CITY OF MUSKEGON

CITY COMMISSION MEETING

DECEMBER 14, 2021 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, December 14, 2021, Reverend D.W. Tolbert, New Hope Baptist Church, opened the meeting with a prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Dan Rinsema-Sybenga, Willie German, Jr., Ken Johnson, Michael Ramsey and Teresa Emory, Acting City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

HONORS, AWARDS, AND PRESENTATIONS:

A. Lakeshore Art Festival Pure Award

The Pure Award is intended to recognize Michigan tourism entities that have pioneered the incorporation of innovative and exemplary best practices in natural, cultural, and/or heritage stewardship into their daily operations. This year, the Pure Award went to Lakeshore Art Festival (LAF), a collaboration of public and private partners including the city of Muskegon.

LAF is centered around positive social, economic and environmental impacts that complement the revitalization of Muskegon as a tourist attraction and a great place to live, work and play. This collaboration was a conscious effort to help revitalize downtown Muskegon through investment, environmental stewardship, supporting the arts and tourism.

B. Presentation to Mayor Gawron by Troop

Representatives from BSA Troop 1053, including David Paulsen Scout Master, presented Mayor Stephen J. Gawron, with a certificate and Michigan Crossroads Course arm patch, commemorating September 11, 2001, in appreciation and support of the Community Day of Remembrance and Scout Salute.

PUBLIC COMMENT ON AGENDA ITEMS: Public comments were received.

2021-108 CONSENT AGENDA:

A. <u>Approval of Minutes</u> City Clerk

SUMMARY OF REQUEST: To approve the minutes for the November 23, 2021 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. <u>Fireworks Display Permit for City of Muskegon</u> City Clerk

SUMMARY OF REQUEST: Staff is requesting permission to sign an agreement with Pyrotecnico Fireworks and spend up to $60,000 for expenses related to a fireworks show in downtown Muskegon. If granted, Pyrotecnico Fireworks is requesting approval of a fireworks display permit for Saturday, July 2, 2022 in downtown Muskegon. The fire Marshall will inspect the fireworks on the day of the event.

The proposed location of the fireworks is in the attached map. Both property owners have been contacted and are willing to let us close off their property within the yellow circle for the duration of the day and red circle during the event.

AMOUNT REQUESTED: Up to $60,000 FUND OR ACCOUNT: DPW

STAFF RECOMMENDATION: To authorize the clerk to sign the agreement for fireworks in downtown Muskegon with Pyrotecnico and authorize the expenditures not to exceed $60,000.

C. <u>Farmers Market Heating & HVAC</u> City Clerk

SUMMARY OF REQUEST: Tim Harvey, or builder, sought quotes to replace the heating and HVAC at the Farmers Market at an amount of $24,420.

Tim was only able to receive on quote. Currently the barn has no air conditioning and the heat source does not work as well as it should. Replacing the current system will help us with future plans to revamp the barn as an all year facility to rent to local vendors including farmers, Kitchen 242 users, and vendors looking to move downtown. This is not a budgeted item and would come out of the Farmers Market budget.

AMOUNT REQUESTED: Up to $30,000 FUND OR ACCOUNT: Farmers Market

STAFF RECOMMENDATION: To authorize staff to proceed in upgrading the heating/HVAC at the Farmers market with Jewett Heating and Cooling at a cost not to exceed $30,000.

E. <u>Extension of Temporary Employment Services Agreement</u> EEO & Employee Relations

SUMMARY OF REQUEST: To approve a one-year contract extension with GoodTemps Temporary Staffing Services, Inc. for temporary and seasonal employment services. The current agreement expires on December 31, 2021.

STAFF RECOMMENDATION: To approve the agreement with GoodTemps Temporary Staffing Services, Inc. and authorize the Mayor and City Clerk to sign the agreement extension.

F. Non-Union Part Time and Limited Term Wage Matrix EEO & Employee Relations

SUMMARY OF REQUEST: The 2022 wage matrix has been updated to reflect the anticipated part time and limited term positions for next year.

STAFF RECOMMENDATION: Approve the updated wage matrix for the non-union part time limited term employees for 2022.

G. MDOT Property Purchase Public Works

SUMMARY OF REQUEST: Staff is seeking formal resolution confirming purchase of excess property from MDOT for use as a public open space.

The parcel in question is located along the southwest side of 9th Street between Muskegon Avenue and Webster Avenue. The property is legally owned and controlled by the State of Michigan (MDOT) as a part of the limited access highway right-of-way for Shoreline Drive.

City staff has pursued purchase of this parcel from MDOT for consideration as a skate park site. Recently alternative sites have been identified that are a better fit for locating a skate park and this site is no longer planned for use in that fashion. However, the work had been done to acquire the excess property and staff would like to see that through.

The immediate plans for this site involve retaining the site as a public open space, with potential consideration for alternative uses if/when the 10-year reverter clause is released.

AMOUNT REQUESTED: $5,000 AMOUNT BUDGETED: $0

FUND OR ACCOUNT: 101-70751-5703

STAFF RECOMMENDATION: Approve the Resolution for purchase of the excess property from MDOT and authorize the Mayor and Clerk to sign.

H. National Highway System (NHS) Revisions Public Works

SUMMARY OF REQUEST: Staff is seeking to have portions of Peck Street, Sanford Street, and Terrace Street reclassified in terms of their NHS (National Highway System) and NFC (National Functional Classifications) status.

Staff has been working for several years with the West Michigan Shoreline Regional Development Commission (WMSRDC), the Michigan Department of Transportation (MDOT), and the City of Muskegon Heights to have several segments of street reclassified to better suit their current use.

Historically Sanford, Peck and Terrace have served as state highways, and as critical routes to key Department of Defense industrial sites in the area (Continental Motors). This importance led to the streets being classified as NHS routes which in turn requires them to be constructed with wider lanes and heavier pavement to accommodate larger and heavier traffic.

As times have changed the need for these roads to be classified as NHS routes has also changed. The proposal would remove these routes from the NHS entirely. In addition, the roads will be reduced in classification from their current standing as principal arterial routes down to a more appropriate level of minor arterial.

This change does not impact our Act 51 funding, and the roads will remain eligible for federal aid. The benefit derived from making this change is that the roads can be designed and reconstructed in such a way that does not require overly wide lanes that encourage speeding and heavy pavement designs which increase project costs.

STAFF RECOMMENDATION: Support the change in NHS and NFC designations for Peck, Sanford and Terrace Streets and authorize the City Manager to sign the letter formally requesting the changes.

I. <u>Project 91851(Spring & Yuba Streets) – Change Orders & Engineering Services Amendment</u> Public Works

SUMMARY OF REQUEST: Staff is seeking approval of Final Contract Modifications #004 and #005 with Jackson-Merkey Contractors and for approval of a Final Amendment (#004) of the Engineering Services Agreement with ENG, Inc. for Project 91851 (Spring/Yuba Street).

Contract Modifications #004 and #005 with Jackson-Merkey Contractors detail all of the changes to specific work items that were required to successfully complete the project. There were a number of changes necessary due to the complex nature of the project along with unforeseen underground conditions in this oldest area of town. The project has required commission approval for Change Orders starting with Change order #003 which added the work on Yuba Street and was above the staff approval threshold. If Contract Modification #004 and #005 are approved the final project contract amount will be $3,477,719 on an original project amount of $3,075,529 representing a 13% increase of which over 5% is a result of the additional Local Streets work on Yuba Street not related to the original project.

Engineering services Amendment #004 includes increased engineering costs required to provide engineering oversight and support on the project, which took considerably more time, and effort than originally budgeted. If approved, the Engineering Cost for this project will be $364,105 which represents approximately 11% of the Construction Contract value and is in alignment with industry and expected standards for a project of this scope and scale.

All of the SRF/DWRF project carried a budgeted contingency of 6%. Approval of these Change orders and the Engineering Services Amendment will not exceed the budgeted contingency on the project package as a whole as several other projects completed well below their contingency amounts.

For reference, if approved, the project will have remaining expenses estimated at $973,111.40 and a remaining budget of $975,607.00, no future reforecasts are anticipated.

AMOUNT REQUESTED:	AMOUNT BUDGETED:
Change Order #004 - $156,367.69	$975,607 Remaining
Change Order #005 - $104,697.69	(202/203/590/591-91851)
ESA #004 - $63,700.00	

FUND OR ACCOUNT: Various-91851-5346

STAFF RECOMMENDATION: Authorize staff to approve Change Orders #004 and #005 with Jackson-Merkey Contractors , and authorize staff to approve Engineering Services Amendment #004 with ENG, Inc. for the work on Spring and Yuba Streets.

J. <u>Edgewater Resources Engineering Services Agreement</u> Public Works

SUMMARY OF REQUEST: Staff is seeking approval of two (2) Engineering Services Agreements with Edgewater Resources related to the development of public infrastructure at Adelaide Pointe.

Both of these Engineering Services Agreements cover items for development that are partially funded by the City and partially funded by the Developer. As such, the standard purchasing policy was not used for procurement. The proposal was requested from the developers engineer as they are the best suited to complete this joint investment portion of the project based on their prior work at the site. The remaining public infrastructure items (streets, water, sewer, etc…) will be recommended for Commission Approval via a Request for Proposals process at a later date.

- The work contained within the first ESA encompasses the permitting required for the work in the East Basin (Formerly the Hartshorn Marina Small Boat Basin). The project work will require completion of a Joint Permit Application to MDEGLE with concurrence and review from the USACE and USCG.
- The work contained within the second ESA encompasses the design, bidding and construction engineering for the lift well and launch ramp elements of the east basin. As noted above, these are considered public infrastructure improvements per the Development Agreement and Brownfield Plan.

In conjunction with the work outlined in these two ESA documents Edgewater Resources will also be completing permitting and engineering for the non-public portions of the work at developer's expense within the east basin which includes additional dredging, construction of shopper docks, and other items.

Staff is recommending that these ESA's be approved conditional to the sale for the bonds to finance the public infrastructure on the site.

AMOUNT REQUESTED:	AMOUNT BUDGETED:
Permitting ESA = $15,000	Estimated $10M Bond Revenue for Public
Lift Well & Ramp ESA = $85,000	Infrastructure at a TBD Future Date

FUND OR ACCOUNT: TBD Brownfield Fund

STAFF RECOMMENDATION: Authorize staff to execute the Engineering Services Agreements from Edgewater Resources related to the work in the East Basin, contingent upon successful sale and closure of the bonds for the public infrastructure at this site.

K. <u>Project 92002 Change Order #003 - Peck Street from Merrill to Apple</u> Public Works

SUMMARY OF REQUEST: Staff is seeking approval of Final Contract Modifications #003 with McCormick Sand for their work on the northern portion of the Peck Street project.

Contract Modifications #003 represents the final adjustment of quantities and cost for the project to bring it to final completion. The project as a whole will finish at $874,335.87 which represents an increase of $31,197.05 over the As-Bid amount ($843,138.82) representing an increase of 3.7%

The largest increase was a result of requiring additional length of water line to replace the water services along the project (>$24K). Under the new state guidelines we must replace the service line to a point within the house and inconvenience the property owner a minimum number of times.

The project will finish very near the programmed budget once final engineering and testing costs are accounted. A slight adjustment via a future reforecast is possible to match the final project amounts.

This change order is brought for Commission consideration as it exceeds the staff approval threshold of $30K. The previous two change orders were within the staff approval limits.

AMOUNT REQUESTED:	AMOUNT BUDGETED:
Change Order #003 - $35,929.16	$650,000 (202-92002)
	$300,000 (591-92002)

FUND OR ACCOUNT: Various-91851-5346

STAFF RECOMMENDATION: Authorize staff to approve Change Orders #003 with McCormick Sand for the work on City project 92002 (Peck Street – Merrill to Apple).

N. <u>Social District 2022 Fee</u> Economic Development

SUMMARY OF REQUEST: The City Commission is asked to consider the 2022 fee for Muskegon Downtown Social District stickers.

The city charges for social district stickers placed on establishments' branded cups that allow patrons to take and consume alcoholic drinks in the Social District Common Area. The first year the city charged two fees, one for regular days and a higher fee for special events. The average cost of fees were 60 cents with 62 percent of the stickers sold at the special event prices. With consensus support of the establishments, staff recommends a sing 75-cent sticker fee for the entire year. This same fee would be charged to Lakeside Social District establishments. The downtown fee is estimated to raise $92,250 with the 25 percent increase needed to help cover city costs of producing special events in the downtown social district and startup costs in Lakeside. All sticker revenues will cover direct social district costs or indirect city special event costs.

STAFF RECOMMENDATION: To approve a 75-cent city social district sticker fee for the 2022 calendar year.

Motion by Commissioner Johnson, second by Vice Mayor Hood, to accept the consent agenda as presented minus items, D, L, and M.

ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2021-109 REMOVED FROM CONSENT AGENDA:

D. <u>FY22 Municipal Senior Millage Funding</u> Community & Neighborhood Services

SUMMARY OF REQUEST: To approve allocations of the Municipal Senior Millage funding to city programs geared toward citizens who are 60 years of age, or older.

An allocation of $94,640 from the county of Muskegon FY22 Municipal Senior Millage funding is budgeted for the following programs:

Power of Produce (Farmers Market) - $40,000

Home Repairs (CNS) - $54,640

AMOUNT REQUESTED: $94,640 AMOUNT BUDGETED: $94,640

FUND OR ACCOUNT: FY22 Municipal Senior Millage

STAFF RECOMMENDATION: To approve the budget proposed for City of Muskegon programs utilizing FY22 Municipal Senior Millage Funds from the County of Muskegon.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the budget proposed for City of Muskegon programs utilizing FY22 Municipal Senior Millage Funds from the County of Muskegon.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, Rinsema-Sybenga, and Emory

Nays: None

MOTION PASSES

L. <u>Arena Vending</u> City Manager

SUMMARY OF REQUEST: Staff is seeking approval to purchase three vending machines for Mercy Health Arena.

Arena staff has been unable to consistently open the concession stands in a profitable manner during small events such as youth hockey, high school hockey, etc. Staff is recommending that three vending machines be purchased to provide snacks, cold drinks, and hot drinks during these times. Staff has received a number of quotes, and it is likely that multiple vendors will be used to complete the purchase(s). We are seeking approval to expend $25,000 to purchase the three machines. A sample of the machine types and costs is attached.

Although this specific purchase was not budgeted, staff feels that the purchase can fit within the current Mercy Health Arena budget.

AMOUNT REQUESTED: $25,000 AMOUNT BUDGETED: $25,000

FUND OR ACCOUNT: Mercy Health Arena

STAFF RECOMMENDATION: Authorize the purchase of three vending machines for Mercy Health Arena at a combined cost not to exceed $25,000.

Motion by Commissioner Emory, second by Commissioner German, to authorize the purchase of three vending machines for Mercy Health Arena at a combined cost not to exceed $25,000.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson

Nays: None

MOTION PASSES

M. <u>CSXT Purchase Agreement</u> City Manager

SUMMARY OF REQUEST: Staff is seeking authorization to enter into an agreement with CSXT.

For the past 5+ years, staff has been working to complete the purchase and removal of the CSXT railroad line that runs from the former YMCA through Lakeside to the Jaycees Launch Ramp. The attached agreement would allow for a portion of the line to be converted into a trail via a trail use agreement, and the remainder of the line to be used for redevelopment.

The purchase price is $1,648,000. We anticipate $40,000 in filing fees as well. As part of the due diligence period, we will have the entire line surveyed. We do not have a cost for the survey, and instead will use a billable hourly rate model. Staff has a tight timeline to complete due diligence and prepare for Federal Approval. As such, we will be requesting authorization to both sign the agreement and formally complete the sale at the end of the due diligence period. We are using a combined not-to-exceed budget number of $2 Million. We are proposing to utilize ARPA dollars to complete the purchase, but we foresee opportunities to recoup most/all of this investment via a combination of Brownfield TIF and allowing the buy-out of the various crossing agreements that we will inherit.

AMOUNT REQUESTED: $2 Million AMOUNT BUDGETED: $0

FUND OR ACCOUNT: State/Federal Grants

STAFF RECOMMENDATION: To authorize the City Manager to sign the Agreement and complete the transaction upon successful completion of the due diligence, and thereafter to return to the City Commission for final approval of transaction prior to closing.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to authorize the City Manager to sign the Agreement and complete the transaction upon successful completion of the due diligence, and thereafter to return to the City Commission for final approval of transaction prior to closing.

ROLL VOTE: Ayes: Hood, Ramsey, German, Rinsema-Sybenga, Emory, Johnson, and Gawron

Nays: None

MOTION PASSES

2021-110 PUBLIC HEARINGS:

A. <u>Infill Housing Project Brownfield Plan Public Hearing (3rd Amendment)</u>
Economic Development

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution which seeks to adopt an amendment to the City's Brownfield Plan (Infill Housing

Project, 3rd Amendment). On November 30, 2021, the BRA approved the Plan Amendment and further recommends that the Muskegon City Commission approve the Plan Amendment.

City staff has prepared a brownfield plan to include an additional 386 parcels beyond the 119 parcels previously adopted in the 2nd Amendment. This brings the total to 505 Eligible Properties for this project and the lots are scattered throughout the city. The City Commission approve the Plan's 1st Amendment on 7/28/2020 and 2nd Amendment on 12/8/2020. This Amendment seeks to modify the plan by adding in all of the government-owned, vacant residential properties in the City.

The 3rd Amendment also includes the following updates:

- Developer's Reimbursement Costs: Infill Housing - $13,557,000; Mixed-use projects-$1,000,000; Total reimbursement costs - $14,557,000
- Estimated Total Capital Investment: Infill Housing - $127,000,000; Home rehab - $500,000; Mixed Use developments: $26,000,000; Total Estimated Capital Investment - $153,500,000
- The Plan anticipates eligible activities, paid through future capture of tax increments, to include $11,780,000 for cost of sale/seller concessions; $2,000,000 for demolition and potential costs of abatement; $777,000 to construct public infrastructure at the former farmers market; $20,000 for brownfield plan preparation and development; a 15% plan contingency fee of $2,603,100; and which reflects total eligible activities to be paid under this plan at $19,957,100. The eligible activities will also be reimbursed with interest at 5%.
- The Authority intends to enter into Development & Reimbursement Agreements with future property owners/developers of properties included in the Plan to reimburse them for costs of eligible activities.
- The duration of this Plan does not exceed 30 years and complete recapture of eligible costs through tax increment revenue are expected to occur within this period. The duration of the tax capture began in 20209 and does not "reset" with the adoption of this 3rd Amendment.
- The plan contemplates continued five-year capture of tax increments for a local Brownfield Revolving Loan Fund if there is time left in the 30-year plan after eligible costs are covered.

STAFF RECOMMENDATION: To close the public hearing and approve the resolution of the Brownfield Plan Amendment for the City's Infill Housing Project (3rd Amendment).

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to

close the public hearing and approve the resolution of the Brownfield Plan Amendment for the City's Infill Housing Project (3rd Amendment).

ROLL VOTE: Ayes: Ramsey, German, Rinsema-Sybenga, Emory, Johnson, Gawron, and Hood

Nays: None

MOTION PASSES

B. <u>Lakeside Corridor Improvement Authority Development and TIF Plan Public Hearing</u> Development Services

SUMMARY OF REQUEST: The Lakeside Corridor Improvement Authority has reviewed and approved the Development and TIF Financing Plan, which must also be approved by the local unit of government.

The Lakeside BID/CIA has completed a review of their Development and TIF Financing Plan, which lays out project priorities for the funds collected through TIF and other eligible means. Per Public Act 57 of 2018, it must be approved by the local unit after a public hearing is held, and other taxing jurisdictions are noticed. From here the plan is filed with the State and said taxing jurisdictions have 60 days from plan approval to opt out. The proposed plan reflects funds with no school tax capture, but no opt outs from other taxing jurisdictions.

STAFF RECOMMENDATION: To close the public hearing and approve the Lakeside Corridor Improvement Authority Development and TIF Financing Plan as presented.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve the Lakeside Corridor Improvement Authority Development and TIF Financing Plan as presented.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

2021-111 NEW BUSINESS:

A. <u>Housing Board of Appeals Demolition – 238 Houston</u> Public Safety

SUMMARY OF REQUEST: To concur with the Housing Board of Appeals recommendation to demolish 238 Houston.

This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 238 Houston, is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owner, agent, or responsible party if they do not demolish the structure.

STAFF RECOMMENDATION: Staff recommends that the City Commission concur with the Housing Board of Appeals recommendation to demolish 238 Houston and also recommends approval from the City Commission to accept bids on the demolition.

Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to concur with the Housing Board of Appeals recommendation to demolish 238 Houston and to accept bids on the demolition.

ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, Ramsey, and German

Nays: None

MOTION PASSES

B. <u>2022 SEIU Unit 2 Contract</u> City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the proposed collective bargaining agreement with the Service Employees International Union Unit 2.

City staff and Service Employees International Union Unit 2 representatives have agreed upon new contract items that would take effect January 1, 2022. A summary of the tentative agreements and wage scale is attached, and the SEIU Unit 2 has ratified the contract. The new wage scale provides more parity among classifications over time. The formal agreement will be prepared by counsel. The new agreement is beneficial to both parties and does not have a financial impact on the current budget. Staff is prepared to begin implementing the provisions of the contract on January 1, 2022.

STAFF RECOMMENDATION: To approve the collective bargaining agreement with the Service Employees International Union Unit 2 as presented.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to approve the collective bargaining agreement with the Service Employees International Union Unit 2 as presented.

ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2021-112 ANY OTHER BUSINESS:

In recognition of Mayor Gawron's decades-long service to our community, motion by Commissioner Johnson, second by Commissioner Emory, to name the dog beach boardwalk at Kruse Park after Stephen J. Gawron and invite him to a future ribbon-cutting ceremony when upcoming boardwalk renovations are completed.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, Rinsema-Sybenga, and Emory

Nays: None

MOTION PASSES

PUBLIC COMMENT ON NON-AGENDA ITEMS: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 6:58 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk