution No. 101206-04	Dated December 6, 2010 (Water-Sewer-RTS)
Resolution No. 111114-05	Dated November 14, 2011 (Park Fees)
Resolution No. 110613-07	Dated June 13, 2011 (Water Fees)
Resolution No. 120611-05	Dated June 11, 2012 (Water Fees)
Resolution No. 120709-05	Dated July 9, 2012 (Bulk Water Fees)
Resolution No. 130610-09	Dated June 10, 2013 (Water Fees)
Resolution No. 130826-06	Dated August 26, 2013 (K.W.A. Water Fees)
Resolution No. 140922-07	Dated September 22, 2014 (Utility and MMD Fees)
Resolution No. 150824-05	Dated August 24, 2015 (FOIA, Rentals, Utility Fees)
Resolution No. 151214-05	Dated December 14, 2015 (Parking)
Resolution No. 160523-05	Dated May 23, 2016 (Water and Sewer)
Resolution No. 160808-04	Dated August 8, 2016 (Solicitation)
Resolution No. 171023-07	Dated October 23, 2017 (Building; Police Removal)
Resolution No. 180312-06	Dated March 12, 2018 (Building Penalty)
Resolution No. 181126-07	Dated November 26, 2018 (Parking)
Resolution No. 190325-09	Dated March 25, 2019 (Water)
Resolution No. 201109-06	Dated November 9, 2020 (Water Increase-CCCP)
Resolution No. 210927-	Dated November 9, 2020 (ROW & Officer Wages)

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8E                      RESOLUTION TO APPROVE A 5K FOOT RACE**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, a community member is planning a charity race on city streets and sidewalks that will occur at 8:30am on October 23, 2021; and

**WHEREAS**, the race has been reviewed by the Chief of Police and the DPW Director, and it has been determined that no streets require closing, with runners having available sidewalk and park space to utilize.

**NOW, THEREFORE BE IT RESOLVED** that the City of Swartz Creek hereby approves the 5K foot race event, contingent upon the participation of private land owners noted on the map, and finds that the application for a street usage permit is not necessary.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

\*\*\*\*\***Master Resolution**\*\*\*\*\*

**Resolution No. 210927-8F**

**RESOLUTION TO APPROVE A FESTIVAL PERMIT FOR THE SWARTZ CREEK CHAMBER OF COMMERCE, JEEPERS CREEKERS, EVENTS IN OCTOBER OF 2021**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, Swartz Creek Chamber of Commerce organization is a recognized charitable entity that operates in Swartz Creek; and

**WHEREAS**, the SCCC is seeking permits and approvals to operate an annual festival on private and public grounds within the city, including a parade, live music, foot race, market, food service, a movie, and numerous other activities; and

**WHEREAS**, the City Council finds the SCCC organization and the event to be beneficial to the public and in good standing; and

**WHEREAS**, the 20.01.G of Appendix A of the City Code of Ordinances provides for conditions of approval for a festival within the city, provided that the duration is less than 10 days, the operator is a charitable entity, and city council approval is required.

**NOW, THEREFORE BE IT RESOLVED** that the City of Swartz Creek hereby approves Resolutions/Motions 210927-8F1 through 210927-8F3, allowing for the various permits related to the annual Swartz Creek Jeepers Creekers festival, to be held on Saturday, October 9, 2021, inclusive of all stipulations and conditions as specified and listed within, including the provision of valid insurance that lists the City of Swartz Creek as an additionally insured party for all events.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

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**Resolution No. 210927-8F1      JEEPERS CREEKERS, STREET FESTIVAL, GENERAL STREET & PROPERTY USE PERMITS**

**I Move** the City of Swartz Creek approve and authorize the Swartz Creek Chamber of Commerce’s application for street closing and City property use permits for the following locations:

1. 5012 Holland Drive
2. Miller Road (Morrish to Hayes)
3. Holland between Miller and Ingalls

Street and City property use subject to the following stipulations:

1. Insurance certificate naming the City as insured in the amount not less than \$1,000,000.00 (One-Million Dollars)
2. Sufficient number of portable bathrooms placed and located, and litter control program in accordance and under the approval of Director of Community Services.
3. Approval by the Chief of Police. Traffic control and pedestrian safety plan in accordance with and under the approval of office of Chief of Police.

**Resolution No. 210927-8F2      JEEPERS CREEKERS, STREET USAGE PERMIT**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Chamber of Commerce’s application for street closing / usage permit for Saturday, October 9, 2019 from 8:00 a.m. until 9:00 p.m. for purposes of conducting a festival, including market vendors and an outdoor movie, on Holland Drive and in Holland Square under the following stipulations:

1. Insurance certificate naming the City as an additional insured party in the amount not less than \$1,000,000.00 (One Million Dollars).
2. General approval, and under the direction and control of the Office of the Chief of Police.

**Resolution No. 210927-8F3      JEEPERS CREEKERS, STREET USAGE PERMIT**

**I Move** the Swartz Creek City Council approve and authorize the Swartz Creek Chamber of Commerce’s application for street closing / usage permit for Saturday, October 9, 2021 from 3:00 p.m. until 9:00 p.m. for purposes of conducting a festival on Miller Road (Morrish to Hayes), Holland Drive, and in Holland Square under the following stipulations:

1. Insurance certificate naming the City as an additional insured party in the amount not less than \$1,000,000.00 (One Million Dollars).
2. General approval, and under the direction and control of the Office of the Chief of Police.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8G**

**RESOLUTION TO APPROVE THE DISPOSAL OF FIXED ASSETS**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the city owns, operates, and maintains vehicles and equipment related to the services it provides; and,

**WHEREAS**, the city maintains an asset disposal policy and fixed asset schedule by which it tracks depreciation, value, and ownership of durable assets; and,

**WHEREAS**, the city is replacing certain vehicles with new equipment and desires to sell the existing equipment.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City of Swartz Creek approves the sale of the following assets:

- 1999 GMC Dump Truck #11; VIN 1GDKC34J9XF022179
- 1989 Ford Truck with Bucket; VIN 1F3767ECA1923H0300

**BE IT FURTHER RESOLVED THAT** the City of Swartz Creek authorizes the DPW Director to sell said equipment via auction, sealed bids, or direct advertising as he best sees fit and for the Treasurer to account for the disposal of the asset and accounting of related revenues.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-8H**

**RESOLUTION TO APPROVE A PURCHASE AGREEMENT ADDENDUM AND LEASE FOR THE SALE OF REAL PROPERTY OWNED BY THE CITY**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the city owns a single family home located at 8067 Miller Road, PID 58-02-529-021; and

**WHEREAS**, after acquiring an easement for public use from the site, the community has been engaged in finding a preferred option for the permanent use of this parcel; and

**WHEREAS**, the city's various boards and commissions have found that the rehabilitation of the home for use as a single family residence or live-work space is the preferred option; and

**WHEREAS**, the city has rehabilitated the home and listed it for sale; and

**WHEREAS**, a buyer has made an offer to purchase the home for the price of \$192,500, with a closing date of September 15, 2021.

**WHEREAS**, the city council approved the offer at its meeting on July 26, 2021 and affirmed the offer on September 13, 2021;

**WHEREAS**, the property appraised below the agreed purchase price with two separate appraisals; and

**WHEREAS**, the buyer wishes to amend the purchase price to \$185,000 and lease the property for \$2,000 a month until closing, at or around October 28, 2021; and

**WHEREAS**, a buyer has made an offer to purchase the home for the price of \$192,500, with a closing date of September 15, 2021; and

**WHEREAS**, the city finds this to be the most prudent course of action given the existing appraisals and the cost to carry the home as a vacant structure.

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council authorizes the City Manager, in consultation with the city attorney, to complete and execute the purchase agreement addendum as included in the September 27, 2021 city council packet.

**BE IT FURTHER RESOLVED**, the sale instrument shall be made available to the general public, for a period of not less than 30 days, in accordance with the City's Land Sale Policy of April 28, 2014.

**BE IT FURTHER RESOLVED**, the purchase agreement shall be reviewed by the city council subsequent to the review period.

**BE IT FURTHER RESOLVED**, the City of Swartz Creek City Council designates, authorizes, and directs the Mayor to act as signatory and to execute any and all sale and transfer instruments required to transfer the property at closing.

**BE IT FURTHER RESOLVED**, the City of Swartz Creek City Council designates, authorizes, and directs the City Manager to lease the home to the buyers with the following general provisions:

1. Immediate occupancy
2. \$2,000 per month rent
3. Tenant paid utilities and maintenance
4. One month renewable term



**BE IT FURTHER RESOLVED**, the City of Swartz Creek City Council designates, authorizes, and directs the City Manager to as signatory and to execute any and all instruments required for the lease, per the city’s land sale policy of April 28, 2014.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Resolution No. 210927-81**

**RESOLUTION TO ADOPT AN ORDINANCE 455, AN ORDINANCE TO AMEND THE PURCHASING ORDINANCE OF THE CITY**

Motion by Councilmember: \_\_\_\_\_

**WHEREAS**, the city maintains a purchasing policy to ensure efficiency in spending of public dollars, transparency in purchasing choices, accountability of staff and council, and a degree of administrative autonomy related to timely actions; and

**WHEREAS**, periodic review of the ordinance to review purchasing thresholds is required to ensure the impacts of inflation are accounted for.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

**CITY OF SWARTZ CREEK  
ORDINANCE NO. 455**

An ordinance to amend the Code of Ordinances Section 2-402 to remove and replaced certain sections related to purchasing requirements

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Removal and replacement of Section 2-402 (a) of the Code of Ordinances.

The City hereby removes Section 2-402 (a) from the Code of Ordinances and replaces it with the following:

(a) It is the intent of this policy to provide for competitive pricing involved in all purchases and contracts, except as specifically provided for in this division. The purchasing agent shall prepare rules concerning purchasing for the city.

(1) Transactions less than \$7,500.00. The purchasing agent, subject to budgetary appropriations, is authorized to make purchases of materials and equipment and contract for labor or materials in an amount not to exceed \$7,500.00, without further approval of the city council.

Except for those situations requiring the need for sealed *bids*, the purchasing agent, shall consider all circumstances surrounding the purchase to be made or the service to be provided. If it is in the best

interest of the city, the purchasing agent shall deal with sources within the city.

a. Quotations. The purchasing agent shall secure or cause to be secured quotations from no less than two sources in all transactions involving expenditures of \$3,000.00 or more and less than \$7,500.00. The purchasing agent shall maintain a written record of the quotations received.

b. Other. Transactions involving expenditures less than \$3,000.00 may be authorized by the purchasing agent in such manner and from such source as the purchasing agent may determine.

(2) Transactions of \$7,500.00 or more. The purchasing agent shall secure sealed *bids* in all transactions involving an expenditure of \$7,500.00 or more.

a. Sealed *bids* shall not be required in the following instances:

1. Where the subject of the purchase or contract is other than a public work or improvement and the product or material to be transacted for is not competitive in nature, provided that in no instance shall such product or material be transacted for without prior council approval.

2. The city council may, at the request of the city manager, authorize the city manager to negotiate a contract for the purchase of any product, material or service with a provider of such product, material or service without regard to the requirements of this section relative to purchases where the city council finds:

i. Due to circumstances beyond the control of the city, the market for such product, material or service is not competitive even though such product, material or service is normally competitive in nature; and

ii. The economic interests of the city are best served by negotiating a contract with a provider of the product, material or service without requesting sealed *bids*.

3. In the employment of professional services, provided that in no instance shall such professional service be contracted for without prior council approval.

4. If the city elects to use city personnel.

Section 2. Effective date.

This Ordinance shall take effect thirty (30) days following publication.

Second by Planning Commission Member: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**Motion No. 210927-11A**

**ADJOURN**

Motion by Councilmember: \_\_\_\_\_

**I Move** the Swartz Creek City Council adjourn the regular council meeting of September 27, 2021.

Second by Councilmember: \_\_\_\_\_

Voting For: \_\_\_\_\_

Voting Against: \_\_\_\_\_

**CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
MINUTES OF THE REGULAR COUNCIL MEETING  
DATE 9/13/2021**

The meeting was called to order at 7:01 p.m. by Mayor Krueger in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Invocation and Pledge of Allegiance.

Councilmembers Present: Fountain, Florence, Gilbert, Hicks, Krueger, Pinkston, Henry.

Councilmembers Absent: None.

Staff Present: City Manager Adam Zettel, Clerk Connie Olger.

Others Present: Lania Rocha, Erik Jamison, Dennis Cramer, Lt. Todd Johnson.

**APPROVAL OF MINUTES**

**Resolution No. 210913-01**

**(Carried)**

Motion by Councilmember Florence  
Second by Councilmember Gilbert

**I Move** the Swartz Creek City Council approve the Minutes of the Regular Council Meeting held Monday August 23, 2021 to be circulated and placed on file.

YES Florence, Gilbert, Hicks, Krueger, Pinkston, Henry, Fountain.  
NO: None. Motion Declared Carried.

**APPROVAL OF AGENDA**

**Resolution No. 210913-02**

**(Carried)**

Motion by Councilmember Henry  
Second by Councilmember Fountain

**I Move** the Swartz Creek City Council approve the Agenda as, printed for the Regular Council Meeting of September 13, 2021, to be circulated and placed on file.

YES: Gilbert, Hicks, Krueger, Pinkston, Henry, Fountain, Florence.  
NO: None. Motion Declared Carried.

## **CITY MANAGER'S REPORT**

**Resolution No. 210913-03**

**(Carried)**

Motion by Councilmember Fountain  
Second by Councilmember Florence

**I Move** the Swartz Creek City Council accept the City Manager's Report of September 13, 2021, including reports and communications to be circulated and placed on file.

Discussion Ensued.

YES: Hicks, Krueger, Pinkston, Henry, Fountain, Florence, Gilbert.  
NO: None. Motion Declared Carried.

### **MEETING OPENED TO THE PUBLIC:**

Dennis Cramer 5299 Worchester Drive, no new updates from the census bureau. Councilmember Henry thanked Mr. Cramer for his help on the 9/11 tribute.

### **COUNCIL BUSINESS:**

#### **RESOLUTION TO APPROVE THE PARK WAIVER REQUEST OF THE GFWC SWARTZ CREEK WOMENS CLUB**

**Resolution No. 210913-04**

**(Carried)**

Motion by Mayor Pro Tem Hicks  
Second by Councilmember Gilbert

**WHEREAS**, the City of Swartz Creek requires park usage reservations and fees in accordance with adopted rules and regulations; and

**WHEREAS**, the GFWC Swartz Creek Women's Club reserved Pavilion #2 in Elms Park for September 26, 2021 for the purpose of holding an annual meeting; and

**WHEREAS**, the city park rules and regulations states that "fees may be waived in full if reservations by a non-profit are found to result in a public benefit directly or if proceeds from the reserved event are found to be a benefit to the city."; and

**WHEREAS**, the City Council finds the petitioning group to be a qualifying group with a qualifying activity.

**NOW, THEREFORE, BE IT RESOLVED**, the Swartz Creek City Council hereby waives all fees for the September 26, 2021 reservation in Elms Park.

Discussion Ensued.

YES: Krueger, Pinkston, Henry, Fountain, Florence, Gilbert.

Abstain: Hicks.

NO: None. Motion Declared Carried.

**RESOLUTION TO APPROVE A PARADE PERMIT FOR THE SWARTZ CREEK COMMUNITY SCHOOLS HOMECOMING PARADE ON SEPTEMBER 24, 2021**

**Resolution No. 210913-05**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Pinkston

**WHEREAS**, the City of Swartz Creek owns, operates, and maintains a network of major and local streets; and

**WHEREAS**, the streets, upon the finding of a public benefit and no unreasonable hardship, may be permitted for closure from time to time as permitted by the city council; and

**WHEREAS**, the Swartz Creek Community Schools seeks a street closure permit for the annual Homecoming Parade, to commence at 5:00 p.m. on Friday, September 24, 2021; and

**WHEREAS**, the city council, following the recommendation of the police authority, finds that the application, including insurance, is complete and that this event offers a public benefit without imposing an unreasonable hardship.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Swartz Creek approves the application of the Swartz Creek Community Schools to conduct their annual High School Homecoming Parade on Friday, September 24, 2021 from 4:45 pm to 6:30 pm. Parade route as follows:

Crapo/Maple, Eastbound to Morrish  
Morrish, Northbound to Miller  
Miller, Westbound to PAC  
PAC to High School

Under the direction and control of the Chief of Police (or designee) and in accordance with the stipulations and conditions set forth in the permit and application, including the provision of proper insurance.

Discussion Ensued.

YES: Pinkston, Henry, Fountain, Florence, Gilbert, Hicks, Krueger.

NO: None. Motion Declared Carried.

**RESOLUTION TO AFFIRM THE SALE OF REAL PROPERTY OWNED BY THE CITY  
AT 8067 MILLER ROAD**

**Resolution No. 210913-06**

**(Carried)**

Motion by Councilmember Pinkston

Second by Councilmember Florence

**WHEREAS**, the city owns a single family home located at 8067 Miller Road, PID 58-02-529-021; and

**WHEREAS**, after acquiring an easement for public use from the site, the community has been engaged in finding a preferred option for the permanent use of this parcel; and

**WHEREAS**, the city's various boards and commissions have found that the rehabilitation of the home for use as a single family residence or live-work space is the preferred option; and

**WHEREAS**, the city has rehabilitated the home and listed it for sale; and

**WHEREAS**, a buyer has made an offer to purchase the home for the price of \$192,500, with a closing date of September 15, 2021; and

**WHEREAS**, the city council agreed to sell the house as proposed, conditioned upon the affirmation of the sale after the expiration of a 30 day public inspection period; and

**WHEREAS**, the public inspection period has expired, with no comments received.

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council affirms the sale and authorizes the Mayor, in consultation with the city attorney, to complete and execute the sale and closing of 8067 Miller Road.

**BE IT FURTHER RESOLVED**, the City of Swartz Creek City Council designates, authorizes, and directs the Mayor to act as signatory and to execute any and all sale and transfer instruments required to transfer the property at closing.

Discussion Ensued.

YES: Henry, Fountain, Florence, Gilbert, Hicks, Krueger, Pinkston.

NO: None. Motion Declared Carried.

**RESOLUTION TO APPROVE AN AGREEMENT WITH THE MEDC TO PERFORM SPECIFIC PLANNING SERVICES AND TO MEET CONDITIONS OF A \$30,000 GRANT**

**Resolution No. 210913-07**

**(Carried)**

Motion by Councilmember Fountain  
Second by Councilmember Florence

**WHEREAS**, the Michigan Planning Enabling Act (P.A. 33 of 2008) requires cities to create and update a Master Plan every five years; and

**WHEREAS**, the City is currently updating its master plan, including notable additions to expand upon the downtown plan; and

**WHEREAS**, the City, as a Redevelopment Ready Community, has been awarded \$30,000 by the MEDC towards technical assistance for professional consulting services related to the master plan; and

**WHEREAS**, the City and the MEDC utilize CIB Planning to analyze, update, and improve the city's plans, zoning ordinance, and policies; and

**WHEREAS**, the MEDC requires a city commitment to match the \$30,000 grant and for the city to perform reporting and related services as noted in the attached Michigan Economic Development Corporation Grant With the City of Swartz Creek (case 33046).

**NOW, THEREFORE, BE IT RESOLVED**, the City of Swartz Creek City Council hereby approves said agreement.

**BE IT FURTHER RESOLVED**, the city council authorizes and directs the City Manager to execute the agreement on behalf of the city.

Discussion Ensued.

YES: Fountain, Florence, Gilbert, Hicks, Krueger, Pinkston, Henry.  
NO: None. Motion Declared Carried.

**RESOLUTION TO APPROVE A TEMPORARY ALLEY USAGE/CLOSURE PERMIT FOR THE ALLEY NORTH OF AND ADJACENT TO 8006, 8010, 8012, 8014 MILLER ROAD**

**Resolution No. 210913-08**

**(Amended)**



Motion by Councilmember Henry  
Second by Councilmember Fountain

**WHEREAS**, the City of Swartz Creek enables closure and use of its public streets, plazas, and alleys upon application by a petitioner and approval by the city council; and

**WHEREAS**, the COVID pandemic has had a profound and dynamic impact on the community, including hospitality businesses that cannot provide in-person service, greatly jeopardizing the abilities of these businesses and property owners that rely on this industry; and

**WHEREAS**, grants were made available to enable outdoor dining, including winter service, for those business that can pursue this as an option; and

**WHEREAS**, the owner of 8006, 8010, 8012, and 8014 Miller Road houses two restaurant businesses that are immediately south of and adjacent to the city's public alley; and

**WHEREAS**, this alley is the only accessible space in which to safely accommodate outdoor service for Jamison's as well as JT's; and

**WHEREAS**, temporary use of this alley has been granted by the city council for the purposes of outdoor dining at this location, but such use and access has expired; and

**WHEREAS**, public utilities, including water and storm water, exist in the subsurface of the ally; and

**WHEREAS**, comments received by the public indicate that the blockage of the east access to 8002 Miller Road is problematic.

**NOW, THEREFORE BE IT RESOLVED** that the City of Swartz Creek hereby authorizes closure and private use, including routine maintenance (waste removal, snow removal, and general safety) of the city alley north of and adjacent to 8002, 8010, 8012, and 8014 Miller Road for the purpose of food service, including alcohol sales, inclusive of all stipulations and conditions as specified and listed within the permit dated August 18, 2021, including the provision of valid insurance that lists the City of Swartz Creek as an additionally insured party for all activities.

**BE IT FURTHER RESOLVED** that the closure and use of said alley shall commence immediately and be valid for 180 days.

~~**BE IT FURTHER RESOLVED** that the closure and use of said alley is conditioned upon the installation of a gate on the east fence to enable access to 8002 Miller Road, as approved by the building official, within 30 days.~~

**BE IT FURTHER RESOLVED** that the closure and use of said alley is conditioned upon the retention of the city's access rights to operate and maintain all public utilities, systems, and appurtenances on and underneath the alley surface.

**BE IT FURTHER RESOLVED** that, as a condition of the permit, the city shall not be responsible for any private, personal property that may be damaged within the alley confines for any reason, including deliberate action by the city to access surface or subsurface utilities.

**(Carried)**

Motion by Councilmember Fountain  
Second by Mayor Pro Tem Hicks

**I Move** to amend the motion by striking out:

**BE IT FURTHER RESOLVED** that the closure and use of said alley is conditioned upon the installation of a gate on the east fence to enable access to 8002 Miller Road, as approved by the building official, within 30 days.

YES: Gilbert, Hicks, Krueger, Pinkston, Henry, Fountain, Florence.  
NO: None. Motion Declared Carried.

YES: Florence, Gilbert, Hicks, Krueger, Pinkston, Henry, Fountain.  
NO: None. Motion Declared Carried.

**A RESOLUTION TO AUTHORIZE A FAIR MARKET VALUE OFFER TO 5075 BRADY STREET FOR A PERMANENT EASEMENT TO CONSTRUCT, OPERATE AND MAINTAIN THE SAFE ROUTES TO SCHOOL PATH**

**Resolution No. 210913-09**

**(Carried)**

Motion by Councilmember Florence  
Second by Councilmember Henry

**WHEREAS**, the City of Swartz Creek has formally planned for, acquired funds for, and intends to construct an extension of the Genesee Valley Regional Trail as well as connected Safe Routes to School laterals, and

**WHEREAS**, the trail is a high priority regional asset that functions as an integral part of a non-motorized transportation network, as well as a recreational asset, and

**WHEREAS**, the trail extension will provide value for public use for walkers, bikers, joggers, and other users by providing a direct health and recreational benefit and by providing access to non-motorized travel between key destinations, and

**WHEREAS**, MDOT standards for construction require a substantial and ridged footprint to accommodate the 10 foot wide path and accompanying shoulders, and

**WHEREAS**, some sections of the path lack the proper right-of-way to accommodate the path, and

**WHEREAS**, some permanent easements have not yet been acquired through donation or good faith offers acquisition, and

**WHEREAS**, the city has been working with said property owners to negotiate a market transaction for permanent easement rights.

**WHEREAS**, the owner of 5075 Brady Street is agreeable to provide the easement for the sum of \$5,000, a sum that staff finds reasonable.

**THEREFORE, BE IT RESOLVED** that the City of Swartz Creek authorizes and directs the city manager to sign and execute permanent easement as included in the city council packet of September 13, 2021.

**BE IT FURTHER RESOLVED** that the city shall issue payment directly to the property owners at the time of easement execution, as directed by the city attorney.

YES: Hicks, Krueger, Pinkston, Henry, Fountain, Florence, Gilbert.  
NO: None. Motion Declared Carried.

**RESOLUTION TO ADOPT AN ORDINANCE 454, AN ORDINANCE TO REGULATE BASEMENT PROVISIONS AND DESIGN**

**Resolution No. 210913-10**

**(Carried)**

Motion by Mayor Pro Tem Hicks  
Second by Councilmember Henry

**WHEREAS**, the Public Act 110 of 2006, the Michigan Zoning Enabling Act, enables cities to regulate land use through the creation and enforcement of zoning maps and regulations, and

**WHEREAS**, the city, in pursuing certification as a Redevelopment Ready Community, performed a zoning audit that revealed the need for incremental changes to the zoning ordinance and;

**WHEREAS**, the planning commission, with the assistance of staff, and input by the public, reviewed specific changes to the zoning ordinance at their regular meeting on September 7, 2021, and;

**WHEREAS**, the planning commission, at a public hearing at their meeting on September 7, 2021 and in reviewing the criteria in Zoning Ordinance Section 31.04, found the proposed zoning ordinance amendments to be in the best interest of the public and recommended approval to the city council.

**THEREFORE, I MOVE** the City of Swartz Creek ordains:

**CITY OF SWARTZ CREEK  
ORDINANCE NO. 454**

An ordinance to amend the Code of Ordinances: Zoning Appendix A to remove and replace certain sections, add new section for Conditional Uses, and sequence the code to reflect a new numbering configuration

THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Removal and replacement of Articles from Appendix A of the Code of Ordinances.

The City hereby removes Article 13.03.B.1 from the Code of Ordinances of Appendix and and replaces it with the following:

All building permit applications for new one-family and two-family housing development must be submitted to the zoning administrator for approval.

Section 2. Addition of Zoning Appendix A Section 13.03.C.4: Basements.

The City hereby amends the code of ordinances to include a new Section 13.03.C.4, Basements, to the Zoning Appendix A of the Code of Ordinances to read as follows:

That the structure shall be firmly attached to a permanent basement foundation constructed on the site in accordance with the City Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material and type as required in the applicable building code for single-family and two-family dwellings. In the event that the dwelling is a mobile home, modular home, or pre- constructed home, then such dwelling shall be installed pursuant to the manufacturer’s setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.

Section 3. Effective date.

This Ordinance shall take effect thirty (30) days following publication.

YES: Krueger, Pinkston, Henry, Fountain, Florence, Gilbert, Hicks.

NO: None. Motion Declared Carried.

**RESOLUTION TO AFFIRM COMMISSION APPOINTMENT**

**Resolution No. 210913-11**

**(Carried)**

Motion by Councilmember Pinkston  
Second by Councilmember Fountain

**WHEREAS**, the laws of the State of Michigan, the Charter and Ordinances of the City of Swartz Creek, interlocal agreements in which the City of Swartz Creek is a member, and previous resolutions of the city council require and set terms of offices for various appointments to city boards and commissions, as well as appointments to non-city boards and commissions seeking representation by city officials; and

**WHEREAS**, there exists a vacancy for such a position; and

**WHEREAS**, said appointment is a Mayoral appointment subject to affirmation of the city council.

**NOW, THEREFORE, BE IT RESOLVED**, the Swartz Creek City Council concur with the Mayor and City Council appointment as follows:

#210913-8H1 **MAYOR APPOINTMENT:** **Jason Keene**  
Downtown Development Authority, Property Interest  
Remainder of four year term, expiring March 31, 2022

YES: Pinkston, Henry, Fountain, Florence Gilbert, Hicks, Krueger.

NO: None. Motion Declared Carried.

**MEETING OPENED TO THE PUBLIC:**

Erik Jamison reminded everyone that Jeepers Creekers event is happening October 9, 2021. The day starts off with costume fun run with a cottage market in Holland Square during the day. Then Trunk or Treat and a movie to finish off the day of events.

**REMARKS BY COUNCILMEMBERS:**

Mayor Pro Tem Hicks commented of the demonstration at entrance of High School and she was concerned when they were going onto Miller Road.

Councilmember Gilbert spoke of the dentist office building on Morrish Road and the market they have there.

Councilmember Pinkston saw a yellow golf cart on Seymour Road.

Mayor Krueger commented on Autumn coming soon.

Councilmember Henry informed everyone that there is going to be a special planning commission meeting Tuesday, September 14, 2021 @ 7p.m. here at city hall.

## **ADJOURNMENT**

**Resolution No. 210913-12**

**(Carried)**

Motion by Councilmember Gilbert  
Second by Councilmember Henry

**I Move** the Swartz Creek City Council adjourn the regular meeting of September 13, 2021 at 8:12 p.m.

Unanimous Voice Vote.

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**David A. Krueger, Mayor**

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**Connie Olger, City Clerk**

REVENUE AND EXPENDITURE REPORT FOR CITY OF SWARTZ CREEK  
PERIOD ENDING 08/31/2021

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
<b>Fund 101 - General Fund</b>					
<b>Revenue</b>					
000.000 - General	2,374,764.00	2,374,764.00	1,597,967.44	776,796.56	67.29
172.000 - Executive	0.00	0.00	9,350.00	(9,350.00)	100.00
215.000 - Administration and Clerk	30.00	30.00	0.00	30.00	0.00
301.000 - Police Dept	4,250.00	4,250.00	6,169.20	(1,919.20)	145.16
345.000 - PUBLIC SAFETY BUILDING	26,500.00	26,500.00	997.82	25,502.18	3.77
371.000 - Building/Zoning/Planning	54,950.00	54,950.00	21,080.75	33,869.25	38.36
410.000 - Building & Zoning & Planning	0.00	0.00	135.00	(135.00)	100.00
444.000 - Sidewalks	1,500.00	1,500.00	0.00	1,500.00	0.00
448.000 - Lighting	9,221.52	9,221.52	1,286.92	7,934.60	13.96
523.000 - Grass, Brush & Weeds	4,000.00	4,000.00	1,715.00	2,285.00	42.88
694.000 - Community Development Block Grant	37,822.50	37,822.50	0.00	37,822.50	0.00
728.005 - Holland Square Streetscape	40,000.00	40,000.00	40,000.00	0.00	100.00
780.500 - Mundy Twp Park Services	17,000.00	17,000.00	1,732.05	15,267.95	10.19
782.000 - Facilities - Abrams Park	140.00	140.00	0.00	140.00	0.00
783.000 - Facilities - Elms Rd Park	6,500.00	6,500.00	1,740.00	4,760.00	26.77
786.000 - Non-Motorized Trailway	813,500.00	813,500.00	0.00	813,500.00	0.00
790.000 - Facilities-Senior Center/Libr	5,300.00	5,300.00	510.45	4,789.55	9.63
<b>TOTAL REVENUES</b>	<b>3,395,478.02</b>	<b>3,395,478.02</b>	<b>1,682,684.63</b>	<b>1,712,793.39</b>	
<b>Expense</b>					
000.000 - General	13,520.00	13,520.00	2,253.10	11,266.90	16.66
101.000 - Council	25,448.50	25,269.07	6,978.37	18,290.70	27.62

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
172.000 - Executive	114,594.96	135,163.40	29,035.74	106,127.66	21.48
215.000 - Administration and Clerk	30,870.00	30,870.00	4,087.87	26,782.13	13.24
228.000 - Information Technology	17,000.00	17,000.00	7,415.97	9,584.03	43.62
247.000 - Board of Review	2,520.00	2,520.00	242.22	2,277.78	9.61
253.000 - Treasurer	100,265.60	100,265.60	19,501.38	80,764.22	19.45
257.000 - Assessor	45,016.00	45,016.00	5,965.40	39,050.60	13.25
262.000 - Elections	36,122.00	36,122.00	1,837.24	34,284.76	5.09
265.000 - Facilities - City Hall	26,150.76	26,099.76	413.36	25,686.40	1.58
266.000 - Legal Council	18,000.00	18,000.00	1,554.00	16,446.00	8.63
301.000 - Police Dept	7,900.00	7,951.00	3,925.30	4,025.70	49.37
301.266 - Legal Council PSFY	17,000.00	17,000.00	1,386.00	15,614.00	8.15
301.851 - Retiree Employer Health Care PSFY	21,000.00	21,000.00	2,081.27	18,918.73	9.91
334.000 - Metro Police Authority	1,060,000.00	1,060,000.00	267,334.00	792,666.00	25.22
336.000 - Fire Department	160,634.00	170,784.00	61,775.66	109,008.34	36.17
345.000 - PUBLIC SAFETY BUILDING	34,932.96	34,593.46	7,042.93	27,550.53	20.36
371.000 - Building/Zoning/Planning	138,690.12	148,690.12	631.56	148,058.56	0.42
410.000 - Building & Zoning & Planning	0.00	0.00	4,420.06	(4,420.06)	100.00
444.000 - Sidewalks	1,200.00	1,200.00	0.00	1,200.00	0.00
448.000 - Lighting	106,000.00	106,000.00	8,719.63	97,280.37	8.23
523.000 - Grass, Brush & Weeds	1,200.00	1,200.00	780.00	420.00	65.00
567.000 - Facilities - Cemetery	2,083.16	2,083.16	260.00	1,823.16	12.48
694.000 - Community Development Block Grant	39,832.50	39,832.50	0.00	39,832.50	0.00
728.000 - Economic Development	350.00	350.00	300.00	50.00	85.71



GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
780.500 - Mundy Twp Park Services	7,483.00	7,483.00	2,184.71	5,298.29	29.20
781.000 - Facilities - Pajtas Amphitheat	2,705.00	2,705.00	3,077.72	(372.72)	113.78
782.000 - Facilities - Abrams Park	37,830.05	37,830.05	3,280.59	34,549.46	8.67
783.000 - Facilities - Elms Rd Park	83,812.94	83,812.94	10,846.04	72,966.90	12.94
784.000 - Facilities - Bicentennial Park	2,194.00	2,194.00	198.82	1,995.18	9.06
786.000 - Non-Motorized Trailway	824,200.00	824,200.00	587.06	823,612.94	0.07
787.000 - Veterans Memorial Park	3,045.90	3,045.90	674.29	2,371.61	22.14
788.000 - Otterburn Disc Golf Park	10,000.00	10,000.00	0.00	10,000.00	0.00
790.000 - Facilities-Senior Center/Libr	32,340.34	32,200.00	5,192.36	27,007.64	16.13
793.000 - Facilities - City Hall	0.00	0.00	2,512.55	(2,512.55)	100.00
794.000 - Community Promotions Program	48,244.20	48,244.20	6,956.66	41,287.54	14.42
796.000 - Facilities - Cemetery	0.00	0.00	53.33	(53.33)	100.00
797.000 - Facilities - City Parking Lots	6,800.00	6,800.00	165.27	6,634.73	2.43
851.000 - Retired Employee Health Care	21,000.00	21,000.00	1,520.62	19,479.38	7.24
965.000 - Transfers Out	250,000.00	250,000.00	250,000.00	0.00	100.00
<b>TOTAL EXPENDITURES</b>	<b>3,349,985.99</b>	<b>3,390,045.16</b>	<b>725,191.08</b>	<b>2,664,854.08</b>	
<b>Fund 101 - General Fund:</b>					
TOTAL REVENUES	3,395,478.02	3,395,478.02	1,682,684.63	1,712,793.39	49.56
TOTAL EXPENDITURES	3,349,985.99	3,390,045.16	725,191.08	2,664,854.08	21.39
<b>NET OF REVENUES &amp; EXPENDITURES</b>	<b>45,492.03</b>	<b>5,432.86</b>	<b>957,493.55</b>	<b>(952,060.69)</b>	
<b>Fund 202 - Major Street Fund</b>					
<b>Revenue</b>					
000.000 - General	525,080.00	525,080.00	9.39	525,070.61	0.00
441.000 - Miller Rd Park & Ride	5,000.00	5,000.00	0.00	5,000.00	0.00
478.000 - Snow & Ice Removal	2,100.00	2,100.00	0.00	2,100.00	0.00
931.000 - Transfers IN	575,000.00	575,000.00	175,000.00	400,000.00	30.43

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
TOTAL REVENUES	1,107,180.00	1,107,180.00	175,009.39	932,170.61	
<b>Expense</b>					
228.000 - Information Technology	1,225.00	1,225.00	403.00	822.00	32.90
441.000 - Miller Rd Park & Ride	6,126.15	6,126.15	496.99	5,629.16	8.11
449.500 - Right of Way - General	15,000.00	15,000.00	0.00	15,000.00	0.00
449.501 - Right of Way - Storms	25,000.00	25,000.00	0.00	25,000.00	0.00
452.100 - Safe Routes to School Grant	113,200.00	113,200.00	0.00	113,200.00	0.00
454.000 - Major Streets Projects	175,700.00	193,550.00	917.00	192,633.00	0.47
463.000 - Routine Maint - Streets	156,558.87	156,686.67	10,570.48	146,116.19	6.75
463.307 - Oakview - Seymour to Chelmsford	489,192.92	489,192.92	1,791.15	487,401.77	0.37
473.000 - Routine Maint - Bridges	1,500.00	1,500.00	0.00	1,500.00	0.00
474.000 - Traffic Services	59,184.00	59,184.00	5,688.30	53,495.70	9.61
478.000 - Snow & Ice Removal	57,425.00	57,425.00	382.46	57,042.54	0.67
482.000 - Administrative	15,707.00	15,707.00	1,218.07	14,488.93	7.75
538.500 - Intercommunity storm drains	12,500.00	12,500.00	750.00	11,750.00	6.00
TOTAL EXPENDITURES	1,128,318.94	1,146,296.74	22,217.45	1,124,079.29	
Fund 202 - Major Street Fund:					
TOTAL REVENUES	1,107,180.00	1,107,180.00	175,009.39	932,170.61	15.81
TOTAL EXPENDITURES	1,128,318.94	1,146,296.74	22,217.45	1,124,079.29	1.94
NET OF REVENUES & EXPENDITURES	(21,138.94)	(39,116.74)	152,791.94	(191,908.68)	
Fund 203 - Local Street Fund					
<b>Revenue</b>					
000.000 - General	176,535.00	176,535.00	13.44	176,521.56	0.01
449.000 - Right of Way Telecomm	15,000.00	15,000.00	0.00	15,000.00	0.00
478.000 - Snow & Ice Removal	1,400.00	1,400.00	0.00	1,400.00	0.00
931.000 - Transfers IN	100,000.00	100,000.00	0.00	100,000.00	0.00

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
TOTAL REVENUES	292,935.00	292,935.00	13.44	292,921.56	
<b>Expense</b>					
228.000 - Information Technology	1,225.00	1,225.00	403.01	821.99	32.90
429.000 - Occupational Safety	33.53	33.53	0.00	33.53	0.00
449.500 - Right of Way - General	27,500.00	27,500.00	0.00	27,500.00	0.00
449.501 - Right of Way - Storms	1,500.00	1,500.00	0.00	1,500.00	0.00
463.000 - Routine Maint - Streets	283,091.05	283,140.73	8,015.63	275,125.10	2.83
463.107 - Chelmsford - Seymour to Oakview	318,712.17	318,712.17	1,194.09	317,518.08	0.37
474.000 - Traffic Services	18,797.00	18,797.00	922.24	17,874.76	4.91
478.000 - Snow & Ice Removal	42,646.00	42,646.00	348.02	42,297.98	0.82
482.000 - Administrative	18,325.00	18,325.00	913.50	17,411.50	4.98
538.500 - Intercommunity storm drains	10,000.00	10,000.00	750.00	9,250.00	7.50
TOTAL EXPENDITURES	721,829.75	721,879.43	12,546.49	709,332.94	
Fund 203 - Local Street Fund:					
TOTAL REVENUES	292,935.00	292,935.00	13.44	292,921.56	0.00
TOTAL EXPENDITURES	721,829.75	721,879.43	12,546.49	709,332.94	1.74
NET OF REVENUES & EXPENDITURES	(428,894.75)	(428,944.43)	(12,533.05)	(416,411.38)	
Fund 204 - MUNICIPAL STREET FUND					
<b>Revenue</b>					
000.000 - General	663,443.00	663,443.00	681,851.21	(18,408.21)	102.77
TOTAL REVENUES	663,443.00	663,443.00	681,851.21	(18,408.21)	
<b>Expense</b>					
905.000 - Debt Service	169,409.62	169,409.62	320.83	169,088.79	0.19
965.000 - Transfers Out	500,000.00	500,000.00	0.00	500,000.00	0.00
TOTAL EXPENDITURES	669,409.62	669,409.62	320.83	669,088.79	
Fund 204 - MUNICIPAL STREET FUND:					
TOTAL REVENUES	663,443.00	663,443.00	681,851.21	(18,408.21)	102.77
TOTAL EXPENDITURES	669,409.62	669,409.62	320.83	669,088.79	0.05
NET OF REVENUES & EXPENDITURES	(5,966.62)	(5,966.62)	681,530.38	(687,497.00)	

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
<b>Fund 226 - Garbage Fund</b>					
<b>Revenue</b>					
000.000 - General	431,875.00	431,875.00	424,804.51	7,070.49	98.36
TOTAL REVENUES	431,875.00	431,875.00	424,804.51	7,070.49	
<b>Expense</b>					
101.000 - Council	3,903.13	3,903.13	1,443.26	2,459.87	36.98
172.000 - Executive	8,768.24	8,768.24	1,981.34	6,786.90	22.60
215.000 - Administration and Clerk	4,476.00	4,476.00	621.94	3,854.06	13.89
228.000 - Information Technology	1,800.00	1,800.00	851.04	948.96	47.28
253.000 - Treasurer	16,979.60	16,979.60	7,965.89	9,013.71	46.91
257.000 - Assessor	800.00	800.00	0.00	800.00	0.00
265.000 - Facilities - City Hall	4,939.28	4,939.28	216.63	4,722.65	4.39
528.000 - Sanitation Collection	324,932.08	324,932.08	29,572.01	295,360.07	9.10
530.000 - Wood Chipping	55,129.08	55,529.16	7,467.76	48,061.40	13.45
782.000 - Facilities - Abrams Park	7,731.00	7,731.00	1,765.28	5,965.72	22.83
783.000 - Facilities - Elms Rd Park	13,141.00	13,141.00	2,859.24	10,281.76	21.76
793.000 - Facilities - City Hall	0.00	0.00	337.58	(337.58)	100.00
TOTAL EXPENDITURES	442,599.41	442,999.49	55,081.97	387,917.52	
<b>Fund 226 - Garbage Fund:</b>					
TOTAL REVENUES	431,875.00	431,875.00	424,804.51	7,070.49	98.36
TOTAL EXPENDITURES	442,599.41	442,999.49	55,081.97	387,917.52	12.43
NET OF REVENUES & EXPENDITURES	(10,724.41)	(11,124.49)	369,722.54	(380,847.03)	
<b>Fund 248 - Downtown Development Fund</b>					
<b>Revenue</b>					
000.000 - General	88,007.00	88,007.00	36,965.59	51,041.41	42.00
TOTAL REVENUES	88,007.00	88,007.00	36,965.59	51,041.41	
<b>Expense</b>					
173.000 - DDA Administration	2,804.00	2,804.00	2,500.51	303.49	89.18
728.002 - Streetscape	41,945.00	41,945.00	40,000.00	1,945.00	95.36

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
728.003 - Facade Program	12,500.00	12,500.00	0.00	12,500.00	0.00
728.004 - Family Movie Night	5,181.75	5,181.75	1,820.00	3,361.75	35.12
<b>TOTAL EXPENDITURES</b>	<b>62,430.75</b>	<b>62,430.75</b>	<b>44,320.51</b>	<b>18,110.24</b>	
<b>Fund 248 - Downtown Development Fund:</b>					
TOTAL REVENUES	88,007.00	88,007.00	36,965.59	51,041.41	42.00
TOTAL EXPENDITURES	62,430.75	62,430.75	44,320.51	18,110.24	70.99
<b>NET OF REVENUES &amp; EXPENDITURES</b>	<b>25,576.25</b>	<b>25,576.25</b>	<b>(7,354.92)</b>	<b>32,931.17</b>	
<b>Fund 402 - Fire Equip Replacement Fund</b>					
<b>Revenue</b>					
000.000 - General	200.00	200.00	3.00	197.00	1.50
931.000 - Transfers IN	75,000.00	75,000.00	75,000.00	0.00	100.00
<b>TOTAL REVENUES</b>	<b>75,200.00</b>	<b>75,200.00</b>	<b>75,003.00</b>	<b>197.00</b>	
<b>Fund 402 - Fire Equip Replacement Fund:</b>					
TOTAL REVENUES	75,200.00	75,200.00	75,003.00	197.00	99.74
TOTAL EXPENDITURES	0.00	0.00	0.00	0.00	0.00
<b>NET OF REVENUES &amp; EXPENDITURES</b>	<b>75,200.00</b>	<b>75,200.00</b>	<b>75,003.00</b>	<b>197.00</b>	
<b>Fund 590 - Water Supply Fund</b>					
<b>Revenue</b>					
000.000 - General	1,100.00	1,100.00	(283.56)	1,383.56	(25.78)
540.000 - Water System	2,184,700.00	2,184,700.00	7,102.14	2,177,597.86	0.33
543.230 - Water Main Repair USDA Grant	785,000.00	785,000.00	233,996.84	551,003.16	29.81
<b>TOTAL REVENUES</b>	<b>2,970,800.00</b>	<b>2,970,800.00</b>	<b>240,815.42</b>	<b>2,729,984.58</b>	
<b>Expense</b>					
101.000 - Council	13,208.82	13,096.67	3,607.87	9,488.80	27.55
172.000 - Executive	32,468.60	32,340.32	6,388.80	25,951.52	19.75
215.000 - Administration and Clerk	15,467.00	15,467.00	2,282.65	13,184.35	14.76
228.000 - Information Technology	5,925.00	5,925.00	2,722.50	3,202.50	45.95
253.000 - Treasurer	63,947.00	63,947.00	11,894.38	52,052.62	18.60
265.000 - Facilities - City Hall	12,641.35	12,641.35	595.51	12,045.84	4.71

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
540.000 - Water System	2,168,464.32	2,170,523.17	144,037.25	2,026,485.92	6.64
542.000 - Read and Bill	52,590.00	52,590.00	3,656.07	48,933.93	6.95
543.230 - Water Main Repair USDA Grant	1,215,556.27	1,215,556.27	249,163.31	966,392.96	20.50
793.000 - Facilities - City Hall	0.00	0.00	840.77	(840.77)	100.00
850.000 - Other Functions	11,300.00	11,300.00	0.00	11,300.00	0.00
905.000 - Debt Service	38,997.88	45,997.88	7,000.00	38,997.88	15.22
<b>TOTAL EXPENDITURES</b>	<b>3,630,566.24</b>	<b>3,639,384.66</b>	<b>432,189.11</b>	<b>3,207,195.55</b>	
<b>Fund 590 - Water Supply Fund:</b>					
TOTAL REVENUES	2,970,800.00	2,970,800.00	240,815.42	2,729,984.58	8.11
TOTAL EXPENDITURES	3,630,566.24	3,639,384.66	432,189.11	3,207,195.55	11.88
NET OF REVENUES & EXPENDITURES	(659,766.24)	(668,584.66)	(191,373.69)	(477,210.97)	
<b>Fund 591 - Sanitary Sewer Fund</b>					
<b>Revenue</b>					
000.000 - General	3,000.00	3,000.00	(329.36)	3,329.36	(10.98)
536.000 - Sewer System	1,255,140.00	1,255,140.00	3,258.90	1,251,881.10	0.26
<b>TOTAL REVENUES</b>	<b>1,258,140.00</b>	<b>1,258,140.00</b>	<b>2,929.54</b>	<b>1,255,210.46</b>	
<b>Expense</b>					
101.000 - Council	13,213.82	13,101.67	3,607.68	9,493.99	27.54
172.000 - Executive	32,385.60	32,257.32	6,376.77	25,880.55	19.77
215.000 - Administration and Clerk	15,472.00	15,472.00	2,286.65	13,185.35	14.78
228.000 - Information Technology	5,625.00	5,625.00	2,722.50	2,902.50	48.40
253.000 - Treasurer	59,937.00	59,937.00	11,894.24	48,042.76	19.84
265.000 - Facilities - City Hall	11,542.35	11,542.35	470.51	11,071.84	4.08
536.000 - Sewer System	989,736.79	989,736.79	7,979.99	981,756.80	0.81
537.000 - Sewer Lift Stations	10,907.00	10,907.00	2,381.03	8,525.97	21.83
542.000 - Read and Bill	55,658.00	57,752.48	8,635.91	49,116.57	14.95

GL NUMBER	2021-22 ORIGINAL BUDGET	2021-22 AMENDED BUDGET	YTD BALANCE 08/31/2021	AVAILABLE BALANCE	% BDGT USED
543.310 - Sewer District Rehabilitation	400,000.00	436,158.75	163,119.60	273,039.15	37.40
543.400 - Reline Existing Sewers	183,128.00	183,128.00	0.00	183,128.00	0.00
543.401 - Flush & TV Sewers	75,000.00	75,000.00	0.00	75,000.00	0.00
793.000 - Facilities - City Hall	0.00	0.00	840.78	(840.78)	100.00
850.000 - Other Functions	9,400.00	9,400.00	0.00	9,400.00	0.00
<b>TOTAL EXPENDITURES</b>	<b>1,862,005.56</b>	<b>1,900,018.36</b>	<b>210,315.66</b>	<b>1,689,702.70</b>	
<b>Fund 591 - Sanitary Sewer Fund:</b>					
TOTAL REVENUES	1,258,140.00	1,258,140.00	2,929.54	1,255,210.46	0.23
TOTAL EXPENDITURES	1,862,005.56	1,900,018.36	210,315.66	1,689,702.70	11.07
<b>NET OF REVENUES &amp; EXPENDITURES</b>	<b>(603,865.56)</b>	<b>(641,878.36)</b>	<b>(207,386.12)</b>	<b>(434,492.24)</b>	
<b>Fund 661 - Motor Pool Fund</b>					
<b>Revenue</b>					
000.000 - General	190,000.00	190,000.00	21,626.27	168,373.73	11.38
<b>TOTAL REVENUES</b>	<b>190,000.00</b>	<b>190,000.00</b>	<b>21,626.27</b>	<b>168,373.73</b>	
<b>Expense</b>					
172.000 - Executive	9,758.00	11,199.00	10,503.97	695.03	93.79
228.000 - Information Technology	970.00	970.00	337.80	632.20	34.82
253.000 - Treasurer	7,853.00	7,853.00	981.16	6,871.84	12.49
265.100 - Facilities - City Garage	434,064.88	434,192.68	2,688.27	431,504.41	0.62
795.000 - Facilities - City Garage	0.00	0.00	1,461.91	(1,461.91)	100.00
850.000 - Other Functions	18,750.00	18,750.00	0.00	18,750.00	0.00
<b>TOTAL EXPENDITURES</b>	<b>471,395.88</b>	<b>472,964.68</b>	<b>15,973.11</b>	<b>456,991.57</b>	
<b>Fund 661 - Motor Pool Fund:</b>					
TOTAL REVENUES	190,000.00	190,000.00	21,626.27	168,373.73	11.38
TOTAL EXPENDITURES	471,395.88	472,964.68	15,973.11	456,991.57	3.38
<b>NET OF REVENUES &amp; EXPENDITURES</b>	<b>(281,395.88)</b>	<b>(282,964.68)</b>	<b>5,653.16</b>	<b>(288,617.84)</b>	

## American Rescue Plan Act Project Listing

### City of Swartz Creek, Michigan - September 24, 2021

#### Project Name

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City Hall Parking Lot Rehabilitation  
Remove and Replace Tile Entrance of City Hall  
City Hall HVAC Partial Replacement  
Camera Technology for Council Chambers  
Senior Center HVAC Replacement  
City office and PSB Composite Flooring  
Outdoor exercise station for downtown  
PSB concrete replacement  
Public Sidewalk replacement  
Tennis Court Rehabilitation at Abrams and Elms  
Basketball Court Rehabilitation at Abrams and Elms  
Playscape Rehabilitation at Elms  
Ballfield Backstop at Elms  
DPW Bathroom Updates  
Sention Ctr/Library HVAC Updates  
Park Security Cameras and Gates  
Backup Generator City Hall  
Security Door System at City Hall  
Event Barricades  
Storm Sewer Replacement  
Water Lines Replacement  
Otterburn Park Facilities  
Non-Motorized Facilities  
PSB Ceiling, Door, and Exterior Rehabilitation





September 17, 2021

Adam Zettel, AICP  
City Manager  
Swartz Creek City  
8083 Civic Drive  
Swartz Creek, MI 48473

**RE: Market Value Appraisal; Meijer Grocery & General  
Merchandise store with Meijer Express Gas Station at 4141  
Morrish Road, Swartz Creek, Genesee County, Michigan 48473;  
Parcel 58-36-100-014; Meijer, Inc. v. City of Swartz Creek;  
MOAHR Docket No. 21-001467**

Dear Mr. Zettel

Thank you for the opportunity to present this engagement letter for an appraisal of the above referenced property.

The retrospective appraisal will value the property as of December 31, 2020. I understand that the valuation disclosure filing date is February 2, 2022. The City of Swartz Creek is the client and the intended use of the appraisal is to assist in dispute regarding the property tax assessment.

The fee for this assignment is \$22,000, plus inspection expenses. Any charges for preparation, deposition and trial testimony will be billed as a subsequent assignment at our normal hourly rates, plus all expenses. My rate is \$300 per hour.

In order to proceed, please sign and return this engagement letter and authorize payment of an \$11,000 retainer. The balance will be invoiced upon delivery of the appraisal report.

City of Swartz Creek  
RE: Meijer property at 4141 Morrish Road, Swartz Creek, Michigan 48473  
September 17, 2021  
Page 2

Should you have any additional questions, feel free to call me directly at 312-565-3421. We look forward to working with you on this project.

Sincerely,

**INTEGRA REALTY RESOURCES – CHICAGO**



William H. Miller  
Managing Director

**AGREED & ACCEPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**BY: CITY OF SWARTZ CREEK**

\_\_\_\_\_  
**AUTHORIZED SIGNATURE**

\_\_\_\_\_  
**NAME (PRINT)**

**INVOICE (NAME, DEPARTMENT, ADDRESS)**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



September 9, 2021

Adam Zettel, AICP  
City Manager  
City of Swartz Creek  
8083 Civic Drive  
Swartz Creek, MI 48473

**RE: Design Engineering Services  
Winchester Village Streets – Greenleaf, Durwood, Norbury, Winshall, and Whitney Court  
Winchester Woods Streets – Chesterfield, Eton, Birchcrest, Oakview, and Valleyview**

Dear Mr. Zettel:

OHM Advisors is excited to continue to be part of the City of Swartz Creek's ongoing street reconstruction efforts! It is truly rewarding to be part of the team and assist the city follow through on its commitment to the community and execute the plan that was put into place a few years ago. Below is our proposal to complete design engineering services on the remaining streets in The Village and in Winchester Woods.

### **PROJECT UNDERSTANDING**

As you know we're currently working on the USDA application for the second phase of water main replacement along Greenleaf, Durwood, Norbury, Winshall, and Whitney Court in The Village. Consistent with the first phase, the USDA grant/loan will cover costs for water main installation and all items located within the influence of water main work (i.e., road removal and replacement, curb and gutter replacement, turf establishment etc.). The USDA will not cover road and sewer costs outside of the influence of water main installation. As a proactive approach we understand the city would like to begin the survey and engineering for each of these roads where water main will be replaced. This plan would allow the water main design to be integrated into the plan package after the USDA application has been approved.

The reconstruction of the streets in The Village will include complete removal and replacement of the existing street cross-section including pavement, driveways, storm sewers, and sidewalks. The length of this project is approximately 10,650 feet, roughly 2.5 times longer than the work completed in the ongoing USDA project on Oakview, Chelmsford, and Oxford Court. The limits will be:

- ▶ Greenleaf: Norbury to Durwood
- ▶ Durwood: Norbury to Seymour
- ▶ Norbury: Seymour to Norbury
- ▶ Winshall: Durwood to Cappy
- ▶ Whitney Court: Durwood to end

All green space within the public right of way will be restored with grass and street trees, consistent with what has been done on previous projects in The Village. Decorative lighting and conduit will be installed at locations specified by the city. As part of the ongoing local streets projects it is the City's desire to reconstruct each of these roads with new pavement, curb and gutter, driveways, sidewalks and associated drainage improvements. This project will be advertised



along with the USDA Phase II project to provide one consistent contractor to complete the work. The preliminary construction cost for the street replacement is approximately \$4.5M.

In addition to reconstructing the roads in the Village, the city would like to address the roads in Winchester Woods; Chesterfield, Eton, Birchcrest, Oakview, and Valleyview. The City has collected existing pavement information and reviewing that information, it appears there is sufficient pavement to allow milling and resurfacing for the majority of these roads. Milling and resurfacing makes this project a perfect candidate for a more economical log style project since grades will be minimally impacted. We understand the city would like to include the log and design of these projects as well. The limits for each road are as follows:

- ▶ Chesterfield: gravel section to Seymour Road
- ▶ Eton Court
- ▶ Birchcrest: south end to Young
- ▶ Oakview: gravel section to Seymour
- ▶ Valleyview: south end to Oakview

Milling and resurfacing of the streets in Winchester Woods will include milling and replacing approximately 3” of pavement. There are some concerns with drainage in The Woods, however we understand the focus of the project is on the streets and the city does not plan to address drainage at this time. Therefore only minor drainage improvements will be completed, and measures will be installed to prepare the city for future drainage work. In areas where pavement is not thick enough to accommodate milling and resurfacing the road will need to be reconstructed however the limits will need to be determined. Most driveways and culverts will not be replaced except for the areas that need reconstruction. The preliminary cost for the milling and resurfacing the streets in the Woods is \$1.4M.

### SCOPE OF SERVICES

Our scope of services for the work effort is as follows:

#### DESIGN ENGINEERING – WINCHESTER VILLAGE STREETS

- ▶ Complete topographical survey, map existing utilities into the survey, and coordinate any potential conflicts with utility owners.
- ▶ Coordinate proposed conduit and decorative lighting with Consumers Energy.
- ▶ Analyze street corridor drainage and design storm sewer collection system.
- ▶ Develop a proposed surface to be used for construction staking purposes.
- ▶ Prepare construction drawings (removal sheets, construction sheets, profile sheets, and landscaping sheets).

#### DESIGN ENGINEERING – WINCHESTER WOODS STREETS

- ▶ Complete topographical survey for the southern half of Birchcrest.
- ▶ Prepare LOG type field review to identify milling and resurfacing limits.
- ▶ Collect existing road slope information and improve slopes where necessary.
- ▶ Gather utility information and coordinate relocations if necessary.
- ▶ Prepare construction drawings (removal sheets and construction sheets for all streets and profile sheets where reconstruction will be necessary).
- ▶ Include information for minor drainage improvements on Birchcrest to prepare the city for future drainage improvements.



## DESIGN ENGINEERING – ENTIRE PROJECT

- ▶ Prepare incidental construction drawings (cover sheet, legend sheet, detail sheets, and maintenance of traffic sheets) and technical specifications.
- ▶ Review and upgrade existing signage within the project limits.
- ▶ Prepare Soil Erosion and Sedimentation Control permit application for submittal to GCDC.
- ▶ Assist in public and stakeholder engagement with attendance at one public meeting and one meeting with the City's Street Committee.
- ▶ Prepare final plans and engineer's opinion of cost.

## COMPENSATION AND SCHEDULE

The survey and design services will be performed on a time and expense basis in accordance with the enclosed *Standard Terms and Conditions* for the not-to-exceed amount broken down as follows:

▶ Winchester Village Streets (includes survey):	\$190,990
▶ <u>Winchester Woods Streets (includes log survey and supplemental survey):</u>	<u>\$37,170</u>
▶ <b>ENGINEERING DESIGN SERVICES TOTAL:</b>	<b>\$228,160.00</b>

### Schedule

We are prepared to begin the project upon receiving a signed authorization. If approved at the council meeting on 9/13/2021, we would anticipate the following schedule:

- Topographic Survey/Fieldwork Nov. 2021
- Design Engineering/Permitting\* Jan. 2022 - Nov. 2022
- Contract Bidding Dec. – Jan. 2023
- Contract Award February 2023
- Construction Start April 2023

*\*Design engineering and permitting will include the additional water main replacement work as well as preparation of construction documents and review by USDA.*

### COVID-19 Disclaimer

As we submit this proposal, the world is in the midst of the Covid-19 health crises, and we believe there is an increased risk for potential schedule impacts. The Time Schedule is based on operating in a normal environment. Our team, like the Client, is adjusting our workflow logistics and our teams are working remotely in an effective manner. However, be aware that schedule impacts from elements such as field services delays, required resource agencies, and key staff illness that neither OHM Advisors nor the Client have control over are more likely in the current environment. We will communicate proactively, clearly identify project issues as they arise, and work with the Client's staff to develop a plan to deal with unforeseen issues.

### FURTHER CLARIFICATIONS AND ASSUMPTIONS

The above-listed scope of services was prepared with the following assumptions:

- The city will be responsible for all permit application fees and permit fees.
- No permanent right-of-way or easement acquisition is anticipated.
- Pavement cores have been done and no additional cores or borings are anticipated.
- OHM will be pleased to provide any additional services for this project on an hourly basis. Services not included in this proposal:
  - a. Construction phase services such as, but not limited to, construction management, construction engineering, construction administration, construction observation and/or construction layout.



- b. Water main design and permitting will be handled under a separate contract when the USDA has been approved.
- c. Wetland delineation and survey, mitigation, and permitting.
- d. Environmental assessments or reports, drainage studies, or other environmental evaluations associated with potential contaminated soils.
- e. Location of private utilities, other than requesting as-built information from private utility owners.

If this proposal is acceptable to you, please sign below and return for our files. Again, we'd like to commend the city in their effort. We look forward to continuing being part of the team and working with the city on another successful project. Should you have any questions regarding this proposal please feel free to call me at 810.396.4015.

Sincerely,  
OHM Advisors

---

Andrew J. Harris, PE  
Principal

Enclosures: Standard Terms and Conditions  
Cc: Rob Binscik, Director of Public and Community Services  
File

**City of Swartz Creek  
Winchester Village and Winchester Woods – Design Engineering Services**

Accepted By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## TERMS & CONDITIONS



1. **THE AGREEMENT.** These Terms and Conditions and the attached Proposal or Scope of Services, upon acceptance by CLIENT, shall constitute the entire Agreement between Orchard, Hiltz & McCliment, Inc. (OHM ADVISORS), a registered Michigan Corporation, and CLIENT. OHM ADVISORS and CLIENT may be referred to individually as a Party or collectively as Parties. This Agreement supersedes all prior negotiations or agreements and may be amended only by written agreement signed by both Parties.
2. **CLIENT RESPONSIBILITIES.** CLIENT, at no cost, shall:
  - a. Provide access to the project site to allow timely performance of the services.
  - b. Provide all information in CLIENT'S possession as required by OHM ADVISORS to perform the services.
  - c. Designate a person to act as CLIENT'S representative who shall transmit instructions, receive information, define CLIENT policies, and have the authority to make decisions related to services under this Agreement.
3. **PROJECT INFORMATION.** OHM ADVISORS shall be entitled to rely on the accuracy and completeness of services and information furnished by CLIENT, other design professionals, or consultants contracted directly to CLIENT.
4. **PERIOD OF SERVICE.** The services shall be completed within the time specified in the Proposal or Scope of Services, or if no time is specified, within a reasonable amount of time. OHM ADVISORS shall not be liable to CLIENT for any loss or damage arising out of any failure or delay in rendering services pursuant to this Agreement that arise out of circumstances that are beyond the control of OHM ADVISORS.
5. **COMPENSATION.** CLIENT shall pay OHM ADVISORS for services performed in accordance with the method of payment, as stated in the Proposal or Scope of Services. CLIENT shall pay OHM ADVISORS for reimbursable expenses for subconsultant services, equipment rental, or other special project related items at a rate of 1.15 times the invoice amount.
6. **TERMS OF PAYMENT.** Invoices shall be submitted to the CLIENT each month for services performed during the preceding period. CLIENT shall pay the full amount of the invoice within thirty days of the invoice date. If payment is not made within thirty days, the amount due to OHM ADVISORS shall include a service fee at the rate of one (1%) percent per month from said thirtieth day.
7. **STANDARD OF CARE.** OHM ADVISORS shall perform their services under this Agreement in a manner consistent with the professional skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar conditions.
8. **RESTRICTION OF REMEDIES.** OHM ADVISORS is responsible for the work of its employees while they are engaged on OHM ADVISORS' projects. As such, and in order to minimize legal costs and fees related to any dispute, CLIENT agrees to restrict any and all remedies it may have by reason of OHM ADVISORS' breach of this Agreement or negligence in the performance of services under this Agreement, be they in contract, tort, or otherwise, to OHM ADVISORS, and to waive any claims against OHM ADVISORS' employees.
9. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, CLIENT agrees that, notwithstanding any other provision in this Agreement, the total liability in the aggregate, of OHM ADVISORS to CLIENT, or anyone claiming under CLIENT, for any claims, losses, damages or costs whatsoever arising out of, resulting from, or in any way related to this Agreement or the services provided by OHM ADVISORS pursuant to this Agreement, be limited to \$25,000 or OHM ADVISORS fee, whichever is greater, and irrespective of whether the claim sounds in breach of contract, tort, or otherwise.
10. **ASSIGNMENT.** Neither Party to this Agreement shall transfer, sublet, or assign any duties, rights under or interest in this Agreement without the prior written consent of the other Party.
11. **NO WAIVER.** Failure of either Party to enforce, at anytime, the provisions of this Agreement shall not constitute a waiver of such provisions or the right of either Party at any time to avail themselves of such remedies as either may have for any breach of such provisions.
12. **GOVERNING LAW.** The laws of the State of Michigan will govern the validity of this Agreement, its interpretation and performance.
13. **INSTRUMENTS OF SERVICE.** OHM ADVISORS shall retain ownership of all reports, drawings, plans, specifications, electronic data and files, and other documents (Documents) prepared by OHM ADVISORS as Instruments of Service. OHM ADVISORS shall retain all common law, statutory and other reserved rights, including, without limitation, all copyrights thereto. CLIENT, upon payment in full for OHM's services, shall have an irrevocable license to use OHM's Instruments of Service for or in conjunction with repairs, alterations or maintenance to the project involved but for no other purpose. CLIENT shall not reuse or make any modifications to the Documents without prior written authorization by OHM ADVISORS. In accepting and utilizing any Documents or other data on any electronic media provided by OHM ADVISORS, CLIENT agrees they will perform acceptance tests or procedures on the data within 30 days of receipt of the file.
14. **CERTIFICATIONS.** OHM ADVISORS shall have 14 days to review proposed language prior to the requested dates of execution. OHM ADVISORS shall not be required to execute certificates to which it has a reasonable objection, or that would require knowledge, services, or responsibilities beyond the scope of this Agreement, nor shall any certificates be construed as a warranty or guarantee by OHM ADVISORS.
15. **TERMINATION.** Either Party may at any time terminate this Agreement upon giving the other Party 7 calendar days prior written notice. CLIENT shall within 45 days of termination pay OHM ADVISORS for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions in this Agreement.
16. **RIGHT TO SUSPEND SERVICES.** In the event CLIENT fails to pay OHM ADVISORS the amount shown on any invoice within 45 days of the date of the invoice, OHM ADVISORS may, after giving 7 days' notice to CLIENT, suspend its services until payment in full for all services and expenses is received.



17. OPINIONS OF PROBABLE COST. OHM ADVISORS preparation of Opinions of Probable Cost represents OHM ADVISORS' best judgment as a design professional familiar with the industry. CLIENT recognizes that OHM ADVISORS has no control over costs of labor, equipment, materials, or a contractor's pricing. OHM ADVISORS makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual cost.
18. JOB SITE SAFETY. Neither the professional activities of OHM ADVISORS, nor the presence of OHM ADVISORS or our employees and subconsultants at a construction site shall relieve the Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and the health or safety precautions required by any regulatory agency. OHM ADVISORS has no authority to exercise any control over any construction contractor or any other entity or their employees in connection with their work or any health or safety precautions.
19. CONTRACTOR SUBMITTALS. If included in the services to be provided, OHM ADVISORS shall review the contractor's submittals such as shop drawings, product data, and samples for the limited purpose of checking for conformance with information given and the design concept expressed in the construction documents issued by OHM ADVISORS. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. OHM ADVISORS review shall not constitute approval of safety precautions or, unless otherwise specifically stated by OHM ADVISORS, of any construction means, methods, techniques, sequences or procedures. OHM ADVISORS approval of a specific item shall not indicate approval of an assembly of which the item is a component.
20. CONSTRUCTION OBSERVATION. If requested, OHM ADVISORS shall visit the project construction site to generally observe the construction work and answer questions that CLIENT may have. OHM ADVISORS shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the Contract Documents.
21. HAZARDOUS MATERIALS. As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site. Both Parties acknowledge that OHM ADVISORS' Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event OHM ADVISORS or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to OHM ADVISORS that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of OHM ADVISORS' services, OHM ADVISORS may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until CLIENT retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless OHM ADVISORS, its officers, partners, employees and subconsultants (collectively, OHM ADVISORS) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of OHM ADVISORS.
22. WAIVER OF CONSEQUENTIAL DAMAGES. The Parties waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination of this Agreement.
23. WAIVER OF SUBROGATION. The Parties waive all rights against each other and any of their contractors, subcontractors, consultants, agents, and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to a written contract or other property insurance applicable to the construction work.
24. THIRD PARTIES. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or OHM ADVISORS.
25. CODE REVIEW/ACCESSIBILITY. In providing its services under this Agreement, OHM ADVISORS may have to interpret federal and or state laws, codes, ordinances, regulations and/or statutes. CLIENT understands and agrees that these may be subject to different and possibly contradictory interpretations by relevant governmental officials charged with interpreting same and furthermore understands and agrees that OHM ADVISORS does not warrant or guarantee that their interpretation will be consistent with the interpretation of the relevant governmental officials. OHM ADVISORS shall not be liable for unreasonable or unforeseeable interpretation of federal and or state laws, codes, ordinances, regulations and/or statutes by governmental officials charged with interpreting same.
26. DISPUTE RESOLUTION. In an effort to resolve any conflicts that arise during the project or following the completion of the project, the Parties agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the Parties mutually agree otherwise, as a prerequisite to further legal proceedings. The Parties agree to share the mediator's fee and any filing fees equally, and the mediation shall be held in the place where the project is located, unless another location is mutually agreed upon.



Phone: (810) 635-4464

Fax: (810) 635-2887



Where Friendships Last Forever

## City of Swartz Creek Municipal Property Reservation Application

Date of Reservation: 10/9/21 Reservation location: HOLLAND SQUARE

One time event

Recurring event

Name of Responsible Party: JEEPERS CREEKERS, INC.

Address: \_\_\_\_\_ Phone: 810-441-4216

City: SWARTZ CREEK Zip Code: 48473

Nature of Activity: VENDOR MARKET, MOVIE Approx. # Attendees 500

Arrival Time: 8:00 AM Departure Time: 9:00 PM

Responsible Party Signature: [Signature]

E-Mail Address: ERIK@TRUCKSAFETYSERVICES.COM

Proof of Insurance Provided

Please check all that will be needed

Water

Waste collection

Electricity

Other Services – Specify: \_\_\_\_\_

I have received a copy of the Plaza Rules: [Signature]

IF THERE ARE PROBLEMS DURING THE EVENT CONTACT 911.

CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
STREET CLOSURE/USE APPLICATION

DATE OF REQUEST: 9/21/21  
SPONSOR ORGANIZATION: JEPPERS CREEKERS, INC.  
AUTHORIZED REPRESENTATIVE: ERIK JAMISON  
WORK ADDRESS: \_\_\_\_\_ HOME ADDRESS: \_\_\_\_\_  
PHONE NO: WORK 80491-4216 HOME: ( ) \_\_\_\_\_ CELL: ( ) \_\_\_\_\_

TYPE OF EVENT: (check box)

PARADE  \*\* (Draw Route on Attached Map)

CARNIVAL

FOOT/BIKE RACE

CRAFT SHOW

CONCERT

OTHER: X

DATE OF EVENT: 10/9/21

TIME OF EVENT: FROM: 3 AM/PM TO: 9 AM/PM

ESTIMATED NUMBER OF PARTICIPANTS: 500

DESCRIPTION OF EVENT; NOTE STREETS REQUESTED TO BE CLOSED/USED:

TRUNK OR TREAT & VENDOR CRAFT MARKET  
Request Closing Miller From Hayes to Morris, Holland Dr.

The applicant agrees, as a condition of the granting of this permit, to hold the City of Swartz Creek, it's officers, employees, and agents harmless from any liability from any injuries caused to persons or property in connection with this event. To that end, the applicant shall provide the City with evidence of insurance for such liability in an amount determined adequate by the City Attorney, but in no case less than \$ 1,000,000/2,000,000 aggregate and the City of Swartz Creek shall be named as an insured party on said policy. The policy shall also contain a provision providing the City with ten (10) days written notice of cancellation.

FOR: JEPPERS CREEKERS, INC. BY: [Signature]  
(Organization) (Authorized Representative)

APPROVED BY: \_\_\_\_\_ (Chief of Police) \_\_\_\_\_ (Street Administrator)

\* The throwing of any item(s) from any vehicle during the course of a parade is strictly prohibited and violations may result in criminal prosecution and/or the denial of future permit applications.

\*\*The Chief of Police reserves the right to determine the length of time that any street(s) remain(s) closed to traffic.

THIS REQUEST AND ALL REQUIRED ASSOCIATED DOCUMENTS MUST BE SUBMITTED TO THE CITY HALL NO LATER THAN THIRTY (30) DAYS PRIOR TO EVENT DATE



CITY OF SWARTZ CREEK  
STREET APPLICATION  
CHECKLIST

- APPLICATION MUST BE COMPLETED THIRTY (30) DAYS PRIOR TO EVENT
- EVERY LINE ON APPLICATION MUST BE COMPLETED AND ROUTE DRAWN ON ATTACHED MAP
- APPLICANT SHALL PROVIDE THE CITY WITH EVIDENCE OF INSURANCE FOR AMOUNT DETERMINED ADEQUATE BY THE CITY ATTORNEY

CITY OF SWARTZ CREEK  
SWARTZ CREEK, MICHIGAN  
STREET CLOSURE/USE APPLICATION

DATE OF REQUEST: 9/6/2021

SPONSOR ORGANIZATION: American 5k

AUTHORIZED REPRESENTATIVE: Matthew Berg

WORK ADDRESS: 8414 Duffield Rd. HOME ADDRESS: \_\_\_\_\_

PHONE NO: WORK ( ) 621-065 HOME: ( ) \_\_\_\_\_ CELL: (989) 573-3007

TYPE OF EVENT: (check box)

PARADE  \*\* (Draw Route on Attached Map)

CARNIVAL

FOOT/BIKE RACE

CRAFT SHOW

CONCERT

OTHER: \_\_\_\_\_

DATE OF EVENT: 10/23/21

TIME OF EVENT: FROM: 8:30 (AM/PM) TO: 12:00 AM/PM

ESTIMATED NUMBER OF PARTICIPANTS: 75

DESCRIPTION OF EVENT; NOTE STREETS REQUESTED TO BE CLOSED/USED:

5k run/walk event for charity. I need "FairChild, Cappy Ln, Winshall Dr, Seymour Rd, then it will go in to Carriage Plaza on to the side walk back to Swartz Creek High school"

The applicant agrees, as a condition of the granting of this permit, to hold the City of Swartz Creek, its officers, employees, and agents harmless from any liability from any injuries caused to persons or property in connection with this event. To that end, the applicant shall provide the City with evidence of insurance for such liability in an amount determined adequate by the City Attorney, but in no case less than \$ 1,000,000/2,000,000 aggregate and the City of Swartz Creek shall be named as an insured party on said policy. The policy shall also contain a provision providing the City with ten (10) days written notice of cancellation.

FOR: American 5k  
(Organization)

BY: Matthew C Berg  
(Authorized Representative)

APPROVED BY: [Signature]  
(Chief of Police)

\_\_\_\_\_  
(Street Administrator)

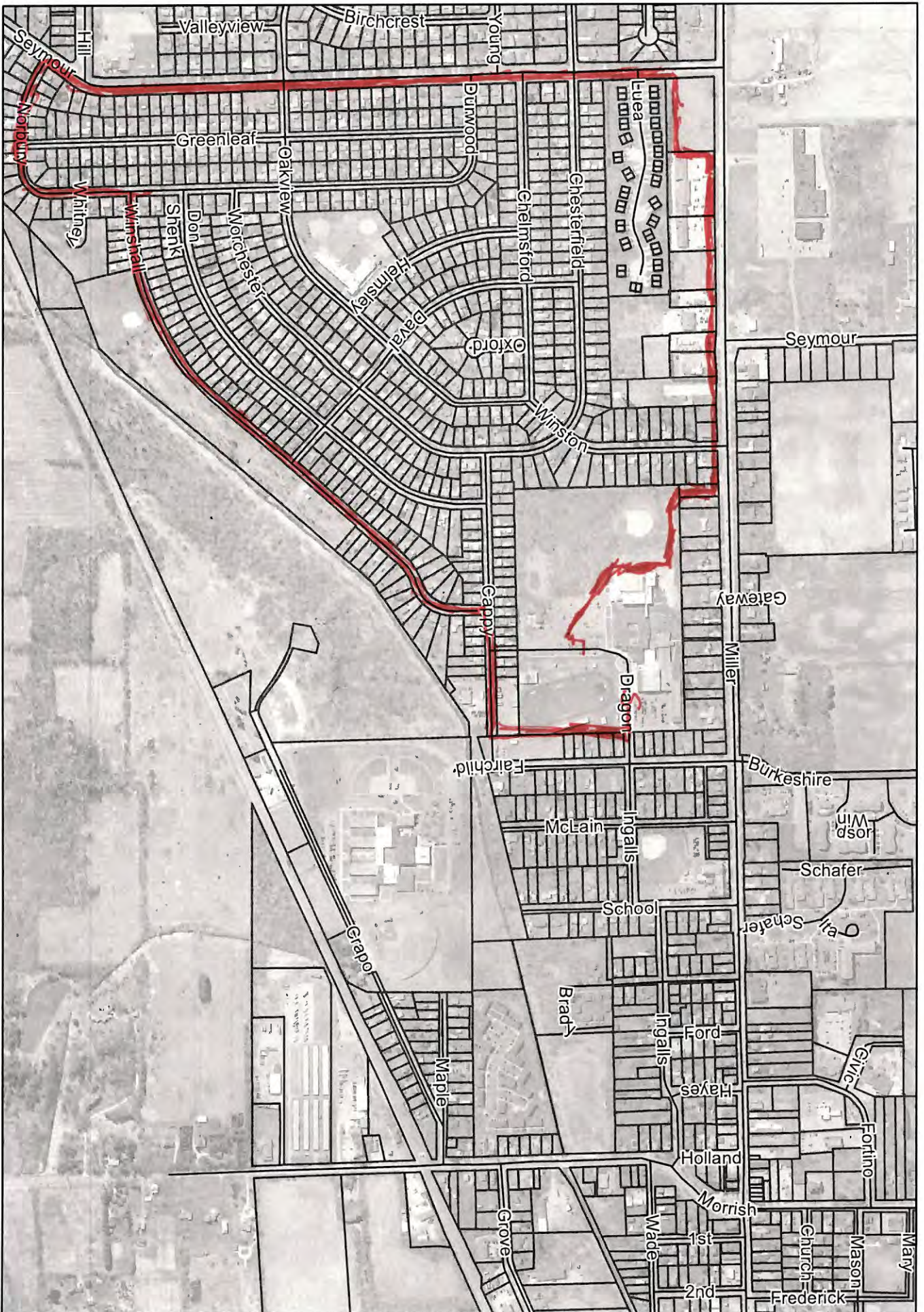
\* The throwing of any item(s) from any vehicle during the course of a parade is strictly prohibited and violations may result in criminal prosecution and/or the denial of future permit applications.

\*\*The Chief of Police reserves the right to determine the length of time that any street(s) remain(s) closed to traffic.

THIS REQUEST AND ALL REQUIRED ASSOCIATED DOCUMENTS MUST BE SUBMITTED TO THE CITY HALL NO LATER THAN THIRTY (30) DAYS PRIOR TO EVENT DATE



# City of Swartz Creek





3<sup>rd</sup> Annual

American 5K

Presents: Run for Veterans 5K

Oct 23<sup>rd</sup> 8 am Swartz Creek High School



Sponsored by

The Draft Sports Bar and Grill

The Gym Fitness Center

<https://www.runmichigan.com>

<https://www.runningintheusa.com>

## CITY OF SWARTZ CREEK PARADE REGULATIONS

The approval of a street closure request and/or a “parade permit” is based on the assumption that the event coordinator(s) fully understand and accept the following regulations regarding the event:

1. The throwing of any object(s) from any vehicle during the course of the parade is prohibited by ordinance. Violations of this ordinance could result in prosecution and/or the denial of future permit requests.
2. The closing of major thoroughfares entails the rerouting of thousands of motorists and the interruption of commerce. It is imperative that parades begin and end on time so as not to unnecessarily disrupt the usual course of traffic and business.
3. Parade organizers must provide a means of direct communication between the event coordinator and the Chief of Police (or his designate) during the course of the parade in order to address any dangerous conditions that may develop during the course of the event.
4. The practice of parade participants jumping onto or off of moving vehicles in the parade is prohibited.
5. When determining the staging area for parade participants, organizers should ensure that the area is sufficient in size to accommodate all entries without creating traffic or pedestrian hazards.

It is the responsibility of the event coordinator(s) to ensure that all parade participants are made aware of the regulations that directly affect them and by signing this document hereby acknowledge that they have received a copy of these regulations and accept said responsibility.

By: Matthew Berg  
(Event Coordinator or Representative)

For: American 5k  
(Organization)

# BIG BOXES & THE DARK STORE THEORY: A Taxing Issue for Communities

By Marc Daneman, Daneman & Associates, Grand Rapids, MI

## Introduction

Tax assessments are down – good news or bad news? For some property owners, yes, especially for those large commercial retail buildings. But for the municipalities that must provide those establishments and their community with public services that may not be the case. Over the past decade there has been a movement that does not make sense to local governments and other taxing authorities; however, it does to some large commercial retailers like Lowes, Menards, Meijer and other so-called “big box” store owners, and maybe to other not-so-big retail establishments. These “big box” stores have argued to the Michigan Tax Tribunal (MTT or Tribunal) that because their stores are *so unique to their operations that they cannot sell them to another similar retailer or to other retailer unless they are completely revamped or demolished*. They argue this means that their stores are only worth what a vacant store shell is worth or less. Some big box store retailers have even argued that once built and operating, their assessments should be less than the cost of the land they acquired.

In contrast, local tax assessors say that these properties should be assessed as a going concern for at least as much as it cost to build, less any depreciation. The MTT to date has mostly held for the retailers, although the courts and some state legislatures are now questioning that theory. In Michigan, the legislature is caught in between the two.

Obviously the big box retailers employ a lot of people, and provide needed goods and services. But smaller retailers argue the big box retailers are not paying their fair share in taxes on their buildings. Municipalities are out millions of dollars in tax revenues and are left with empty buildings that are difficult to market and thus susceptible to blight when a big box retailer moves out. Other taxpayers want to know why big box retailers are allowed to deed restrict the empty buildings so they cannot be used for other purposes and why such anti-competitive behavior is legal. This article will look at the “Dark Store Theory” – that operating big box stores should be treated as vacant or “dark” stores – and the impact it is having on local governments, and by extension, other taxpayers.

## Big Box or Not

So, what is a “big box” store? There is no legal or formal “Webster’s” definition of this term. It has been stated in various published peer reviewed articles and other media reports that these are *buildings that can range from 20,000 to over 200,000 square feet*. (*Who’s Afraid of the Dark?: Shedding the Light on the Practicality and Future of the Dark Store Theory in Big Box Property Taxation*, 38 VA Tax Rev 445, by Stephen W. Grant, Spring 2019). Although now, some are arguing that much smaller buildings could be treated like big box stores. They are all built for the retailer’s specific use and not for speculation. The internal designs for sales, racking, storage, management, and operations are to meet the specific requirements of the retailer. Typically, the building facade and internal arrangement would be similar from store to store. Another important characteristic is ownership arrangement. Many are held under a fee simple ownership by the retailer. That is, the retailer owns the property completely. An alternative

## About the Author

Marc Daneman, Daneman & Associates, is an attorney and land use planning consultant serving public and private clients in the areas of zoning, land use and development, wireless telecommunications, and solar energy. He is a former township manager, planning and community development director, zoning administrator, and corporate leasing manager. Marc can be reached at marc@marcdaneman.com or 616-450-0110.

ownership arrangement would be a build-to-suit lease-buyback by the retailer. Here, the retailer buys the property and builds the store as described above and then sells the property/building to an investor who leases the property back to the retailer. That latter situation is an investment mode of ownership and avoids some of the actual property ownership arrangements (such as financing and taxation for income and business purposes). Also, many of these properties use deed restrictions or covenants on the property. These restrictions often limit or prohibit the use of the property in certain ways to avoid competition should the big box retailer move to another location. The restrictions can last for years and force the building to be used in a completely different manner than it was used by the original big box owner. These restrictions effectively result in a lower taxable value.

But as described above, the most significant attribute is their unique internal and/or external building design. The buildings’ internal layout and accessory features make them distinctively different from other smaller single purpose retailers. For example, a Menards store may have a large main building for its general sales, and then have outdoor spaces for lumber and blocks, gardening, and storage. A Menards store in Wyoming has over 160,000 square feet of building area and another 155,000 square feet in outdoor retail yard area, some of which is partly enclosed. Home Depot and Lowes would be similar, even if they did not necessarily have large open areas. Physically smaller retailers like chain grocery stores (such as Kroger and Meijer), along with general retail establishments (like Kohls and Target), and even combined “super-stores” (like Walmart, Costco and Sam’s Club) all have unique layout arrangements and requirements. Malls and large strip shopping centers with a large anchor tenant have also characterized themselves as big box-type developments. Even large commercial banks with their built-in safes and safety deposit boxes and other branded specialty stores are now arguing the same big box theory for their tax appeals.

The trend of this type of retail is not new. The first big box retailing was in the 1960s with stores like Kmart and the indoor shopping malls. But it was not until the 1990s that the concept really took off to serve the growth of suburban communities and smaller urban centers in more rural areas. The public and communities generally welcomed them. For the general public, these retail establishments provided a wide range of goods and services under one roof. Local governments also welcomed them since they brought in tax revenue and employment. Communities used that revenue to pay for public services such as road and utility improvements, public safety services, parks and recreation, schools and libraries and many other public services and improvements. Some of these community improvements were installed directly to benefit the retailer, such as road expansions and utilities. There was no question that these large buildings and their properties were a significant source of public revenues. But there were downsides too. Local small retail merchants were feeling the squeeze by not being able match the variety and pricing that these often national or regional retailers could provide and in smaller markets, many were effectively forced out of business.

These operations continued to grow at a significant pace into the 2000s. However, the 2008 Great Recession, along with the need for even larger stores in better locations, and the move to online shopping revealed there were too many of these large retail establishments. As a result, retailers began to close some of their less productive or poorly located stores. The 2019 law review article (*Who’s Afraid of the Dark?*), by Stephen W. Grant, cited earlier, suggested that within the next five years, the Amazons and other e-commerce retailers could force the closure of 20 to 25 percent of all malls and similar stores including big box retailers. And this was



## Some “Official” & “Unofficial” Definitions

### Dark Store Theory (from Microsoft Bing):

The dark store theory is a **tax strategy used by big box retail stores like Lowe’s, Target, Walmart, and Menards to lower their property tax value.** These retailers contend that their fully operational, often thriving businesses should be assessed the same as vacant buildings or “dark stores.”

### “Big Box Store” (from Wikipedia -- [https://en.wikipedia.org/wiki/Big-box\\_store](https://en.wikipedia.org/wiki/Big-box_store)):

*“A big-box store (also hyperstore, supercenter, superstore, or megastore) is a physically large retail establishment, usually part of a chain of stores. The term sometimes also refers, by extension, to the company that operates the store. Commercially, big box stores can be broken down into two categories: general merchandise (examples include Walmart, Kmart, and Target), and specialty stores (such as Home Depot, Barnes & Noble, or Best Buy), which specialize in goods within a specific range, such as hardware, books, or consumer electronics, respectively. In the late 20th and early 21st centuries, many traditional retailers and supermarket chains that typically operate in smaller buildings, ... opened stores in the big box store format in an effort to compete with big box chains, which are expanding internationally as their home markets reach maturity. The store may sell general dry goods, in which case it is a general merchandise retailer (however, traditional department stores, as the predecessor format, are generally not classified as “big box”), or may be limited to a particular specialty (such establishments are often called “category killers”), or may also sell groceries. ... In the U.S., there is no specific term for general merchandisers who also sell groceries. Both Target and Walmart offer groceries in most branches in the U.S. Big box stores are often clustered in shopping centers ... . In the United States, when they range in size from 250,000 square feet (23,000 m) to 600,000 square feet (56,000 m), they are often referred to as power centers.”*

### “Value in Use” vs “Value in Exchange” (from Dictionary of RE Appraisal, 6th Ed):

**Value in Use** – The value of a property assuming a specific use, which may or may not be the property’s highest and best use on the effective date of the appraisal.

**Value in Exchange** – A type of value that reflects the amount that can be obtained for an asset if exchanged between parties.

before the COVID pandemic shutdowns. Many of these closed stores have gone “dark.” They have left vacant buildings that have substantially less tax value than when they were active. These “dark stores” in addition to being a blight on the community, have drawn additional public service needs such as fire and police. Yet their taxable value will not pay for those services. When these dark properties do sell, they are often for different, less taxable value uses. It is on that basis that this theory of dark stores is built.

### Dark Store Theory and Use

The dark store theory started here in Michigan. Attorney Michael Shapiro is credited with this theory, which is based on his tax appeal arguments with large auto plants. There he claimed these plants should be assigned a true cash value for the property as if the ongoing and operating auto plants were vacant. His rationale was that since these plants were so unique, they could only be sold for a completely different use in a secondary market. As such, the property would have been vacated, demolished, or converted for the sale – thus becoming a new and different “highest and best use” (HBU). He took that theory in 2010 and began to make the same arguments for the big box stores. Again, arguing that they were so unique that they would only sell in a secondary market, equivalent to that of a vacant (“dark”) store sale. He was successful with the MTT here in Michigan and tax courts in other states. Now, big box retailer’s appraisers contend that the best valuations are based on those comparable sales. Novi City Assessor Michael Lohmeier believes the “comparable properties are often sold for far less than the construction cost of a big box’s brand-new structure and sometimes even less than the sale price of its underlying vacant land.” Former State Representative David Maturen, who was a leader in the legislative efforts to address this issue (as discussed below) says that “many times these comparables

are encumbered by deed restrictions.” He also argues the better way to analyze this issue is by looking at a cost-less-depreciation. Maturen points out that issues of physical depreciation, functional obsolescence and external or economic obso-

lescence, and especially the latter two, are critical and are now the focus of the debate under the dark store theory.

To better understand the arguments, one must appreciate the methods of assessments and appraisal – which are similar, but done for different purposes. The Michigan Constitution requires property be assessed at 50 percent of the fair market value or True Cash Value (TCV). True cash value is the “usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.” MCL 211.27(1); MSA 7.27(1). See also Const 1963, art 9, § 3. To do this an assessor (or appraiser) first determines the HBU of the property. HBU is the most profitable and advantageous use the owner may make of the property even if the property is presently used for a different purpose or is vacant, so long as there is a market demand for such use. This involves valuing the land as if vacant, and the property as it is improved. The HBU of property must be legally permissible, physically possible, financially feasible, and maximally productive. Once HBU is determined, there are three generally accepted approaches to establishing TCV: looking at comparable sales; the cost of construction (reproduction), less any depreciation; and the income approach. A law review article analyzing the Dark Store Theory (44 *Real Estate Taxation, Valuation of Big Box Stores and the Dark Store Theory – A Changing of the Tide*, Second Quarter 2017) describes the three approaches as follows:

The **Comparable Sales Approach** “is use when there are numerous sales of similar properties in a fairly recent time frame. The appraiser compares the property sales and adjusts for different features and characteristics to determine a value similar to the subject property.”

The **Cost Approach** values “new or nearly-new properties and those that rarely change hands. The value of a property is determined by valuing the land, adding the current cost to construct the property, and subtracting depreciation. Entrepreneurial profit may be included in the value indication. The depreciation may include physical depreciation and functional and/or external obsolescence.”

The **Income Approach** measures the present value of the property ownership. There are two ways of looking at income: “direct capitalization” and “yield capitalization.” In direct capitalization, the relationship between one year’s income and value is reflected in either a capitalization rate or an income multiplier. In yield capitalization, the relationship between several



Courtesy of the Michigan Municipal League.

Former Kmart in Grand Blanc.

years' stabilized income and a reversionary value at the end of a designated period is reflected in a yield rate." This is not often used for big box stores; but when used value is assessed at the market rent, rather than rent from a build-to-suit arrangement. Lease payments typically include financing terms and some form of profit. After considering all value determinations, the appraiser generally reconciles two or more indications of value to arrive at a value determination.

Assessments are used for tax purposes. Appraisals on the other hand are used to determine property values for sales and other purposes, those sales are also used as comparables for tax assessment purposes. The two approaches use somewhat differing standards and have different means to approach the "value" of the property. However, both generally use the same three approaches described above, especially as it applies to fee simple ownership.

In Michigan, the dark store theory, which has been called a "loophole," has taken hold in several cases before the courts and MTT (see sidebar). It's a loophole because the retailers have been able to successfully argue the comparative sales approach is the most appropriate. Historically, the Tribunal and municipal assessors have argued that all three assessing approaches must be followed. But most recently the Court of Appeals and Supreme Court in **Menard, Inc. v City of Escanaba** are questioning the theory. They have directed the MTT to look at alternative methods, which may possibly close this loophole.

## Significant Michigan Cases Addressing or Directly Impacting the Big Box Dark Store Theory

- **C.A.F. Investment Co. v. State Tax Comm'n**, 392 Mich. 422, 221 N.W.2d 588 (1974). Identifying the appropriate three-part assessment processes.
- **Target Corp. v City of Novi**, No. 0345523 (Mich. Tax Trib., 9/21/2010; Erratum issued 9/23/2010). Tribunal finds for Target in one of the first dark store theory cases.
- **Ikea Property, Inc. v. Twp. of Canton**, No. 0366639 (Mich. Tax Trib., 7/18/12). Finding for Ikea under the dark store theory.
- **Detroit Lions v. City of Dearborn**, 480 Mich 893; 738 N.W.2d 741 (2007). Supreme Court affirms the Court Appeals' finding in favor of Dearborn that the HBU is the current use.
- **Lowe's Home Centers, Inc. v. Twp. of Marquette**, (No. 314111) and **Home Depot USA, Inc v Township of Breitung** (No. 314301), Unpublished 4/22/14. Affirming Mich. Tax Trib. (No. 0385768, 12/13/12) finding for Lowes & Home Depot under the dark store theory.
- **Macy's Inc. v. City of Grandville**, No. 0436564 (Mich. Tax Trib., 3/24/14) holding for the dark store theory.
- **Menard, Inc. v City of Escanaba**, 315 Mich App 512; 891 NW2d 1 (2016) ("**Menard I**"), with leave to appeal denied in 501 Mich 899 on October 20, 2017). Remanding back to Tax Tribunal to address deed restrictions and cost-less-depreciation method. Cited in **Menard I**:
  - **Clark Equipment Co v Leoni Township**, 113 Mich App 778; 318 NW2d 586 (1982). Holding for cost-less depreciation approach for highly specialized uses which the **Menard I** court accepted.
  - **Great Lakes Division of Nat'l Steel Corp v City of Ecorse**, 227 Mich App 379; 576 NW2d 667 (1998) offering a different method of valuation which the **Menard I** court rejected.
- **Menard, Inc. v City of Escanaba**, No. 14-001918 (Mich. Tax Trib., 5/28/20). On Remand the MTT set a new assessment based on Menard, Inc.'s arguments.
- **Greenfield – 8 Mile Plaza v City of Southfield**, No. 346183, (12/12/2019) Unpublished. Finding for Southfield based on **Menard I**.

## Fiscal Impact on Communities

The impact on local governments, schools and other local taxing agencies has been significant. Although there is little definitive information over the dollar amount of taxes lost by local taxing authorities, a 2016 article in **Bloomberg Businessweek** reported that between 2012 and 2016, two-thirds of Michigan's counties lost an estimated \$75 million in property taxes (*How Big Box Retailers Weaponize Old Stores*, December 18, 2016). In addition to that, municipalities must refund any taxes already collected based on the decisions of the Michigan Tax Tribunal.

In Chippewa County for example, two appeals were lost in Sault Ste. Marie (with Walgreens and Walmart). There the county had to refund approximately \$25,000. In Delta County, with the **Menard I** case, the county has refunded about \$55,000 and Menard, Inc. has said it received over \$421,000 in refunds throughout the Upper Peninsula (UP) in its other appeals. Other UP counties have lost or refunded hundreds of thousands of dollars in taxes as reported in a recent **Rural Insights** article (*Dark Store Theory in Michigan's Upper Peninsula: Impact and Predictions*, by Isabelle Karl, May 16, 2021). Rural communities have been harder hit with this theory because there are fewer or no comparables within the market the big box store is located. And because the retailers' attorneys take these cases on contingency, governments have scarce resources to defend the appeals.

In more urban areas the same is also true. Cases are taken on contingencies and comparables are still limited. In one Kalamazoo suburban community, Comstock Township claims that between 2018-2019, it lost about \$60,000 in revenue from one retailer when the MTT found in favor of the big box store. In another Kalamazoo community, Costco was able to successfully argue that its value should be less than the land value alone. It purchased the property in 2014 for about \$5.5 million and built a store for another \$12 million. And even where the assessor gave it an \$8.6 million assessment, the retailer argued its value should be \$4 million.

The Michigan Municipal League cited 2015 testimony that big box stores were being assessed at an average of \$55 per square foot before the dark store theory took hold. However, the Tribunal has dropped that dramatically to the \$22-\$25 per square foot range. In other states where the big box theory has not taken hold, the square footage rates for similar stores has been in the \$60 to \$80 per square foot range (see sidebar). When reduced, these rates will never return because of the impact of Proposal A and the Headlee Amendment. The new taxable values assigned by the MTT cannot increase more than the lesser of the rate of inflation or 5 percent, until they are sold. This will keep these values low.

## What are Big Box Stores Valued Elsewhere?

Prior to the dark store theory, Michigan big box stores were assessed an average of \$55 per square foot. Here is where they are now compared to states where various big box stores are located:

- In Michigan, Lowe's stores are assessed at \$22.10 per square foot. In Lowe's home state of North Carolina, the same stores are valued at \$79.08 per square foot.
- In Michigan, Menards and Target are valued at \$24.97 per square foot. In Menard Inc.'s home state of Wisconsin, the same stores are valued at \$61.23 per square foot.
- Sam's Clubs and Walmart now average around \$25.68 per square foot in Michigan. Studies of those buildings in the home state of Arkansas are being done, but they are likely to be much higher than they are in Michigan.

Source: Michigan Municipal League "*Dark Stores*" Report and Testimony from Jack Van Coevering, a Grand Rapids attorney, former Chief Judge and Chairman of the Michigan Tax Tribunal. Van Coevering now represents Michigan communities on tax assessment cases. (2015).



Further aggravating this situation for municipalities is when an appeal is taken, the legal fees can become significant. For the existing case between Menard, Inc. and the city of Escanaba, which is now into a second round before the Court of Appeals (and may go back to the Supreme Court again), the local paper reported the cost of the appeal has already exceeded \$200,000. Sault Ste. Marie city manager Brian Chapman said their biggest loss came with a Meijer appeal which cost them over \$800,000 in attorney and expert fees even before trial. Had it gone to trial, their attorney estimated it would be another \$500,000 – so they settled. Too many smaller communities cannot afford to take these deep pocket retailers with their contingent attorneys to the MTT or to court. So, they often settle with a much lower value than what they believe is deserved. In 2019-2020 Sault Ste. Marie had nine cases appealed, four were settled and the remaining one went to the MTT. In all cases the retail petitioner prevailed, with an overall tax loss of over \$111,000, and the city losing almost \$45,000 in taxes. The difference in tax value for those two years was just over \$1.8 million. Chapman said that the loss of “\$3 to \$4 million represents the total taxable value loss since 2017 due to large box stores utilizing dark store theory, as well as medium to small sized facilities challenging their tax assessment.”

Larger communities have also seen similar appeals. The City of Novi believes it has had about a 25% reduction in property values over the past several years. They have generally settled issues; but even so, they are still being appealed. Michael Lohmeier, Novi City assessor said “All of our big box stores and larger retailers have appealed including Target, Sams, Home Depot, JC Penny, Lord & Taylors, etc. ... Generally, I settle a case based on a value compromise between the valuations presented by both sides, the city’s position and the taxpayer.” Like Novi, many municipal assessors believe they have come out better than had they gone to the MTT. But either way the communities lose tax dollars. See the data in Berrien County in the sidebar for another example.

### Community Planning Impact

The community planning impact with the loss of tax dollars is also significant. Most often it has been the rest of the community’s taxpayers who must pick-up the difference or public services are reduced. Communities have had to reduce library, recreation, police and fire and other community services, including community planning when the assessment reductions force cuts to keep their budgets in line. Planners have also long argued that when a big box store comes into a community that local merchants cannot compete with their pricing and variety. Walmart and other big box stores that have located at the outskirts of smaller towns, have forced closures of Main Street “mom & pop” stores and even smaller branded retailers. Communities have often made significant investment into infrastructure to service these high traffic businesses; then only to have their tax assessment reduced. One

community asserted that their highest criminal complaints requiring a significant number of police trips, come from their local big box store, and now those stores are asking to lower their assessments (Northern Michigan University video “Boxed In Web” (9/2/16)). But the impact of large vacant big box stores that were “anchors” in a strip mall or commercial strip area may not only result in one blighted building, but the whole strip. When anti-competitive deed restrictions are added to these empty stores (see below), such a result is even more likely. See the photos of some long vacant big box stores scattered throughout this article.



Former Office Depot in Wyoming.

Courtesy of the Michigan Municipal League.

### Role of Deed Restrictions

A principal reason these big box stores “go dark” is because of the deed restrictions often placed on the property. Those restrictions effectively make the building useless for a similar big box-type store use. *It is not uncommon that these deed restrictions or covenants will prohibit the same type of use or list the restricted or prohibited uses so no similar big box store or even smaller competitor could take the property over.* As an example, a Walmart near Monroe recorded a 20-year prohibition for these uses: grocery store or supermarket (over 35,000 square feet (sf) in leasable area), wholesale clubs (like Sam’s Club or Walmart, over 50,000 sf in in leasable area); discount department store or other discount store; or pharmacy. Michigan Township Association’s counsel, Robert Thall has suggested that the use of deed restrictions “skews the use of the sales approach to value and provides support for why the cost approach is superior.”

The retail industry acknowledges that this is common and is done to protect the initial user should they leave the location for another in the same area. They also indicate that when a sale of the property is made there could be “carve outs” of those restrictions so the new, secondary user is not limited. But that does not account for the other potential retailers who gave no consideration of the property because the restrictions were of record.

Since deed restrictions will result in vacancies for long periods of time, the property generates limited tax revenues, if at all, when abandoned. The vacancy can also lead to a blighted situation. Depending on the location and surrounding businesses, this could bring down the value of the neighborhood or the whole community. For example, a 45,000 square foot Witmark catalog showroom

## 2018 Tax Appeal Impact for Small & Big Box Stores Using the Dark Store Theory in Berrien County

Property Owner	2018 SEV/TX	Property Address	Building SF	Price/SF	Potential SEV/TX	Total Rev. Loss	Twp Rev Loss	Twp Library	Twp Police	Twp Fire
Walgreens Co.	748,300	2485 W Glenlord Rd	15,018	\$ 99.65	150,180	\$ 26,758.45	\$ 469.46	\$ 673.84	\$ 1,195.76	\$ 104.49
Tractor Supply	691,300	5180 Red Arrow Hwy	18,966	\$ 72.90	189,660	\$ 22,442.17	\$ 393.74	\$ 565.15	\$ 1,002.88	\$ 87.64
Ace Hardware	306,100	1545 W John Beers	15,800	\$ 38.75	158,000	\$ 6,625.64	\$ 116.24	\$ 166.85	\$ 296.08	\$ 25.87
Martin's Supermarket	1,753,500	5637 Cleveland Ave	70,051	\$ 50.06	700,510	\$ 47,108.25	\$ 826.49	\$ 1,186.30	\$ 2,105.14	\$ 183.96
Walgreens Co.	584,700	1710 W John Beers	14,737	\$ 79.35	147,370	\$ 19,565.09	\$ 343.26	\$ 492.70	\$ 874.31	\$ 76.40
<b>Totals</b>	<b>4,083,900</b>		<b>134,572</b>	<b>\$ 68.14</b>	<b>1,345,720</b>	<b>\$ 122,499.60</b>	<b>\$ 2,149.20</b>	<b>\$ 3,084.83</b>	<b>\$ 5,474.17</b>	<b>\$ 478.36</b>
Meijer	3,969,000	5019 Red Arrow Hwy	192,214	\$ 41.30	1,922,140	\$ 91,571.60	\$ 1,606.58	\$ 2,305.99	\$ 4,092.08	\$ 357.59
<b>Totals</b>	<b>8,052,900</b>		<b>326,786.00</b>	<b>\$ 63.67</b>	<b>3,267,860.00</b>	<b>\$ 214,071.21</b>	<b>\$ 3,755.78</b>	<b>\$ 5,390.83</b>	<b>\$ 9,566.25</b>	<b>\$ 835.95</b>

Source: MML Dark Store Theory – Menard v Escanaba Presentation, 2017

and jewelry/electronics chain store outside of Grand Rapids has been closed since the late 1990s. It is now under negotiations for removal by Plainfield Township as a blighted structure. See photo on cover. If and when the dark stores do sell, the new businesses are most often not of the same value or tier as the national retailer that left – and do not represent the same highest and best use of the property. Yet in some cases, big box stores have been converted into mini-malls, amusement and recreation centers, split-up individual retail establishments, auto dealerships, and in at least one case, into a city hall. See sidebar below.

The retail industry defends their position, as noted above, saying they are only following the policy and law set by the state or local taxing authorities who have accepted the rationale behind the dark store theory and their use of comparative sales. Their technical appraisal arguments are based on what they have seen in practice – that there is significantly less value once the property is developed because of the unique characteristics of the buildings and the effect of depreciation. They also disagree that their businesses demand greater public services. Rather they argue they are community developers bringing jobs and benefits back to the community, often with discount pricing and variety of goods under one roof.

Communities are tackling this issue from two different directions — the courts (the tax tribunal and state courts) and the legislature. The earlier cases (as noted in the sidebar on page 6) have supported the dark store theory approach. But a recent Court of Appeals and Supreme Court case have questioned the validity of the theory. In addition, the legislature has also offered several solutions to this issue over the past several sessions.

## Big Box Store Replacements – Not Too Dark

Although the big box retailers say that their build-to-suit stores are too unique and specialized and virtually useless to anyone else, they have been reused in marketable ways. A [DBusiness.com](#) article from August 2019 suggested that many of the closed big box stores are “[f]ar from worthless...” It cites these Michigan examples of reused stores:

- A Walmart in Dearborn was a Kmart.
- An independent grocery distributorship is in a former Sam’s Club in Westland.
- Westland City Hall was a former Circuit City store.
- A Home Quarters in Royal Oak is now Beaumont’s Health and Wellness Center.
- Former Macy’s, Sears and Kmart stores have been converted into offices, apartment, and housing complexes.

Michigan Rep. Julie Brixie also cited several similar conversions in her Lansing area House District:

- A former Meijer Source Club Outlet that was converted to a Home Depot.
- A former L&L that was converted to a Tom’s Grocery Store.
- A big box Little Caesars Play Land is now an Office Max.

### Summary of Menard v Escanaba (Menard I & II)

One key to addressing the dark store theory issue will be the outcome of the **Menard, Inc. v City of Escanaba** case(s) [315 Mich App 512; 891 NW2d 1 (2016) (“**Menard I**” where the Michigan Supreme Court remanded the case back to the Michigan Tax Tribunal (MTT) (at 501 Mich 899 on October 20, 2017).] It is now again back to the Michigan Court of Appeals in **Menard II** (case number 354900). These two cases address specifically how the courts will look at future big box cases and challenges to the dark store theory. This second try at the Court of Appeals, and another likely appeal to the Supreme Court, will guide the industry and municipalities alike.

The **Menard I** case is not overly complicated from a general perspective, but is from the technical standpoint. This case followed other appeals to the MTT, which began to side with the big

box retailers based on *comparative sales* of similar big box stores that were vacant dark stores. The Tribunal was looking for comparative sales of *similar stores* and when it could not find them, it accepted *second generation dark store sales* for comparative purposes. The city of Escanaba challenged that position arguing that since the Menards store was a unique retail establishment, owned fee simple and was built-to-suit, it needed to be assessed at its *cost to reproduce less depreciation*.

In 2008, Menard, Inc. built a 237,728 square foot home improvement center on 18 acres at the western edge of the city. The main building was 162,340 square feet, with the additional areas being a lumber shed, garden center and other building supplies. In 2012 it first appealed its assessment which the city had placed on the property and continued the appeal through 2014. The city assessed the True Cash Value (TVC) of the property at \$7,815,976 (for the tax year 2012), \$7,995,596 (for 2013), and \$8,210,938 (for 2014). Menard, Inc. claimed its TVC was \$3,300,000 for all three tax years. The local board of review rejected the claim and Menard, Inc. appealed to the Michigan Tax Tribunal.

On the initial appeal to the MTT, the appraiser for Menard, Inc. offered comparables and income assessments of similar big box stores from lower Michigan. He claimed there were none in the Upper Peninsula asserting that he was appraising the “*fee simple interest*,” and that the property’s highest and best use (HBU) was “*for continued use of the existing improvements as a freestanding retail building*.” He did not prepare an assessment using the cost-less depreciation approach. Most of the comparables had *deed restrictions that barred other competitive activities for the future use of the property*. The appraiser did not factor in his assessment the impact of these deed restrictions saying they did not affect the sale price of the other comparables. He explained that some had been placed after the sale of the property, and that the deed restrictions were not anything out of the ordinary for build-to-suit big box stores. *Based on the dark store theory, the property lost most of its value as soon as the construction was complete*. It could not be sold for the construction costs minus any depreciation because functional obsolescence (the buildings uniqueness) was built into these build-to-suit big box stores. Further there was also external obsolescence due to a down market, although he did not identify any specific features of the building that were functionally obsolete, nor did he identify economic factors that made the property externally obsolete in the local market. He asserted that most big box stores are appraised based on these type of sales comparables.

The city’s assessor said Menard, Inc.’s comparables were “*not great*” with the deed restrictions and easements that limited their true comparisons. This Menards store had no deed restrictions or other property limitations or easements that restricted its use. She brought forward comparables based on a cost-less depreciation approach of similar stores. She adjusted for depreciation but not for functional obsolescence. She explained that if the store were purchased for its existing use, the buyer would use the existing building components.

The MTT accepted Menard’s arguments and ordered assessments for the three years ranging from \$3,490,000 to \$3,660,000. It held the cost-less depreciation approach should be given no weight since the city did not account for functional or external obsolescence. They disclaimed the city’s appraisals and supported Menard, Inc. because any obsolescence was difficult to calculate, and first-generation users are generally concerned with optimizing sales not with optimizing market value to the property. The MTT said the city did not provide enough data to support their comparables. They also accepted the Menard, Inc. position that deed restrictions had no effect on the sales of the deed-restricted properties they offered.

The city appealed to Michigan’s Court of Appeals, which in a published opinion reversed the MTT decision and remanded the matter back to the MTT (**Menard I**). The Court ordered the MTT to address several issues. In particular, the Court found error of law when the MTT did not consider the impact of deed restrictions. It found no evidence to support Menard, Inc.’s position that deed re-

restrictions have no impact on big box stores with the comparables they used. It stated that Menard, Inc.'s approach only looked at "purchasers who were willing to accept the restrictions and so did not reflect the full value of the unrestricted fee simple." Because of the anti-competitive nature of deed restrictions, big box stores are not sold for their existing use, but instead are sold for some second-generation use." It held that property must be assessed at the property's HBU. Since deed restrictions will affect HBU, those restrictions could force a buyer to move to a different use. Here the Court could not determine if the HBU was achieved. It also said the Tribunal erred by valuing Menards as a second generation "former" owner-occupied retail use that was no longer being used at its highest and best use, rather than as the original owner-occupied use.

The Court said MTT also erred when it rejected the cost-less depreciation appraisals. Since there was no market for big box stores in Escanaba the cost-less depreciation approach was appropriate as a matter of law. The Court based its position on **Clark Equipment Co v Leoni Township**, 113 Mich App 778; 318 NW2d 586 (1982). "Clark provides that (1) when the HBU of the property is its existing use and (2) when, because the property was built-to-suit, there would be little to no secondary market for the property to be used at its HBU, then the strict application of the sales-comparison approach would undervalue the property, so the cost-less depreciation approach is more appropriate." Here, the Court found Menards as a specialized type of use in a market that would not support a similar competitive use or that the use was so specialized it could not be used by another party. Under those circumstances, the use should be assessed on the cost-less depreciation method. It also found no record of Menard, Inc.'s claimed functional deficiency.

The Court reversed the MTT based on its rejection of the cost-less depreciation approach and its' accepting Menard's sales comparisons. It also found little evidence to support either position on the impact of the deed restrictions. It therefore remanded the case back to the MTT to take further evidence of the market effects of the deed restrictions; and "[i]f it is still insufficient to reliably adjust the value of the comparable properties if sold for the subject property's HBU, then the comparables should not be used. The tribunal shall also allow the parties to submit additional evidence as to the cost-less depreciation approach."

Menard, Inc. appealed to the Michigan Supreme Court. The court scheduled oral arguments asking the parties to address whether the Court of Appeals erred in relying on **Clark**. After the arguments were submitted, the Supreme Court denied leave to appeal [501 Mich 899 (Oct 20, 2017)] and remanded both parties back to the MTT.

The Tribunal held a ten-day hearing with five witnesses. The arguments were substantially the same as made earlier, although they applied their analysis to the Court's directions. Menard, Inc. this time prepared a cost-less depreciation analysis and came to a replacement cost of \$11.5 million. But it applied a combined functional and economic obsolescence at 65% which yielded a TCV of \$3.8 million. It again argued the dark store theory where obsolescence occurs as soon as the store was built. Being a big box store, which was owner-built, its value should be if sold and converted by the new owner. The city's cost analysis applied ob-

solescence based on a six-factor market analysis adapted from the **Appraisal Journal's** peer reviewed study "Highest and Best Use and Property Rights – Does It Make a Difference" (Stephan F. Fanning, et al, Summer 2018). Many of their 30 comparables were from big box stores from out-of-state since there were no comparable sales in Michigan for the size of the Escanaba market. Because the Escanaba store was the first large home improvement store in the area, generating most of its sales from well outside of the city of Escanaba, the city argued that the Menards store captured 100% of the home improvement market. It asserted a TCV of approximately \$13.7 million.

As for the deed restrictions, Menard, Inc. still argued that they did not apply. Their appraiser stated that since deed restrictions are generally determined after the sale price was established it would have no impact. And if there were restrictions that a new buyer would require, those limitations would be carved-out (by allowing the sales of items that would otherwise be restricted). The city on the other hand, asserted the anti-competitive nature of the deed restrictions was already in place and would affect the HBU of the property by forcing a new type of business (unlike the original) and thus creating a different HBU. The anti-competitive restrictions limited the pool of potential buyers so it would be impossible to know whether a potential buyer would have purchased it and the real impact of the deed restrictions.

The MTT again found Menard, Inc.'s arguments more persuasive. Its independent analysis found that Menard, Inc.'s cost-less depreciation approach was much closer to what it would find (only \$400,000 difference in obsolescence). It held that because the city's comparables were primarily leased properties and not fee simple owned arrangements, they were not truly comparable. It did not give any weight to the city's analysis or their objections to the different HBU between the Menards property and their comparables. The Tribunal also rejected the city's claim that deed restrictions would impact any sale price or force a new HBU for the property. MTT found no impact of the deed restrictions, agreeing that the carve-outs and after sale restrictions were insignificant. In the end, the MTT assigned TCV for each of the three years at \$5,000,000 (being about \$1.13 million more than what Menard, Inc. asserted and about \$8.8 million less than what the city valued). See sidebar.

The city has appealed again to the Court of Appeals (**Menard II**). Briefs from the city and Menard, Inc. have been submitted. The city argues that the Tribunal erred by finding that the deed restrictions had no impact; the MTT interpretation of the "fee simple interest" was too narrow; and it failed to follow **Menard I's** remand instructions (by not following **Clark**, addressing the secondary market sales, and failure to consider a market analysis by disregarding the city's evidence). Menard, Inc.'s response brief states the Tribunal complied with the remand order and followed a textbook cost approach in applying appropriate obsolescence. It still found no impact from the deed restrictions. In addition, this time the Tribunal applied an income approach, using a capitalized rent loss methodology, which the city did not address. In the city's Reply Brief, it addressed the "continued use" doctrine not a "value in use" from **Clark**. It also asserted that Menard, Inc. and the MTT still rejected the Court's HBU holding as a freestanding owner-occupied retail use; and that Menard, Inc. used uncited claims.

## Menard v Escanaba TCV Decisions

Below are the various True Cash Values for the Menards property based on the positions of the parties and the decisions of the Michigan Tax Tribunal.

### True Cash Value Determinations

Year	City Assessed	Menard Appraised	MTT Decision	City on Remand	Menard on Remand	MTT on Remand
2012	\$7,815,976	\$3,300,000	\$3,325,000	\$13,700,000	\$3,870,000	\$5,000,000
2013	\$7,995,596	\$3,300,000	\$3,490,000	\$13,880,000	\$3,870,000	\$5,000,000
2014	\$8,210,938	\$3,300,000	\$3,660,000	\$13,760,000	\$3,870,000	\$5,000,000



A hearing date has not been set. But even when addressed by the Court of Appeals, it is expected this will ultimately end up again in the Supreme Court. Until then it is unclear if anything will change, *absent legislative action to address the issue.*

In a more recent big box tax appeal, the Court of Appeals upheld a MTT decision for the city in an unpublished case, **Greenfield-8 Mile Plaza v City of Southfield**, case No. 345183, decided December 12, 2019. Here, the MTT held the TCV of a former Home Depot big box store which was converted to a membership club was accurately assessed by the city's expert. That case cited **Menard I's** positions regarding deed restrictions, use of cost and sales valuations, and other factors.

Specifically, the Court of Appeals found that Greenfield's use of the appraiser's **Uniform Standard of Professional Appraisal Practice** was not necessarily appropriate since this was a tax appeal and not an appraisal for sale. The *valuation disclosure* provided by the city, as required by the MTT, was appropriate for a property tax assessment. Just because the assessor did not do the kind of inspection required for a property appraisal for a sale, that difference was irrelevant. As for the deed restrictions, the Tribunal and Court found that the deed restrictions placed by Home Depot prohibiting any future home improvement or hardware use was properly considered, as required by **Menard I**. *There is no requirement that a value be reduced because of the deed restrictions; rather it only requires an independent evaluation by the Tribunal.* The Court also agreed with the city that because the property was zoned for a member-only retail use, it was properly zoned and assessed as retail. It was not zoned for a warehouse use, which was the basis for the petitioner's assessments. Finally, the income approach was not used as this was an owner-occupied property and not rented. The Court of Appeals affirmed the Tribunal's assessments.



Former Farmer Jack's in Grand Blanc.

Courtesy of the Michigan Municipal League.

## Legislative Actions – in Michigan and Elsewhere

Over the past six years the Michigan legislature has made several attempts to address the big box store question and the dark store theory using two approaches. One on the land use (zoning) side and the other by addressing the property taxation process. None of the bills were enacted. Now in 2021, it appears attempts will again be made on both ends to address this issue.

Several bills have been promoted to address the zoning issue as relates to deed restrictions. HB 4909 was introduced in the 2015-2016 Session by then Representative Kivela and cosponsored by 12 other representatives from both parties. It was tied to SB 524 which addressed taxation issues. Rep. Kivela, speaking of both bills (in a TV6 FoxUP Upper Michigan's Source press report, released on September 24, 2015,) said:

*"Large national retailers have used what's known as the 'dark store' argument to win huge tax refunds that will permanently decrease the property tax base in Michigan and are devastating to state and local government budgets, as well as local zoning ordinance and master plans, they've enacted to deal with developments. Our bills would ensure that all businesses are assessed equally regardless of who they are, how large their business is, whether they are a successful national business from outside of Michigan or whether they are a local retailer in Michigan."*

Rep. Kivela goes on to say that national retailers should not be able to cut their taxes by arguing that new big box stores are worth less than the purchase price of the land. Rep. Kivela said

the approach in his bill had passed with unanimous support in Indiana the year before.

House Bill 4909 would have amended the MZEA by limiting the use of "negative use restrictions" in a zoning ordinance on a vacant single retail establishment or commercially zoned land. This means *deed or other real property restrictions could not prohibit or limit the use by an owner or occupant.* It would also have restricted commercial leases that prevents leasing to another retailer. The bill applied to single retail establishments of 7,000 square feet or larger and specifically calls out *big box* stores, which was not defined. Negative use restrictions would not be allowed in special land use approvals. And a special land use applicant would have to submit a plan for re-leasing or reuse in the event the property goes vacant. HB 4909 would have also established, as a public policy, that vacant single retail establishments lead to blight and that the reduction of these blighted establishments was in the public's interest.

To address the so-called loophole, which was established by the dark store theory, Senate Bill 524, introduced by Senator Casperson, would have amended the General Property Tax Act. The bill would require establishing the TCV of a property by considering the value of HBU as the value of the property as vacant and the structure as improved. For big box-type stores (over 25,000 square feet), the HBU would be the continued use as improved. The Tribunal would lean towards a rebuttable presumption that cost-less depreciation was the best evidence of the usual selling price. The bill also would limit the use of speculative evidence and assumptions. This would highly restrict the use of the dark store theory argument. **Gongwer** quoted Senator Casperson in 2015 as saying:

*"big corporations should not be the force behind the state's tax policy – a policy that is devastating local units of government and unfair to local retailers and residents. Unfortunately, the tax tribunal is letting it happen ... at the expense of our schools, libraries, seniors, public safety department, public transit agencies and residents."*

In 2016, Representative Dave Maturen, a licensed real estate appraiser and former local governmental official at the township and county level lead a study committee to introduce, HB 5578, which was co-sponsored by 27 other representatives from both parties. This bill went into much more detail on addressing the big box store and dark store theory concerns of local governments. It did not include the same language as in SB 524, rather it proposed to set new rules for the Tribunal for determining TCV by requiring an *independent determination of facts and conclusions of law to affirm their findings and valuation.*

Specifically, under Rep. Maturen's bill, the MTT would have to look within the market where the property competes; the reasonable probable use (being physically possible, legally permissible, financially feasible and maximally productive); look at the construction or reproduction costs for the HBU with the same utility, features and age; looking at comparable properties in the same market (and generally excluding comparables with different HBUs, substantially different economic conditions, and vacant); the impact and use of deed restrictions or other covenants (only allowing those that benefit the property and surrounding areas); and analyzing and adjusting for different comparables. The MTT should use all three methods of valuation — comparables, cost-less depreciation and capitalization of income. Weighting each method and not arbitrarily disregarding any of them. Parties' stipulations must have an evidentiary basis that is substantial and reliably verified. MTT's determinations must follow generally accepted appraisal principals of the Appraisal Foundations **Uniform Standards of Professional Appraisal Practice**. The bill's House Analysis indicated that it would likely result in higher assessments.

HB 5578 passed the House on a 97-11 vote. But, this bill was killed in the Senate when the chair of the Senate Finance Committee buried it, based on objections from the Michigan Chamber of Commerce, the Michigan Retailers Association, and others. The Committee Chairman explained that big box retailers bring

in jobs and other support to communities, which could be jeopardized by increasing their tax liability. The retailer's industry said they were doing nothing wrong. But from the municipal side, Judy Allen of the Michigan Townships Association said *"This is an issue of fairness, not politics"* based on the large bipartisan support coming out of committee with 97 in favor and 11 opposed (Joint Press Release by MTA, MML, MAC, June 8, 2016). As reported in various **Gongwer** Michigan Newsletters (2016), Rep. Maturen said *"HB 5578 (H-2) represents a narrowly tailored and practical approach. Adopting uniform and proven appraisal principals will result in more fair, transparent resolutions to assessment disputes before the MTT and tax equity across the board for all taxpayers."* Rep. Maturen praised the bill as being *"good sound policy. ... It provides equitable treatment for all properties. It requires an apples-to-apples comparison for appealed properties ... rather than apples-to-onions."* Nevertheless it went nowhere in the Senate.

In 2017, Senator Casperson again tried by offering SB 578. It would have required comparables to have the same HBU and as a part of the independent determination required by MTT, to disclose if there were private restrictions and covenants that impact the HBU and limit their use. It would also limit comparables whose restrictions did not assist in the economic development of the property and provide a continuing benefit, or that materially increases the likelihood of vacancy or inactivity of the property. That bill also failed to progress in the legislature.

Then in 2019, Senator McBroom introduced SB 39 which was identical to 2017's SB 578. As an alternative, he introduced a broader bill, SB 26 which addressed the same deed restriction and covenant limitations, in addition to the direct property tax loophole. Both failed to gain traction. Two more bills were also introduced that year. HB 4025 and HB 4074. Both were similar and generally followed Rep. Maturen's 2016 bill. The two bill sponsors, Rep. LaFave, a UP Republican (HB 4025) and Rep. Brixie, a Lansing area Democrat (HB 4074) co-sponsored each other's bill and were joined by over a dozen representatives from each party. Again, both bills never moved for the same earlier reasons. With Covid-19 lockdowns, the legislative efforts went quiet. But now in this current legislative session, a renewed effort may again come forward. Both Representatives Brixie and LaFave are now in discussions for resurrecting the issue in this session (as discussed more at the end of this article).

### Activity in Other States

As mentioned earlier, the dark store theory is being argued in a number of other states, and courts and legislators there are also wrestling with the issue. This is because of the large negative fiscal impact on local governments.

The Northern Michigan University study, as reported in Isabelle Karl's article in **Rural Insights** earlier, addressed what some other states are doing legislatively. It highlights legislation passed by the New York State Assembly in 2020. The new law there requires assessment be based on similar properties being used in the same way as the assessed property. The law requires the comparable to be within the state, but it does not need to be in the same taxing district. The legislation specifically requires comparables for big box stores be assessed using properties of a similar size and that are actively being used as retail. The report also said similar legislation was under consideration in Wisconsin, North Carolina, and Indiana. The report summarized that these efforts provide

*"specific and clear guidelines to local assessors, it creates less confusion for property owners and local assessors than the previous law did. This increased clarity has the desired result of reducing instances of commercial property value disputes as well as the loss of local revenue."*

An update on Indiana. The 2015 Indiana legislation noted by Rep. Kivela above was replaced. The legislature originally established special tax value rules for large retail properties, including sale-leaseback properties which were less than ten years old. It prohibited those properties from using certain comparables for their valuations that have been vacant longer than one year; have significant deed restrictions; were sold to a secondary user for a different purpose; or were not an arm's length transaction. The legislation also required big box retail properties be assessed under the cost-approach without considering the sales-comparison approach. But the next year, the legislation was repealed and replaced. It now allows use of comparables from different markets or submarkets from the subject property. It also specifies that the value in exchange of an improved property is not the True Tax Value of the improved property, and the True Tax Value does not mean the value of the property to the user. This has the effect of reducing the restrictions on big box appraisals.

Wisconsin has also attempted legislation. A 2008 case established the dark store theory there and has since seen hundreds of cases follow that direction. In 2018, legislation to overturn that case was rejected by the legislature. Wisconsin Governor Evers in 2019 made it a priority in his administration to close the dark store loophole; but he has not been able to move this forward in the legislature. The Wisconsin Municipal League is pushing its communities to continue to appeal their decisions. In other states like Texas, California, Ohio, Illinois, Minnesota, and North Carolina, big box stores have continued to push the theory. Some have won and others have not prevailed. So, the direction is unclear in other states as well.

### What's Next?

Representatives Brixie and LaFave are both planning on introducing new legislation in 2021. Rep. Brixie, will be reintroducing her last bill (2019 HB 4074) to address the overall assessment process before the MTT. She hopes to have it out this fall. Rep. LaFave will move in a different direction by focusing on the deed restrictions issue. His bill will seek to limit their use where they will have the effect of creating disincentives to develop the property. The MML's Legislative liaison Chris Hackbarth, supports both approaches, but sees the LaFave approach as possibly being more acceptable in the current political climate.

In the courts, the Court of Appeals will hear **Menard II** sometime later this year, so an opinion is not expected for several months after that. With that decision, it would not be surprising to see the case go back to the Supreme Court. So, it may yet be several years before the courts set more direction.

At the local level, a few communities have also explored ordinances or restrictions on limiting the use of deed restrictions. The thought would be to limit them in zoning through the special use permit process or as a police power ordinance. This might help avoid long-term vacancies and promote blight control by limiting the amount of time a property owner can leave a building or property vacant. The regulations would require security deposits to clean up or remove blighted situations created by the deed restrictions. It would also limit the amount of time deed restrictions can be in place. However, the constitutionality of such restrictions could be questioned. Courts are very reluctant to limit the free use of property, which is highly coveted under the law. It is unclear how courts would treat these regulations on the free use of property.

Where does that leave the retailers – big box and now others – and communities? Until legislation or the courts settle this, retailers will have the upper hand and municipalities will have significantly less property tax revenues available to meet the needs of its citizens, leaving other taxpayers to bear those burdens. In the meantime, it will continue to be a taxing situation. □

**SWARTZ CREE AREA FIRE DEPT: 2022  
BUDGET-DRAFT**

ACCT #		19 BUDGET	19 ACTUAL	20 BUDGET	20 ACTUAL	21 BUDGET	22 BUDGET	DEFINITION
	<b>REVENUES:</b>							
3528	Other Federal Grants			\$26,000.00	\$26,000.00			
3582	Contributions-Operating	\$310,973.17	\$366,098.92	\$311,557.51	\$308,501.34	\$310,829.50	\$326,329.00	Estimated Operating Contributions
3583	Contributions-Equipment	\$0.00	\$0.00	\$0.00				Estimated Equipment Contributions-combined with 3582 for 2013
3628	Misc. Income (Sundry)	\$0.00	\$33,997.67	\$0.00	(\$1,526.51)	\$0.00	\$0.00	Miscellaneous Income
3630	Grant Income	\$0.00	\$0.00	\$0.00		\$0.00	\$0.00	Grant Income
3664	Interest Income	\$0.00	\$0.00	\$0.00		\$0.00		Interest from Deposits
3673	Sale of Fixed Assests	\$0.00	\$0.00	\$0.00				Sale of Miscellaneous Used Items
	<b>TOTAL REVENUES</b>	\$310,973.17	\$400,096.59	\$337,557.51	\$332,974.83	\$310,829.50	\$326,329.00	
	<b>EXPENSES</b>							
4703	Social Security	12,251.17	11,458.61	13,442.61	12,665.99	12,107.50	12,337.00	Social Security - .0145%, FICA - .062%
4704.1	Salaries - Chief	31,500.00	31,500.00	33,000.00	32,011.00	31,500.00	33,000.00	Chief
4704.2	Salaries - Staff	10,000.00	4,529.00	9,930.00	4,025.00	10,000.00	10,000.00	Accounting Specialist & Clerical
4705	Salaries - Maintenance	20,300.00	10,944.00	22,122.19	21,421.93	20,300.00	21,800.00	Maint., Qtr. Master, Train. Officer, FF Labor, Pump Testing
4706	Salaries - Officers	18,468.00	13,758.00	14,732.97	13,167.00	18,468.00	18,468.00	1 Asst. Chief, 1 Batt. Chief, 2 Capt., 4 Lieut.2 Sgt.
4707	Salaries - Firefighters	78,000.00	89,054.65	98,000.00	94,943.82	78,000.00	78,000.00	Est. Fire Run/Training Payment for Firefighters
4708	Deferred/Direct Response Comp.	2,556.00	1,676.75	2,683.24	2,434.50	2,556.00	2,556.00	Deferred Comp. Employer Paid
4709	Medical - Firefighters	7,408.00	2,868.50	8,265.00	7,161.00	7,408.00	8,408.00	Physicals, Hept. - B Shots
4710	Unemployment Payments	750.00	53.28	776.00	775.28	750.00	800.00	Unemployment Payments
4715	Unforseen Fees			1,648.83	6,611.39			
4727	Office Supplies	1,850.00	1,219.60	1,850.00	736.31	1,850.00	1,850.00	Clerical Supplies,Postage,Shipping
4728	Building Supplies/Maint	1,600.00	1,261.32	1,350.00	615.44	1,600.00	2,120.00	Utility Paper, Cleaning Supplies, Light Bulbs, Keys
4741	Equip/Oper. supplies	7,100.00	5,868.53	6,564.00	5,184.96	7,100.00	7,100.00	Small tool, Batteries, Fuel, Filters etc...
4801	Contract Services	7,800.00	6,925.70	9,700.00	6,650.20	7,800.00	10,200.00	Audit,Legal,Cleaning,Advertising,Copier Maint. Agree.,Photos
4850	Communications	5,520.00	6,250.55	5,800.00	4,869.98	5,520.00	5,520.00	Telephone/Internet Service
4910	Insurance	21,375.00	20,345.97	19,609.66	17,796.50	21,375.00	24,900.00	Fleet, Liability, Workers' Comp.
4920	Utilities	19,500.00	19,685.91	19,051.17	15,530.00	19,500.00	19,500.00	Gas/Electric, Water/Sewer
4960	Education & Training	9,455.00	4,398.94	8,445.67	6,050.03	9,455.00	11,650.00	Dues, Classes/Materials, Prevention Materials,Subscriptions
4970	Office Equipment	750.00	-	750.00	-	750.00	750.00	Office Equipment
4976	Fire Equipment	26,720.00	83,062.97	33,036.84	32,190.84	26,720.00	26,300.00	Gear,Suppression Equip.Pagers,Radios
4978	Fire Equip-Maint./Repair/Upgrades	24,230.00	30,440.07	22,330.00	14,663.23	24,230.00	27,230.00	Maint. Agree., Repair & Upgrades of Fire Equipment
4984	Computer Hardware/Repair	1,800.00	390.02	1,800.00	253.50	1,800.00	1,800.00	Computer Hardware & Hardware Repair
4988	Computer Software/Upgrade	2,040.00	1,711.00	2,669.33	2,510.33	2,040.00	2,040.00	Computer Software, Software Upgrades, Train. Matls.
	<b>Sub-total Expenses</b>	310,973.17	347,403.37	337,557.51	302,268.23	310,829.50	326,329.00	
4981	Apparatus	\$382,374.96	\$382,374.96				\$120,000.00	2- 1 Ton Pickup Trucks (Grass Fire/Transport Units)
	<b>Total Expenses</b>	693,348.13	729,778.33	337,557.51	302,268.23	310,829.50	446,329.00	
	<b>Net Income (Loss)</b>	\$0.00	\$52,693.22	\$0.00	\$30,706.60	\$0.00	\$0.00	
	<b>Fund balance beginning of the year</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
	<b>Fund balance end of the year</b>	\$0.00	\$52,693.22	\$0.00	\$30,706.60	\$0.00	\$0.00	



2022 BUDGET-DRAFT

2022 BUDGET BREAKDOWN :

Account				2021	2022	Change
<b>4703 Social Security</b>				<b>12,107.50</b>	<b>12,337.00</b>	<b>229.50</b>
	2019 Actual	11,458.61				
	2020 Actual	12,665.99				
Chief Salary				\$31,500.00	\$33,000.00	\$1,500.00
Acct & Clerical Wage				\$10,000.00	\$10,000.00	\$0.00
Officers				\$18,468.00	\$18,468.00	\$0.00
Main/Train				\$20,300.00	\$21,800.00	\$1,500.00
Firefighters				\$78,000.00	\$78,000.00	\$0.00
	TOTA	\$161,268.00	0.0765	\$12,107.50	\$12,337.00	\$229.50
<b>4704.1 Chief Salary</b>				<b>\$31,500.00</b>	<b>\$33,000.00</b>	<b>\$1,500.00</b>
	2019 Actual	\$31,500.00				
	2020 Actual	\$32,011.00				
Chief's Salary				\$31,500.00	\$33,000.00	\$1,500.00
<b>4704.2 Accounting Specialist &amp; Clerical Wages</b>				<b>\$10,000.00</b>	<b>\$10,000.00</b>	<b>\$0.00</b>
	2019 Actual	4,529.00				
	2020 Actual	4,025.00				
Accting Specialist Wage (\$19.23 hr, avg 10 hrs a week)				\$10,000.00	\$10,000.00	\$0.00
	TOTAL			\$10,000.00	\$10,000.00	\$0.00
<b>4705 Maint. &amp; Train. Wages</b>				<b>\$20,300.00</b>	<b>\$21,800.00</b>	<b>\$1,500.00</b>
	2019 Actual	\$10,944.00				
	2020 Actual	\$21,421.93				
Truck Maintenance Duties	\$200/mth			\$2,400.00	\$2,400.00	\$0.00
Quarter Master Duties	\$200/mth			\$2,400.00	\$2,400.00	\$0.00
Training Duties	\$200/mth			\$2,400.00	\$2,400.00	\$0.00
Assit Quarter Master Duties	\$100/mth			\$1,200.00	\$1,200.00	\$0.00
IT Specialist	\$100/mth			\$1,200.00	\$1,200.00	\$0.00
Fire Prevention Duties	\$100/mth			\$1,200.00	\$1,200.00	\$0.00
Firefighter Labor:						
Hall/Apparatus Duties	Normal Firefighter hourly rate			\$6,500.00	\$7,500.00	\$1,000.00
Flow Testing/SCBA Tech Maint	Normal Firefighter hourly rate			\$1,000.00	\$1,500.00	\$500.00
Mechanic Maintenance Duties	Normal Firefighter hourly rate			\$2,000.00	\$2,000.00	\$0.00
	TOTAL			\$20,300.00	\$21,800.00	\$1,500.00
<b>4706 Officer Salary</b>				<b>\$18,468.00</b>	<b>\$18,468.00</b>	<b>\$0.00</b>
	2019 Actual	13,758.00				
	2020 Actual	13,167.00				
Asst. Chief (1)	250/mth			\$3,000.00	\$3,000.00	\$0.00
Batt. Chief (1)	187/mth			\$2,244.00	\$2,244.00	\$0.00
Captain (2)	334/mth			\$4,008.00	\$4,008.00	\$0.00
Lieutenant (4)	568/mth			\$6,816.00	\$6,816.00	\$0.00
Sergeant (2)	\$200/mth			\$2,400.00	\$2,400.00	\$0.00
	TOTAL			\$18,468.00	\$18,468.00	\$0.00

2022 BUDGET-DRAFT

<b>4707 Firefighter Wages</b>			<b>\$78,000.00</b>	<b>\$78,000.00</b>	\$0.00
	2019 Actual	89,054.65			
	2020 Actual	94,943.82	* \$26,000 Grant		
<b>FIREFIGHTER (2021 Raise)</b>					
	Probation I		\$12.23	\$12.23	\$0.00
	Probation II		\$13.02	\$13.02	\$0.00
	FFI		\$13.73	\$13.73	\$0.00
	FFII		\$14.95	\$14.95	\$0.00
	Officer I		\$16.09	\$16.09	\$0.00
	Officer II		\$17.00	\$17.00	\$0.00
	Officer III		\$17.46	\$17.46	\$0.00
	Tenure	+ .30 for 3yrs; 5yrs & 5 year increments			
	Pump Operator		\$0.27	\$0.27	\$0.00
<b>4708 Deferred Compensation</b>			<b>\$2,556.00</b>	<b>\$2,556.00</b>	\$0.00
	2019 Actual	1,676.75			
	2020 Actual	2,434.50			
	Firefighters: flat rate, \$52 per yr X18 FF		\$936.00	\$936.00	\$0.00
	Firefighters: \$1.50 per run x 18 FF X 60 runs (includes alarms & training)		\$1,620.00	\$1,620.00	\$0.00
	TOTAL		<u>\$2,556.00</u>	<u>\$2,556.00</u>	\$0.00
<b>4709 Medical Expense</b>			<b>\$7,408.00</b>	<b>\$8,408.00</b>	\$1,000.00
	2019 Actual	2,868.50			
	2020 Actual	7,161.00			
	Physical 27 FF		\$7,000.00	\$8,000.00	\$1,000.00
	Hept B injections 3 shots @ \$68(x2)		\$408.00	\$408.00	\$0.00
	TOTAL		<u>\$7,408.00</u>	<u>\$8,408.00</u>	\$1,000.00
<b>4710 Unemployment Payments</b>			<b>\$750.00</b>	<b>\$800.00</b>	\$50.00
	2019 Actual	53.28			
	2020 Actual	775.28			
	Unemployment Payments		\$750.00	\$800.00	\$50.00
	TOTAL		<u>\$750.00</u>	<u>\$800.00</u>	\$50.00
					\$0.00

2022 BUDGET-DRAFT

<b>4727 Office Supplies</b>			<b>\$1,850.00</b>	<b>\$1,850.00</b>	\$0.00
	2019 Actual	1,219.60			
	2020 Actual	736.31			
					\$0.00
	Supplies (forms, envelopes, pens, etc...)		\$500.00	\$500.00	\$0.00
	Postage (stamps, special mailings)		\$300.00	\$300.00	\$0.00
	Shipping		\$1,000.00	\$1,000.00	\$0.00
	Sam's Club Membership		\$50.00	\$50.00	\$0.00
	TOTAL		<u>\$1,850.00</u>	<u>\$1,850.00</u>	\$0.00
					\$0.00
<b>4728 Building Supplies</b>			<b>\$1,600.00</b>	<b>\$2,120.00</b>	\$520.00
	2019 Actual	1,261.32			
	2020 Actual	615.44			
					\$0.00
	Paper Products		\$400.00	\$600.00	\$200.00
	Cleaning Products		\$230.00	\$500.00	\$270.00
	Light Bulbs		\$40.00	\$40.00	\$0.00
	Repairs/Updates		\$230.00	\$230.00	\$0.00
	Rehab Supplies		\$350.00	\$350.00	\$0.00
	First Aid Kit (restock)		\$350.00	\$400.00	\$50.00
	TOTAL		<u>\$1,600.00</u>	<u>\$2,120.00</u>	\$520.00
					\$0.00
<b>4741 Equipment Supplies</b>			<b>\$7,100.00</b>	<b>\$7,100.00</b>	\$0.00
	2019 Actual	5,868.53			
	2020 Actual	5,184.96			
					\$0.00
	Fuel		\$4,200.00	\$4,200.00	\$0.00
	Filters		\$300.00	\$300.00	\$0.00
	Oil		\$250.00	\$250.00	\$0.00
	Small Tools		\$350.00	\$350.00	\$0.00
	Misc. Supplies		\$2,000.00	\$2,000.00	\$0.00
	TOTAL		<u>\$7,100.00</u>	<u>\$7,100.00</u>	\$0.00
					\$0.00
<b>4801 Contract Services</b>			<b>\$7,800.00</b>	<b>\$10,200.00</b>	\$2,400.00
	2019 Actual	6,925.70			
	2020 Actual	6,650.20			
					\$0.00
	Emergency Excavating/Towing		\$600.00	\$600.00	\$0.00
	Auditing Service		\$4,600.00	\$4,700.00	\$100.00
	Maintenance Agreement-Copier		\$600.00	\$700.00	\$100.00
	Legal Service		\$2,000.00	\$2,000.00	\$0.00
	Kelyess Entry		\$0.00	\$2,200.00	\$2,200.00
	TOTAL		<u>\$7,800.00</u>	<u>\$10,200.00</u>	\$2,400.00
					\$0.00

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<b>4850 Communications</b>			<b>\$5,520.00</b>	<b>\$5,520.00</b>	\$0.00
	2019 Actual	6,250.55			
	2020 Actual	4,869.98			
					\$0.00
	Web Site Domain Name (renew in 2020 GoDaddy)		\$0.00	\$0.00	\$0.00
	Web Site Domain Hosting (1and1 renew 2020)		\$0.00	\$0.00	\$0.00
	IAR (I Am Responding) Smart Phone Program		\$620.00	\$620.00	\$0.00
	Phone Equipment		\$600.00	\$600.00	\$0.00
	Phones/Internet Access		\$4,300.00	\$4,300.00	\$0.00
	TOTAL		<u>\$5,520.00</u>	<u>\$5,520.00</u>	\$0.00
					\$0.00
<b>4910 Insurance</b>			<b>\$21,375.00</b>	<b>\$24,900.00</b>	\$3,525.00
	2019 Actual	20,345.97			
	2020 Actual	17,796.50			
					\$0.00
	Michigan Par Plan		\$16,000.00	\$19,500.00	\$3,500.00
	Worker's Compensation		\$5,200.00	\$5,200.00	\$0.00
	MML Membership		\$175.00	\$200.00	\$25.00
	TOTAL		<u>\$21,375.00</u>	<u>\$24,900.00</u>	\$3,525.00
					\$0.00
<b>4920 Utilities</b>			<b>\$19,500.00</b>	<b>\$19,500.00</b>	\$0.00
	2019 Actual	19,685.91			
	2020 Actual	17,796.50			
					\$0.00
	Water/Sewer		\$3,000.00	\$3,000.00	\$0.00
	Gas/Electric		\$16,500.00	\$16,500.00	\$0.00
	TOTAL		<u>\$19,500.00</u>	<u>\$19,500.00</u>	\$0.00
					\$0.00
<b>4960 Education &amp; Training</b>			<b>\$9,455.00</b>	<b>\$11,650.00</b>	\$2,195.00
	2019 Actual	4,398.94			
	2020 Actual	6,050.03			
					\$0.00
	FIREFIGHTER TRAINING				\$0.00
	Misc. FF Classes		\$2,000.00	\$2,000.00	\$0.00
	ADVANCED TRAINING				\$0.00
	Officer Classes/National		\$3,000.00	\$5,000.00	\$2,000.00
	CERTIFICATIONS				\$0.00
	CPR		\$300.00	\$300.00	\$0.00
	MEMBERSHIPS				\$0.00
	Michigan Fire Chiefs		\$245.00	\$245.00	\$0.00
	Genesee Co. Fire Chiefs \$63 ea x 3 + \$312 dept		\$305.00	\$500.00	\$195.00
	Shiawassee Co. Firefighters		\$75.00	\$75.00	\$0.00
	Mi State Fireman's Assoc \$30 ea x35 + \$75 dept		\$1,125.00	\$1,125.00	\$0.00
	Mi Fire Inspectors Association		\$85.00	\$85.00	\$0.00
	Hundred Club		\$150.00	\$150.00	\$0.00
	Mi Fire Instructors Association (2)		\$170.00	\$170.00	\$0.00
	TRAINING SUPPLIES		\$500.00	\$500.00	\$0.00
	FIRE PREVENTION				\$0.00
	Misc. Materials/handouts/audio visual aides		\$500.00	\$500.00	\$0.00
	Fire Safety Trailer		\$1,000.00	\$1,000.00	\$0.00
	TOTAL		<u>\$9,455.00</u>	<u>\$11,650.00</u>	\$2,195.00

2022 BUDGET-DRAFT

<b>4970 Office Equipment</b>			<b>\$750.00</b>	<b>\$750.00</b>	\$0.00
	2019 Actual	-			\$0.00
	2020 Actual	-			\$0.00
<b>Upgrades/Repairs</b>			<b>\$750.00</b>	<b>\$750.00</b>	\$0.00
	TOTAL		<b>\$750.00</b>	<b>\$750.00</b>	\$0.00
<b>4976 Fire Equipment</b>			<b>\$26,720.00</b>	<b>\$26,300.00</b>	-\$420.00
	2019 Actual	83,062.97			
	2020 Actual	32,190.84			
Turn Out Gear (2)			\$11,500.00	\$5,200.00	-\$6,300.00
Misc Equipment			\$4,500.00	\$4,500.00	\$0.00
Uniforms			\$2,000.00	\$2,000.00	\$0.00
10 yr Anniversary Helmet (2)			\$0.00	\$800.00	\$800.00
Foam			\$6,000.00	\$0.00	-\$6,000.00
Replacement Helmets (2)			\$2,000.00	\$600.00	-\$1,400.00
Leather Fire Boots (5)			\$720.00	\$2,000.00	\$1,280.00
Ruggad Tablet (water/shock proof)			\$0.00	\$5,000.00	\$5,000.00
Vestank (2) Grass Fires			\$0.00	\$1,000.00	\$1,000.00
Nozzel Upgrade			\$0.00	\$5,200.00	\$5,200.00
	TOTAL		<b>\$26,720.00</b>	<b>\$26,300.00</b>	-\$420.00
<b>4978 Fire Equipment-Maint/Repair</b>			<b>\$24,230.00</b>	<b>\$27,230.00</b>	\$3,000.00
	2019 Actual	30,440.07			
	2020 Actual	14,663.23			
Truck Repair			\$9,000.00	\$10,000.00	\$1,000.00
Jaws Pump Maint - Bi-Annually 2021			\$1,500.00	\$1,500.00	\$0.00
Turn-Out Gear Repair/Cleaning			\$500.00	\$1,500.00	\$1,000.00
Ladder Certification			\$750.00	\$750.00	\$0.00
Annual Pump Test/Maint			\$4,500.00	\$4,500.00	\$0.00
Pager/Radio Repair/Upgrade			\$1,000.00	\$1,000.00	\$0.00
SCBA Repair			\$1,500.00	\$1,500.00	\$0.00
Fire Extinguishers Maint			\$550.00	\$550.00	\$0.00
Misc. Equipment Repair			\$1,500.00	\$1,500.00	\$0.00
Posi Check Calibration		**potential split 50/50 with GTFD	\$750.00	\$750.00	\$0.00
OHD Facemask Fit Equipment		**potential split 50/50 with GTFD	\$820.00	\$820.00	\$0.00
Air Compressor M/A (2)			\$1,860.00	\$1,860.00	\$0.00
Replacement Truck Air Compressor (1)			\$0.00	\$1,000.00	\$1,000.00
			<b>\$24,230.00</b>	<b>\$27,230.00</b>	\$3,000.00
<b>4981 Apparatus</b>			<b>\$0.00</b>	<b>\$120,000.00</b>	\$120,000.00
	2019 Actual	\$382,374.96			
	2020 Actual	\$0.00			
	TOTAL		<b>\$0.00</b>	<b>\$120,000.00</b>	\$120,000.00
<b>4984 Computer Hardware/Repairs</b>			<b>\$1,800.00</b>	<b>\$1,800.00</b>	\$0.00
	2019 Actual	390.02			
	2020 Actual	253.50			
Computer/Monitor Upgrades			\$1,500.00	\$1,500.00	\$0.00
Repairs			\$300.00	\$300.00	\$0.00
	TOTAL		<b>\$1,800.00</b>	<b>\$1,800.00</b>	\$0.00
<b>4988 Computer Software/Upgrades</b>			<b>\$2,040.00</b>	<b>\$2,040.00</b>	\$0.00
	2019 Actual	1,711.00			
	2020 Actual	2,510.33			
Quickbooks			\$2,040.00	\$2,040.00	\$0.00
Misc Program Support (Zoom, Windows)			\$1,000.00	\$2,000.00	\$1,000.00
	TOTAL		<b>\$2,040.00</b>	<b>\$2,040.00</b>	\$0.00

Swartz Creek Area Fire Department  
 2021 Proposed Fire Apparatus Replacement / Addition Schedule  
 September 10, 2021

New or Replacement Year	Purchased New Year	Original Cost	Years When Replaced	Apparatus Description	Current Rig #	New Rig #	Replacement / Additional Apparatus	Projected Cost
2014	1991	180,681	23	1991 Pierce, 1500 GPM pump, 1000 gal tank	41-12	41-12	1500 GPM pumper, 750 gal. tank	\$470,176 (1)
2019	1992	71,235	27	1992 International, 5000 gallon tanker	41-23	41-23	1500GPM Tanker, 4000 ga. Tank	\$400,000 (2)
2022	1993	24,290	29	1993 Chev Crew Cab	41-16	41-17	1-Ton Crew Cab- Single Axle Utility P-up	\$68,000(3)
2022	1979	CDBG	43	1979 Dodge (Township Owned)	41-27	41-27	1-Ton Single Cab- Single Axle Utility P-up	\$52,000(4)
2022	1979	CDBG	43	1979 Chevy (City Owned)	41-17	-	Combining Vehicles	\$0(4)
2023	1999	227,919	24	1999 Pierce, 1500 GPM pump, 750 gal tank	41-21	41-21	1500 GPM pumper, 1500 gal. tank	\$750,000
2028	1997	215,366	31	1998 Pierce, 1500 GPM pump, 750 gal. tank	41-11	41-11	1500 GPM pumper, 1500 gal. tank	\$900,000
2033	1991	180,681	42	1991 Pierce, 1500 GPM pump, 1000 gal tank	41-22	41-21	1500 GPM pumper, 1500 gal. tank	\$1,000,000

~ Every 5 years

- (1) Old Unit will become a secondary unit
- (2) Old Unit to become a reserve unit and sold in 2022
- (3) Sale of 1992 International Tanker & 1993 Chevy P-up to offset additional costs for the 2 units purchased
- (4) Muniplaties hold the title for 1 unit each
- (5) Though a 1991, truck has had extensive work to (pump, tank, body, engine)
- \* Original 41-11, becomes 41-22
- ~ Replace trucks every 5 years after
- # If EMS program continies will look for a purchased approx \$60,000 for med runs/manpower transport

# ATLAS REAL ESTATE

8491 State Road, Goodrich, MI 48438

(810) 636-3400 Fax (810) 636-3388

## ADDENDUM/AMENDMENT TO PURCHASE AGREEMENT

This amendment is to be attached to and considered an integral part of a Purchase Agreement dated 7/22/2021 by and between CHAD TOMS AND DAWN TOMS as Purchasers, and CITY OF SWARTZ CREEK as Sellers, concerning property commonly known as: 8067 MILLER ROAD, SWARTZ CREEK, MI 48472

The Purchaser(s) and Seller(s) herewith agree to the following;

- CLOSING SHALL TAKE PLACE ON OR BEFORE 10/29/2021.
- PURCHASE PRICE IS HEREBY AMENDED TO \$185,000.
- SELLER AND PURCHASER AGREE TO A SHORT TERM LEASE OF THE SUBJECT PROPERTY WHICH SHALL TERMINATE UPON CLOSING. LEASE TERMS TO BE DETERMINED AND SHALL BE MUTUALLY AGREEABLE TO SELLER/LANDLORD AND PURCHASER/TENANT.

All other terms and conditions of the aforementioned Purchase Agreement to remain as written.

Dated this 20TH day of SEPTEMBER, 2021.

*M. J. Jareley*  
WITNESS:

*[Signature]*  
PURCHASER

*Dawn Toms*  
PURCHASER

\_\_\_\_\_  
WITNESS:

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
SELLER