

**MINUTES OF THE
REGULAR MEETING OF THE HIGHLAND PARK CITY COUNCIL**

MAY 18, 2015

Council convened at 7:05 p.m. with Council President Christopher Woodard presiding.

**Present: Council Pro-Tem Lewis, Councilmember Patrick,
Councilmember McClary and Council President Woodard (4).**

Absent: Councilmember Moore (1) excused.

A quorum being present, Council was declared in session.

APPROVAL OF AGENDA:

**Moved by Councilmember McClary
Supported by Councilmember Patrick**

To approve the agenda as presented. Yeas (4), Nays (0), Absent (1).

APPROVAL OF MINUTES:

**Moved by Council Pro Tem Lewis
Supported by Councilmember Patrick**

**To approve the minutes from the Special Meeting/Closed Session held April 26,
2015. Yeas (4), Nays (0), Absent (1).**

**Moved by Councilmember Lewis
Supported by Councilmember Patrick**

**To approve the minutes from the Special Meeting/Closed Session held April 28,
2015. Yeas (4), Nays (0), Absent (1).**

**Moved by Councilmember McClary
Supported by Councilmember Patrick**

**To approve the minutes from the Workshop Meeting held May 4, 2015. Yeas (4),
Nays (0), Absent (1).**

BID OPENING:

**The Clerk stated this was the place and time to open bid proposals for the roof
repairs for the Ernest T. Ford Recreation Center.**

One (1) bid was received.

**Brown-Schroeder & Co., Inc.
815 E 4th St.
Royal Oak, Mi. 48067
Bid amount: \$168,450**

**Moved by Councilmember McClary
Supported by Council Pro Tem Lewis**

**To refer the bid to the CED Director, Louis Starks for a recommendation. Yeas (4),
Nays (0), Absent (1).**

ADMINISTRATION:

**The following request was submitted to approve the Computation and Amnesty
Program for Residential Water accounts to be performed by Pierce, Monroe & Associates,
LLC.**

**The purpose of this letter is to outline our understanding of the services you wish us
to provide the City of Highland Park. We will perform agreed upon procedures with
respect to the computation of water customers account balances. Our agreed upon
procedures will be accomplished by utilizing information within the City of Highland
Park's Utility Billing System. At the conclusion of this engagement, we will issue a schedule
of computed account balance adjustments along with related information and observations
that result from our application of such procedures.**

**Moved by Councilmember McClary
Supported by Council Pro Tem Lewis**

**To approve the Computation and Amnesty Program for Residential Water account.
Yeas (4), Nays (0), Absent (1).**

The following resolution was submitted for approval.

TO APPROVE THE PROPOSED BUDGET FOR THE PERIOD JULY 1, 2015 TO JUNE 30, 2016 AS PRESENTED BY MAYOR DEANDRE WINDOM

**Moved by Councilmember McClary
Supported by Councilmember Patrick**

With the following amendment to reduce the Mayor's salary by 30% and add to code enforcement. Councilmember McClary stated that the Mayor's salary can only be reduce by the Compensation Commission who is responsible for setting all elected official salaries.

NO VOTE WAS TAKEN

Moved by Councilmember Patrick

Council President Woodard relinquish his chair to support.

To reduce administration budget by 35%. Yeas (2) Councilmember Patrick, Council President Woodard. Nays (2) Councilmember McClary, Council Pro Tem Lewis, Absent (1).

Council President Woodward resume his chair.

**Moved by Council Pro Tem Lewis
Supported by Councilmember McClary**

To vote on the following resolution without any changes.

WHEREAS, the City of Highland Park is required by the State of Michigan to submit an annual operating budget to accurately reflect current operations; and

WHEREAS, the Mayor of the City of Highland Park submitted a proposed Budget for the year 2015-2016 to the member of Highland Park City Council on April 20, 2015;

WHEREAS, members of the Highland Park City Council held a Public hearing on Monday, May 11, 2015 to review and discuss the proposed Annual Budget for the year 2015-2016;

NOW, THEREFORE, BE IT RESOLVED that the Highland Park City Council adopts the Proposed Budget for the year 2015-2016 as presented by Mayor DeAndre Windom.

BE IT FINALLY RESOLVED that a copy of this resolution becomes a part of the official records of the City of Highland Park. Yeas (2), Council Pro Tem Lewis,

Councilmember McClary, Nays (2), Councilmember Patrick and Council President Woodard, Absent (1) Councilmember Moore.

THE BUDGET PASSES AS SUBMITTED

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The following resolution was submitted for approval.

**RESOLUTION REGARDING OFFICIAL NOTICE OF STATE OF MICHIGAN
ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION
(COLLECTIVELY “MDOT”)**

**Moved by Councilmember McClary
Supported by Council Pro Tem Lewis**

- 1. THAT MDOT MUST CEASE AND DESIST FROM FURTHER USE OF HIGHLAND PARK’S SEWER SYSTEM FOR NONPAYMENT OF STORMWATER RUNOFF TREATMENT COSTS FROM 1986 THROUGH APRIL 10, 2015 (“PAST DUE MDOT FEES”)**
- 2. THAT HIGHLAND PARK DEMANDS PAYMENT FOR SEWERAGE TREATMENT SERVICES FOR STORMWATER RUNOFFS FROM HIGHWAY’S AND ROADWAYS MAINTAINED BY MDOT WHICH HAVE CAUSED INJURY AND DAMAGE RECENTLY DISCOVERED BY HIGHLAND PARK WITHIN THE LAST 90 DAYS, TO HIGHLAND PARK EQUAL TO THE PROPORTIONATE SHARE ATTRIBUTABLE TO MDOT STORMWATER TREATMENT SERVICES CHARGED BY DWSD TO HIGHLAND PARK FOR SEWER TREATMENT SERVICES, FROM 1986 THROUGH AND INCLUDING APRIL 10, 2015, PLUS INTEREST.**
- 3. THAT MDOT FRAUDULENTLY CONCEALED FROM HIGHLAND PARK THAT MDOT RECEIVED STORMWATER RUNOFF SEWER TREATMENT SERVICES FROM HIGHLAND PARK’S SEWER FROM 1986 TO APRIL 10, 2015.**

WHEREAS, under cost-of-service principles as required by Michigan law (see MCL 140.117) and the Federal User Charge Regulations, 40 CFR 35.929 et seq. and 40 CFR 35.2140 et.seq. (through Dec. 19 2014), MDOT must pay its proportionate share of the cost of operating and maintaining the sewer system; and

WHEREAS, on April 28, 2015, Kirk L. Steudle, the MDOT Director, notified the City of Highland Park’s general counsel, Perkins Law Group, that MDOT was refusing to pay past due MDOT fees prior to April 10, 2015 (see Exhibit A); and

WHEREAS, MCLS 141.118 of the Michigan Revenue Bond Act provides in relevant part: "... free service shall not be furnished by a public improvement to a person, firm, or corporation, public or private, or to a public agency or instrumentality," and

WHEREAS, Pursuant to Section 204 (b) of the Clean Water Act MDOT is required to pay for storm water runoff sewer treatment services "in proportion to the use of the treatment works..." and

WHEREAS, under the City Charter the Mayor and Council are required to protect the interest of the City and its inhabitants for MDOT concealment of its profound nonpayment of Past Due MDOT fees. (City Charter 7-3 (4), 5-1; 3-1, 3-2 and 3-3 and 2.5 and

WHEREAS, it would be unconscionable and a violation of the City Charter, the Michigan Revenue Bond Act and the Clean Water Act that the Citizens of Highland Park who own residential and commercial property be forced to pay the costs of treatment of storm water runoff-required for the past 30 years for the safety of persons using the freeways maintained by MDOT-as ad valorem taxes, as recently ruled by Judge Murphy in Detroit's and DWSD's suit against Highland Park, while MDOT gets off "scot-free", and

WHEREAS, the \$20 million ruling last Friday by Judge Murphy to pass the DWSD \$20 million judgement against Highland Park to the City's property owners will increase property taxes by a ratio of \$20 million over the total assessed value of Highland Park of \$151 million which equals a tax increase of 13% of assessed value; and

WHEREAS, both MDOT and DWSD knew and willfully withheld from Highland Park the overbilling by DWSD of the amount due from MDOT to Highland Park for MDOT's Stormwater Services (1) paid in full by Highland Park to DWSD pursuant to their 1996 Settlement Agreement and (2) owed in part since 1996 and now charged to Highland Park's property owners as a property tax equal to 13% of such owners assessed value; and

WHEREAS, MDOT paid Storm water runoff costs annually to DWSD, up to the Highland Park City limits, for the same freeways and roadways that also pour Storm water runoff into Highland Park's combined sewer system as shown in Exhibit B; and

WHEREAS, MDOT's nonpayment, with knowledge and active concealment of MDOT and DWSD, took advantages of free Storm water Runoff Treatment Services, the cost of which have pushed Highland Park to the brink of financial ruin and are now being charges against it citizens as ad valorem taxes; and

WHEREAS, to illustrate, a resident whose home is assessed at \$40,000 will have its taxes for 2015 increased by \$5,200 and a commercial business or apartment owner assessed at \$100,000 will get an ad valorem tax increase of \$13,000 and

WHEREAS, the average annual value of service received by MDOT since 1986 is estimated as \$400,000 a year which is equal to \$26 million today when a 5% interest rate is included; and

WHEREAS, if this estimate is within the ballpark, MDOT has received a subsidy from the Citizens of Highland Park equal to \$26 million which is \$6 million more than the Judgement against the City now certified to be placed on the tax rolls of \$20 million; and

WHEREAS, MDOT knew they were getting a “free ride” on the costs of Storm water Runoff Treatment Services once MDOT roadways or freeways entered Highland Park from Detroit and continued back into Detroit because MDOT paid Detroit right up to the Highland Park border; and concealed its obligation to pay Past Due MDOT fees due for Storm water runoff (see, Bennett v County of Eaton, 340 Mich 330 (Mich. 1954) overruling and distinguishing Tower vs. Township of Somerset, 143 Mich. 195, 201 cited on page 10 of MDOT’s Drainage Manual stating; “The Principle of law enunciated in the Tower Case cannot be construed to give public authorities the right to divert surface water that would in the natural state disperse over a large area, and cast such in concentrated form upon the lands of the abutting owner to his damage without compensation to him.”)

NOW, THEREFORE, BE IT RESOLVED THAT:

1. MDOT IS HEREBY PROVIDED NOTICE THAT:

MDOT MUST CEASE AND DESIST FROM FURTHER USE OF HIGHLAND PARK’S SEWER SYSTEM FOR NONPAYMENT OF STORMWATER RUNOFF TREATMENT COSTS FROM 1986 THROUGH APRIL 10, 2015 (“PAST DUE MDOT FEES”). ANY FURTHER USE IS A CONTINUING NUISANCE AND TRESPASS AGAINST HIGHLAND PARK FOR WHICH HIGHLAND PARK WILL EXERCISE ALL RIGHTS AVAIABLE UNDER THE LAW.

2. MDOT IS HEREBY PROVIDED NOTICE THAT:

HIGHLAND PARK DEMANDS PAYMENT FOR SEWERAGE TREATMENT SERVICES FOR STORMWATER RUNOFFS FROM HIGHWAYS AND ROADAYS MAINTAINED BY MDOT WHICH HAVE CAUSED INJURY AND DAMAGE RECENTLY DISCOVERED BY HIGHLAND PARK WITHIN THE LAST 90 DAYS, TO HIGHLAND

PARK EQUAL TO THE PROPORTIONATE SHARE ATTRIBUTABLE TO MDOT STORMWATER TREATMENT SERVICES CHARGED BY DWSD TO HIGHLAND PARK FOR SEWER TREATMENT SERVICES, FROM 1986 THROUGH AND INCLUDING APRIL 10, 2015, PLUS INTEREST.

3. MDOT IS HEREBY PROVIDED NOTICE THAT:

MDOT FRAUDULENTLY CONCEALED FROM HIGHLAND PARK THAT MDOT RECEIVED FREE STORMWATER RUNOFF SEWER TREATMENT SERVICES FROM HIGHLAND PARK'S SEWER SYSTEM FROM 1986 TO APRIL 10, 2015, BY CREATING A PAYMENT SYSTEM THAT PAID DWSD FOR DAVISION, LODGE AND I-75 FREEWAYS AND OTHER ROADWAYS BUT CONCEALED THAT STORMWATER RUNOFF TREATMENT SERVICES WERE NOT PAID FOR THE SAME HIGHWAYS AND ROADWAYS ONCE THESE HIGHWAYS AND ROADWAYS PRODUCED STORMWATER RUNOFFS WITHIN THE HIGHLAND PARK CITY LIMITS.

- 4. The officers, administrators, agents and attorneys of the City are authorized and directed to file such claims, lawsuits, and actions required to recover Past Due MDOT Fees and execute and deliver certificates, agreements or other documents as may be necessary to effect shut off of sewer to MDOT maintained highways and roadways until such Past Due MDOT Fees are recovered in full.**
- 5. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other action necessary and convenient to facilitate the Recovery of Past Due MDOT Fees described in this Resolution.**
- 6. All resolutions and parts of resolution, insofar as they conflict with the provisions of this resolution, are hereby rescinded.**

BE IT FINALLY RESOLVED that a copy of this resolution becomes a part of the official records of the City of Highland Park. A copy shall be delivered by the Clerk certified mail to Kirk Steudle, Governor Rick Snyder and the Attorney General. Yeas (4), Nays (0), Absent (1).

DEPT. OF PUBLIC WORKS:

The Director of Public Works submitted the following recommendations.

The Department of Public Works (DPW) is committed to providing the best service possible to the citizenry of the City of Highland Park. Based on the Wayne County Public Facility Improvement funds currently available and the bids/quote received, DPW recommends the following actions be taken:

Roll-Off Dumpster Rental and Dumping & Sewer Repair Services:

DPW recommends that this contract be a direct solicited contract and that Sewer Repair serviced be re-bided.

Moved by Council Pro Tem Lewis
Supported by Councilmember McClary

To approve DPW recommendation. Yeas (4), Nays (0), Absent (1).

Hazardous Tree Removal Services:

DPW recommends that the Bid proposal for \$50,500 (grand total) submitted by Bowman Associates, Inc. be accepted.

Moved by Councilmember Patrick
Supported by Council Pro Tem Lewis

To table the proposal recommended by DPW for more information. Yeas (4), Nays (0), Absent (1).

Sidewalk Replacement Services:

DPW recommends that the Bid proposal for \$8.00 per square foot (unit price) submitted by Bowman Associates, Inc. be accepted. Bowman Associates, Inc. did not have the lowest bid, but was considered to be most responsive based on inclusion of removal of tree roots located under sidewalk in their proposal.

Moved by Councilmember Patrick
Supported by Council Pro Tem Lewis

To table the proposal recommended by DPW for more information. Yeas (4), Nays (0), Absent (1)

Manhole and Inlet Repair Services:

DPW recommends that the bid proposal for \$1,300 per location (unit price) submitted by Bowman Associates, Inc. be accepted.

Moved by Councilmember Patrick
Supported by Council Pro Tem Lewis

To table the proposal recommended by DPW for more information. Yeas (4), Nays (0), Absent (1).

COUNCIL AFFAIRS:

**Council President Woodard relinquished his chair to make the motion.
Supported by Councilmember Patrick**

**Request the Director of CED, Mr. Starks to create a RFP for the redevelopment of
the McGregor Library. Yeas (4), Nays (0), Absent (1)**

Council President Woodard resumed as chair.

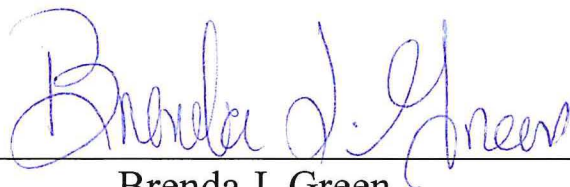
ADJOURNMENT:

**Moved by Council Pro Lewis
Supported by Councilmember McClary**

To adjourn the meeting; motion carried meeting adjourned at 9:27 p.m.

CERTIFICATE

I, hereby certify that the attached is a true copy of the proposed minutes of the Regular Meeting held on the 18th day of May 2015 and that said proposed minutes are available for public inspections at the address designated on the posted public notice.



Brenda J. Green
City Clerk