

CITY OF MUSKEGON

CITY COMMISSION MEETING

DECEMBER 13, 2022 @ 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, Michigan at 5:30 p.m., Tuesday, December 13, 2022, Reverend Diane Stark from Unity of Muskegon, opened the meeting with a prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

Present: Mayor Ken Johnson, Vice Mayor Willie German, Jr., Commissioners Rachel Gorman, Michael Ramsey, and Teresa Emory, City Manager Jonathan Seyferth, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioners Michael Ramsey and Rebecca St.Clair

HONORS, AWARDS, AND PRESENTATIONS:

A. Recognition of 9/11 Event Participants by BSA Troop 1053

Dave Paulson, Scout Master of Troop 1053, and Eagle Scout Parker Macjewski presented certificates of Appreciation and Recognition to participants from two separate 9/11 events that were held at the USS LST 393 and USS Silversides. Those recognized included Mayor Johnson, 92nd District State Representative Terry Sabo, 34th District State Senator Jon Bumstead, Master of Ceremonies, James Flood, and Petty Officer First Class Jeff Fisher. An appreciation certificate and event patch were presented to each participant that was in attendance. All are invited to attend the events next year on September 11, 2023 at both the USS LST 393 and USS Silversides.

B. Recognition of Muskegon Police Officers

Public Safety Director, Chief Tim Kozal, recognized three officers of the Muskegon Police Department - Mike Lamsma promoted to Sergeant in 2018 and recently retired. Sergeant John Burns, promoted to his current position on December 22, 2022. Officer Al Hairston received the Black Magic Award from the Young Black Professionals Group on November 28, 2022 for serving as a positive role model.

C. New Staff Introductions – Planning & Economic Development

Jake Eckholm, Development Services Director, introduced Contessa Hood, Development Analyst, a new hire in the department. Contessa was born and raised in Muskegon, graduated from Reeth's Puffer and Central Michigan University and is excited to be here after being away from Muskegon for several years.

D. Resolution Presentation to Leo Evans, Outgoing Director of Department of Public Works

Mayor Johnson presented Leo Evans, Department of Public Works Director, with a resolution recognizing his service to the City of Muskegon. We all wish him the best at his new position in Colorado.

PUBLIC COMMENT ON AGENDA ITEMS: No public comments received.

2022-103 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the November 7, 2022 Worksession Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. Sale of 1318 Pine Street City Manager

SUMMARY OF REQUEST: Staff is requesting approval of the purchase agreement for 1318 Pine Street.

1318 Pine Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding.

STAFF RECOMMENDATION: To approve the purchase agreement for 1318 Pine Street.

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

SUMMARY OF REQUEST: This is the proposed non-union, part-time and limited-term wage matrix for 2023.

STAFF RECOMMENDATION: Approve the non-union, part-time and limited-term wage matrix for 2023.

E. Amendments to the Muskegon Social Equity Program Application Planning

SUMMARY OF REQUEST: Request to amend the programs and the requirements for the Muskegon Social Equity Program and associated application.

Changes include:

- Clarified how much funding an applicant may receive (Up to \$10,000 unless approved by the Commission).
- For "Education/Training Scholarship", "Business Start-Up Grant" and "Business Start-Up Loan", added a stipulation that a parent could also have had the conviction while the applicant was in school.
- Created a new category, the "Marihuana Industry Training Scholarship". This is for residents that want to get into the marihuana industry. There are more options to qualify for this than the "Education/Training Scholarship."
- Removed the "Marihuana Equipment Grant" category since it could be covered by the "Business Start-Up Grant."

STAFF RECOMMENDATION: To approve the changes to the Muskegon Social Equity Program and associated application as presented.

F. Roberts Street Reconstruction Award Public Works

SUMMARY OF REQUEST: Staff is requesting approval of a contract with McCormick Sand, Inc. in the amount of \$828,230.30 for the reconstruction of Roberts Street from Sherman to Laketon, with \$372,703.61 being covered by a TEDF Category F grant from MDOT.

On November 7, 2022, Commission approved a grant agreement with MDOT that awarded up to \$375,000 to the City for a Transportation Economic Development Fund (Category F) Grant, with the specific amount being 45% of the construction contract.

The City received bids on November 28, 2022, and McCormick Sand, Inc. was the low bidder at \$828,230.30. The grant, at 45%, will cover \$372,703.64 of the project cost, leaving \$455,526.66 for the City to pay out of the highway fund. The bids came in substantially below the estimate, so this request is for over \$200,000 less than was authorized at the time of the grant agreement. McCormick Sand has performed admirably for the City in the past, and staff recommends award.

AMOUNT REQUESTED: \$455,546.66 AMOUNT BUDGETED: \$825,000 Requested
\$31,880.07 Expended
\$793,119.93 Remaining

FUND OR ACCOUNT: 202 (Major Streets)

STAFF RECOMMENDATION: Approval of the contract with McCormick Sand, Inc. in the amount of \$828,230.30 for the reconstruction of Roberts street from Sherman to Laketon.

I. Muskegon Conservation District (MCD) Native Planting Project
Public Works

SUMMARY OF REQUEST: Staff is requesting a letter of support and commitment

of matching funds to support a joint initiative with the Silversides Museum and the Muskegon Conservation District for a native planting project.

The Silversides Museum has worked with the City and Muskegon Conservation District (MCD) to identify several areas surrounding the museum campus that they would like to see converted into native plantings. Much of the area is currently maintained as lawn and provides limited recreational/pollinator value while requiring routine maintenance to maintain. The conversion of these areas to native plantings would achieve all of the goals outlined on page 2 of the 2018 Urban Pollinator Habitat Plan. This area was not specifically identified in the 2018 plan, however most of the areas that were identified have already been accomplished or have run into obstacles that have prevented or delayed implementation.

The project has received a letter of support from the Silversides Museum who is currently responsible for the maintenance of a portion of the designated area, and is also supported by City staff that maintain the remainder of the area. Staff from the Silversides Museum has also engaged the Beachwood-Bluffton Neighborhood Association and has solicited a letter of support from that group. Staff from the Silversides Museum will also be engaging with the six (6) residents along Channel Drive regarding the conversion of the property across from them.

MCD is currently in the process of applying for a grant through the Wildflower Association of Michigan to partially fund this project and is seeking a formal letter of support from the City, authorization to use the property (City is the underlying land owner of all the impacted property), and a commitment of up to \$4,500 in matching funds to support the invoiced implementation costs. In addition, the city will provide in kind services to support the implementation should the grant be successful by assisting with yard waste removal and cleanup on the site. A majority of the work will be completed by MCD staff with assistance from volunteer groups organized through the Silversides Museum.

Though this project was not specifically identified in the initial budget drafting the expense is relatively small and staff is comfortable that it can be allocated within the existing Parks budget with minimal to no adverse impacts.

AMOUNT REQUESTED: \$4,500 AMOUNT BUDGETED: \$0

FUND OR ACCOUNT: 101-770 (Parks Maint)

STAFF RECOMMENDATION: To authorize the DPW Director to sign the letter of support, the grant authorization and the property access letter, the MCD Cooperator Agreement and commit up to \$4,500 in matching funds towards the project implementation should the grant be successful.

J. MDNR SPARK Grant Resolution Public Works

SUMMARY OF REQUEST: Staff is requesting approval of the resolution for inclusion with our SPARK Grant Application due on December 19, 2022.

Staff has been working to identify a potential target project for the newly established MDNR SPARK Grant program and based on previous staff recommendation and commission action staff is working towards submitting a packet related to reconstruction of the Muskegon Splash Pad.

An RFP was issued and proposals received from interested firms on Tuesday, November 29th. Staff is working to vet and shortlist the submitted proposals so they can be presented to the commission and community for feedback in help determining the best proposal for the site.

Given that the design and selection is not yet finalized at the application deadline, staff is pursuing a grant in the amount of \$250,000 and proposing that the remaining cost be provided by the city as a local match. This creates a variable match amount ranging from \$23,913.00 to \$218,300 depending on which design is selected to pursue.

Application packets are due on December 19th, 2022 with an expected quick turn around and announcement of the first-round recipients in January 2023. If the project is not successful in the first round of funding it will be automatically enrolled for consideration in future rounds of funding.

If the project is selected for funding in the first round it is possible that construction could take place as quickly as the Spring/Summer of 2023.

AMOUNT REQUESTED: \$23,913 - \$218,300 AMOUNT BUDGETED: \$0

FUND OR ACCOUNT: TBD

STAFF RECOMMENDATION: Approve the resolution and authorize the Clerk to sign.

K. Non-Union Pay/Benefits 2023 City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the 2023 non-union employee wage and benefit program.

CPI is 8.5% this year. A review and comparison of past increases to union and non-union staff is noted below.

2021: union staff received from 1% - 3% increases with an average of 2.1%

Non-union staff received 0% plus a \$500 lump sum payment

2022: union staff received from 1% - 14.5% increases with an average of 4.6%

Non-union staff received a 2% wage increase plus a 0.5% lump sum payment

2023: union staff will receive from 0% - 16% increases with an average of 5.6%

Between 2020 and 2023, union staff have received an average of 11.2% in wage increases while non-union staff have received 2%.

We are seeking approval of the following:

8% wage increase

AMOUNT REQUESTED: \$3,536,331.47

AMOUNT BUDGETED: \$3,400,072.55

STAFF RECOMMENDATION: To approve the 8% wage increase for non-union staff effective January 1, 2023.

L. Virtual Public Participation Policy City Clerk

SUMMARY OF REQUEST: To adopt a virtual public participation policy.

The Legislative Committee requested a policy be drafted allowing citizens the ability too call in to make comment on any meeting played live on social media or television.

For any other meetings that fall under the Open Meetings Act, citizens must submit a request at least tow business days in advance. A zoom link will be provided to those individuals. They will have the ability to give up to three minutes of public comment.

STAFF RECOMMENDATION: To adopt the Virtual Public Participation Policy as presented.

M. Conservation Easement Agreement at Remembrance Drive Site
Development Services

SUMMARY OF REQUEST: Staff is requesting that Commission authorize a conservation easement agreement between the City of Muskegon and James Street Capital, owner of the 500,000 square foot warehousing facility that is operated by KL Outdoors.

During the planning and construction of the large warehousing building in 2017 and 2018, MDEQ (now EGLE) cited a small piece of regulated wetland and the build-site. The Developers at the time requested that the city consider allowing a conservation easement on an adjacent, non-buildable city-owned parcel. This was principally agreed upon by all parties as a logical solution, but never completed. The agreement codifies the easement and completes the wetland mitigation process for this development.

Attached in this item is the easement agreement signed by the current owners of KL Outdoor, a letter from the city manager's office allowing a mitigation study and easement due diligence on our property, and an aerial photo illustrating the impacted wetland (which is now built on) in red and the proposed easement area in blue.

STAFF RECOMMENDATION: To approve the Conservation Easement Agreement as presented and authorize the Mayor and Clerk to sign.

O. CRC Recommendation Regarding Attendance Policy City Clerk

SUMMARY OF REQUEST: The CRC recommends making amendments to have a set number of excused and unexcused absences that is the same for all boards

within the Community Relations Committees. The number of absences would be different depending on how often the board meets.

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Meetings that meet monthly:

- Not more than 3 Unexcused missed meeting during the year.
- Not more the 4 Excused/Absent missed meetings during the year.

Meetings that meet quarterly:

- Not more than 1 Unexcused missed meeting during the year.
- Not more the 2 Excused/Absent missed meetings during the year.

Meetings the meet semiannually:

- Not more than 1 Unexcused missed meeting during the year.
- Not more the 1 Excused/Absent missed meeting during the year.

Meetings that meet annually

- No Unexcused or Excused missed meetings permitted.

Definition of Terms:

Unexcused – Does not notify Board Liaison of absence and does not attend meeting.

Excused – Notifies Board Liaison of absence at least 72 hours in advance of missed meeting.

Absent – Reserved for emergency situations and up to the discretion of the Board Liaison and Community Relations Committee members.

STAFF RECOMMENDATION: To concur with the Community Relations Committee and adopt the revised Attendance Policy.

P. CRC Recommendation Regarding Reappointments to BID Board City Clerk

SUMMARY OF REQUEST: To concur with Community Relations Committee on reappointments to Business Improvement District Board.

The CRC recommends reappointing Bruce Lindstrom and Bob Tarrant – Assessed property owners or their representatives – Terms Expiring 12/31/2025, to the Business Improvement District.

STAFF RECOMMENDATION: To approve the reappointments.

Motion by Commissioner Gorman, second by Commissioner Emory, to accept

the consent agenda as presented, minus items C, G, H, and N.

ROLL VOTE: Ayes: Johnson, Hood, German, Gorman, and Emory

Nays: None

MOTION PASSES

2022-104 REMOVED FROM CONSENT AGENDA:

C. Good Temps Staffing Services Extension EEO & Employee Relations

SUMMARY OF REQUEST: The City is requesting an extension for the Good Temps Staffing Service Agreement of one year. This agreement will be from January – December, 2023.

STAFF RECOMMENDATION: To approve the one-year extension of the Good Temps Staffing Service Agreement for 2023.

Motion by Commissioner Gorman, second by Commissioner Emory, to approve the one-year extension of the Good Temps Staffing Service Agreement for 2023.

ROLL VOTE: Ayes: Johnson, Hood, German, Gorman, and Emory

Nays: None

MOTION PASSES

G. Hartshorn Marina 2023 Rates Public Works

SUMMARY OF REQUEST: Staff is seeking Commission approval to set the 2023 Rates for Hartshorn Municipal Marina.

Staff is proposing to set the rates at Hartshorn Marina for the 2023 season as follows, these rates are also currently under the review b MDNR for the 2023 season as follows, these rates are also currently under review by MDNR for their concurrence as a Grant-In-Aid Harbor which we are obligated to operate as through the 2024 boating season.

- 30 FT Slip = \$2,580 (2022 Rate = \$2,310)
- 40 FT Slip = \$3,440 (2022 Rate = \$3,080)
- 60 FT Slip = \$4,620 (2022 Rate = \$4,080)
- Mooring Field = \$583 (2022 Rate \$583)
- Transient = Range H (2022 Rate = Range G)

This is the first fee adjustment that has been proposed since the 2019 season. The marina was closed in 2020, and the rates shown above for 2022 were also used during the 2022 season.

It should be noted that since the loss of the T-Dock and the small boat basin following the high-water cycles there has been limited to no availability for transient slips. All of the 77current slips are slated for seasonal slip holders and

roughly half of the mooring field is reserved on an annual basis.

FUND OR ACCOUNT: 594

STAFF RECOMMENDATION: Approve the 2023 user fee rates as proposed for Hartshorn Marina provided the proposed rates are also approved by the Michigan Department of Natural Resources (MDNR).

Motion by Commissioner Emory, second by Vice Mayor German, to approve the 2023 user fee rates as proposed for Hartshorn Marina provided the proposed rates are also approved by the Michigan Department of Natural Resources (MDNR).

ROLL VOTE: Ayes: Hood, German, Gorman, Emory, and Johnson

Nays: None

MOTION PASSES

H. Sanitation Contract Extension Public Works

SUMMARY OF REQUEST: Staff is seeking Commission approval to adopt a proposed 5.5. Yearn Extension of Sanitation Services with Republic Services, Inc. to provide Solid Waste, Recycling, and Yard Waste Services for city residents.

The proposal from Republic Services proposed to largely extend the existing services in place. The major changes are as follows:

- 5.5 Year Extension (January 1, 2023 – June 30, 2028). Similar to previous extension terms but modified to align with the city fiscal year with a 4% rate increase on January 1, annually each year starting in 2024.
- Solid Waste cost per unit (residence) in 2023 at \$12.26/unit (2022 Rate is \$11.62/Unit)
- Recycling cost per unit in 2023 is \$4.78/Unit (2022 Rate is \$4.50/Unit)
- Solid Waste Cost is \$100/Load (2022 Rate is \$10.50/Ton or roughly \$125/Load)
- Offers a soft reopener clause for changes in material elements of work greater than 15% year over year.
- Provides complimentary service to several city utilized dumpsters around town that support Park and event operations.
- Provides that by 2027 Republic Services will implement a tracking mechanism to record which properties are collected and which are not on a daily basis and report that out in electronic format to the City. This information can be the basis of considering an alternative funding mechanism in future extensions if there is a desire to switch to a pay per use model rather than a pay per unit model, or to explore options that further incentivize recycling similar to how Grand Rapids handles their solid

waste programming.

- No change to the bulk item (pink sticker) program, or the Neighborhood Dumpster Day program. Those remain in place at the costs established in previous contracts.

The current contract is set to expire at the end of the calendar year. Staff is very satisfied with the service that Republic provides in terms of the level of support and cooperation that is involved, as well as the price per unit to deliver this service to the city.

The first full year of the program is expected to cost approximately \$2.2 million. The 22/23 budget includes \$2.107 million for Republic Services. Being that on ½ of the fiscal year will fall under this new contract we expect that the 22/23 budgeted amount will very nearly cover the cost of this increase.

Revenue to support these costs are derived from the 3 mill sanitation fee levied on all properties in the city, in addition to the Sanitation Fee charged on all water bills, and any user fees collected for bulk item stickers, etc. These revenue sources should continue to fully support the expenses of this contract with the potential need for minor annual adjustments depending on the growth of the levied millage.

AMOUNT REQUESTED:

No Change to Budgeted Amount (22/23)

\$2.20 Million (23/24)

\$2.29 Million (24/25)

\$2.38 Million (25/26)

\$2.47 Million (26/27)

\$2.57 Million (27/28)

AMOUNT BUDGETED:

\$2.075M (22/23)

TBD (23/24, and beyond)

FUND OR ACCOUNT: 101-521 (Sanitation)

STAFF RECOMMENDATION: To approve the 5.5 year contract extension for sanitation with Republic Services, Inc.

Motion by Commissioner Gorman, second by Commissioner Hood, to approve the 5.5 year contract extension for sanitation with Republic Services, Inc.

ROLL VOTE: Ayes: German, Gorman, Emory, Johnson, and Hood

Nays: None

MOTION PASSES

N. 2023 FOP Contract City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the proposed collective bargaining agreement with the Fraternal Order of Police Labor Council.

City staff and Fraternal Order of Police Labor Council representatives have agreed upon new contract items that would take effect January 1, 2023. A summary of the tentative agreements and wage scale is attached, and the FOP has ratified the contract. The new wage scale provides better distribution among classifications in patrol and command over time. There is an impact to the budget with the revised wages. The formal agreement is being prepared by counsel. The new agreement is beneficial to both parties. Staff is prepared to begin implementing the provision of the contract on January 1, 2023.

AMOUNT REQUESTED: \$97,341.55 increase AMOUNT BUDGETED: \$9,100,000

FUND OR ACCOUNT: 40301

STAFF RECOMMENDATION: To approve the collective bargaining agreement with the Fraternal Order of Police Labor Council as presented.

Motion by Commissioner Gorman, second by Commissioner Emory, to approve the collective bargaining agreement with the Fraternal Order of Police Labor Council as presented, which may be corrected for technical and grammatical reasons.

ROLL VOTE: Ayes: German, Gorman, Emory, Johnson, and Hood

Nays: None

MOTION PASSES

2022-105 NEW BUSINESS:

A. Housing Board of Appeals Demolition – 808 Oak Avenue Public Safety

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures 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.

The Housing Board of Appeals has deemed 808 Oak Avenue to be in property maintenance violation since 2016. Property has been a long-standing area of blight and public nuisance/hazard. Property includes a house, multiple outbuildings, two garages, and two large pole barns. House is gutted down to the studs, has multiple holes in the roof, and is unsecured. Garages, outbuildings, and pole barns are severely dilapidated. Staff has not been inside buildings so the extent of the dilapidation is unknown. Owner has expressed desire to sell property but has not provided any plan to bring the property or buildings into compliance. No permits have been applied for. HBA declared the house in September 2022. Owner has not been to any HBA meetings.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish and authorize administration to obtain bids for the demolition and that the Mayor and Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Motion by Commissioner Hood, second by Vice Mayor German, to refer this item back to the Housing Board of Appeals.

ROLL VOTE: Ayes: Gorman, Emory, Johnson, Hood, and German

Nays: None

MOTION PASSES

B. Adelaide Pointe Reimbursement Agreement City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the development reimbursement agreement for Adelaide Pointe.

The development reimbursement agreement is the next step in the process of finalizing the city's partnership with the developer through the Brownfield Redevelopment Authority. This agreement provides the outline for how the partners will cooperate on funding the improvements to the site. The city will sell bonds for agreed upon expenses and be reimbursed through tax capture. The developer will also incur brownfield eligible expenses which will be repaid through tax capture. Individual addenda will be prepared, throughout the term of the development project, to reflect project phases. Each addendum will be presented to the BRA and the Commission for consideration and approval.

Staff hosted a public forum on October 3, 2022 to gather public input and answer questions about the development. The Brownfield Redevelopment Authority considered the agreement at their December 13, 2022 meeting.

STAFF RECOMMENDATION: To approve the development and reimbursement agreement for Adelaide Pointe.

Motion by Commissioner Gorman, second by Commissioner Hood, to approve the development and reimbursement agreement for Adelaide Pointe.

ROLL VOTE: Ayes: Gorman, Emory, Johnson, Hood, and German

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Vice Mayor German asked if there was an update on the Mart Dock property lawsuit in Circuit Court - no update at this time.

Chief Kozal provided information about parking at Grand Trunk. The ordinances that govern launch ramp parking 58-3 and 97-74.92-71 LO15 says that passes are

required. Recommends making it so that the ordinances so that they are easier to read for our boat launch/marina. There is no enforcement at this time.

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

ADJOURNMENT: The City Commission meeting adjourned at 6:45 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk