# CITY OF MUSKEGON

## CITY COMMISSION MEETING

### NOVEMBER 28, 2006

### CITY COMMISSION CHAMBERS @ 5:30 P.M.

## 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, November 28, 2006.

Mayor Warmington opened the meeting with a prayer from Pastor Penny Johnson from the Oak Crest Church of God after which the Commission and public recited the Pledge of Allegiance to the Flag.

**ROLL CALL FOR THE REGULAR COMMISSION MEETING:**

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioner Clara Shepherd, Lawrence Spataro, Sue Wierengo, Chris Carter, and Kevin Davis, City Manager Bryon Mazade, City Attorney John Schrier, and Acting City Clerk Linda Potter.

**2006-94 CONSENT AGENDA:**

**A. Approval of Minutes.** CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the November 13th Commission Worksession, and the November 14th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

**B. Liquor License Request – Pat's Road House, 157 S. Getty.** CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from TPWS, Inc., to add space to the existing 2006 Class C-SDM licensed business with Dance-Entertainment Permit, Outdoor Service (1 Area), and 2 Bars.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval contingent upon final inspection.

**C. <u>Resolution for Charitable Gaming License.</u>** CITY CLERK

SUMMARY OF REQUEST: USS LST 393 Preservation Association Inc. is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

**D. <u>FIRST READING: Zoning Ordinance Amendment - Preamble.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Preamble to the Zoning Ordinance regarding the reference to the Michigan Zoning Enabling Act.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the Preamble.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their November 16th meeting. The vote was unanimous with B. Smith absent.

**E. <u>FIRST READING: Zoning Ordinance Amendment – Malfeasance.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2501, Creation and Membership, paragraph 4 of Article XXV, Zoning Board of Appeals, regarding the removal of a Zoning Board of Appeals member for malfeasance.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of Section 2501, paragraph 4 of Article XXV.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their November 16th meeting. The vote was unanimous with B. Smith absent.

**H. <u>Engineering Services Agreement with Hubbell, Roth & Clark, Inc.</u>** ENGINEERING

SUMMARY OF REQUEST: Enter into an engineering services agreement with Hubbell, Roth & Clark, Inc. out of Grand Rapids to perform route study and design for a non-motorized connector between the Musketawa trail and the

City's trail system along both Laketon and Shoreline Drive. The design phase of this agreement is limited to the Laketon connection for a not to exceed fee of $52,517.

FINANCIAL IMPACT: The fee will be paid through a grant the City had secured from the Michigan Department of Natural Resources and the West Michigan Trails and Greenways Coalition.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Enter into an Engineering Services Agreement with Hubbell, Roth & Clark and Michigan Department of Natural Resources staff. The evaluations were based on interviews (top two candidates), qualifications, fees and hours submitted.

**Motion by Commissioner Carter, second by Commissioner Shepherd to approve the Consent Agenda as read minus items F and G.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron**

**Nays: None**

***MOTION PASSES***

**2006-95 ITEMS REMOVED FROM THE CONSENT AGENDA:**

**F. <u>FIRST READING: Zoning Ordinance Amendment – Multiple Family Uses in B-3.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1201, Special Land Uses Permitted, #7 of Article XII, B-3, Central Business District, to allow multiple family developments with a special use permit.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends the amendment of Section 1201, #7 of Article XII.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their November 16th meeting. The vote was unanimous with B. Smith absent.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to adopt the zoning ordinance amendment for multiple family uses in B-3.**

**ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd**

**Nays: None**

***MOTION PASSES***

**G. <u>FIRST READING: Zoning Ordinance Amendment - Eliminate Minimum Lot Size in B-3.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1200, (Principal Uses Permitted, #9) of Article XII, B-3, Central Business District, to eliminate the minimum lot requirements for residential uses.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends the amendment of Section 1200, #9 of Article XII.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their November 16th meeting. The vote was unanimous with B. Smith absent.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the zoning ordinance amendment to eliminate minimum lot size in B-3 for residential uses.**

**ROLL VOTE: Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro**

**Nays: None**

***MOTION PASSES***

**2006-96 PUBLIC HEARINGS:**

**A. <u>Amendment to 2003 Leisure Services Master Plan.</u>** LEISURE SERVICES

SUMMARY OF REQUEST: To adopt the Leisure Services Master Plan of 2003 amendments. The amendments were completed under the "Action Plan and Assessment" and the "Capital Improvements Schedule" sections. This is needed in order to apply for the Michigan Natural Resources Trust Fund by the application deadline of April 1, 2007.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve.

COMMITTEE RECOMMENDATION: The Leisure Services Board held the public hearing at their regular meeting of November 20, 2006. The Leisure Services Board recommended approval at their special meeting of November 28, 2006.

The Public Hearing opened at 5:45 p.m. to hear and consider any comments from the public. No public comments were heard.

**Motion by Commissioner Carter, second by Commissioner Spataro to close the Public Hearing at 5:47 p.m. and approve the Leisure Services Master Plan of 2003**

**amendment.**

**ROLL VOTE: Ayes: Wierengo, Carter, Davis, Gawron, Shepherd, Spataro, and Warmington**

**Nays: None**

***MOTION PASSES***

**2006-97 NEW BUSINESS:**

**A. <u>869 and 875 Marquette Avenue – Property Exchange.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Kelly Hicks owns the home with an address of 869 Marquette. Unfortunately, her home is located on the adjacent City owned property at 875 Marquette. The City Attorney and Staff have worked with Ms. Hicks, her mortgage companies, and the title office to rectify the situation. The easiest way to rectify this is to exchange legal descriptions through deeds. The City will provide a Quit Claim deed to Kelly Hicks for the legal description of the property where her home is located. Ms. Hicks will provide a Warranty Deed to the City for the legal description of the property her home was supposed to be built on. Both of the properties are the same size and the City would still maintain a buildable lot.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

**Motion by Commissioner Spataro, second by Commissioner Davis to adopt the resolution and authorize both the Mayor and Clerk to sign the resolution and deed to allow for the transfer of 869 Marquette with 875 Marquette.**

**ROLL VOTE: Ayes: Carter, Davis, Gawron, Shepherd, Spataro, Warmington, and Wierengo**

**Nays: None**

***MOTION PASSES***

**B. <u>Replacement of Copiers/Document Printing Contract.</u>** FINANCE

SUMMARY OF REQUEST: Staff is recommending that the City enter into a five-year agreement with Commercial Equipment Company (CEC) for replacement and maintenance of all City copy machines, print devices and fax machines. CEC was the successful bidder for the Muskegon County copier contract and we will be piggybacking onto the County contract. Also, CEC has had the City's contract for the last twelve years and we have had a very satisfactory and successful relationship with the company.

FINANCIAL IMPACT: We *conservatively* estimate our current cost per page (including copies, printing, faxes) to be $0.0449. Under the new contract we will pay $0.0398 per page, a savings of 11.4%, or $62,000 over the life of the contract. Significant other savings will come from the fact that IT staff will no longer be responsible for analyzing/repairing problem printers or fax machines and from the widespread deployment of more efficient technologies (such as scan to e-mail and greater in-house printing/publishing capabilities).

BUDGET ACTION REQUIRED: None. Funds are budgeted for these costs.

STAFF RECOMMENDATION: Approval of 5-year cost-per-page contract with CEC.

**Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the 5-year cost-per-page contract with Commercial Equipment Company for replacement of copiers, print devices and fax machines.**

**ROLL VOTE: Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Carter**

**Nays: None**

***MOTION PASSES***

**C. <u>Tool and Die Recovery Zone Status for Aero Foil International, Inc.</u>**
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the Development Agreement and Resolution establishing a Tool & Die Recovery Zone for Aero Foil International, Inc., which is moving from 1839 Sixth Street to 1920 Port City Boulevard. The Commission previously passed a resolution supporting a Tool and Die Recovery Zone for Aerofoil for its Sixth Street address. Due to environmental contamination, it is necessary for the company to move.

FINANCIAL IMPACT: The City will forgo approximately $415,017 in taxes for the 15-year period of the zone. In addition, any future investments would be tax exempt also.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Development Agreement and Resolution establishing a Tool & Die Recovery Zone, and authorize the Mayor and Clerk to sign.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the request to transfer the Tool & Die Recover Zone for Aero Foil International, Inc. from 1839 Sixth Street to 1920 Port City Boulevard.**

**ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, and Davis**

**Nays: None**

***MOTION PASSES***

**D. <u>Request for Final Planned Unit Development Approval for a Residential Development near Sherman Boulevard and Barclay Street.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The request for Final Planned Unit Development (PUD) approval for a mixed use commercial and residential development for the southerly portion of 1266 W. Sherman Boulevard, the northerly portion of 1228 W. Sherman, a portion of 1254 W. Sherman and a portion of 2495 Barclay Street. The request is by Hazel Churchley, Exit Your Way, LLC.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends final approval of the PUD provided that the conditions listed in the resolution are met.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the final PUD, with the conditions listed on the resolution, at their November 16, 2006, meeting. The vote was approved by unanimous vote, with B. Smith absent.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the request for final Planned Unit Development for a residential development near Sherman Boulevard and Barclay Street with the conditions listed on the resolution.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron**

**Nays: None**

***MOTION PASSES***

**E. <u>City – MDOT Agreement for Western Avenue Landscaping between Third and Terrace.</u>** ENGINEERING

SUMMARY OF REQUEST: To approve the contract and resolution with Michigan Department of Transportation for the Jobs Today funds for the construction of decorative concrete, street lights and roundabout along Western Avenue between Third and Terrace. This contract outlines the terms and conditions under which the state made funds available to the City to offset the local match of the federal funds used to construct the aforementioned items.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

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

**Motion by Commissioner Shepherd, second by Commissioner Carter to approve the contract with MDOT for Western Avenue landscaping between Third and Terrace.**

**ROLL VOTE: Ayes: Spataro, Wierengo, Carter, Davis, Gawron, and Shepherd**

**Nays: None**

**Absent: Warmington (stepped out of the room)**

***MOTION PASSES***

**F. <u>Permanently Waive Special Event Application Fee for Fun Inc. Christmas in Hackley Park.</u>** LEISURE SERVICES

SUMMARY OF REQUEST: Family Christmas in Hackley Park has been a community tradition in Hackley Park for over 15 years. At their November 20th meeting, the Leisure Services Board recommended that the application fee for Fun Inc. be waived for the 2006 event and all future Hackley Park Christmas events hosted by Fun Inc. This event is a grandfathered event.

FINANCIAL IMPACT: $50 per year (Special Event Application Fee)

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff approves this request.

**Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the request to permanently waive the Special Event Application Fee for Christmas in Hackley Park for Fun Inc.**

**ROLL VOTE: Ayes: Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro**

**Nays: None**

**Absent: Warmington (stepped out of the room)**

***MOTION PASSES***

**G. <u>East Muskegon Little League Tag Sale.</u>** CITY MANAGER

SUMMARY OF REQUEST: East Muskegon Little League is requesting to hold a fund raiser tag sale using City streets.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To deny the request as it is contrary to the City's Special Events Policy.

**Motion by Commissioner Spataro, second by Commissioner Davis to deny the request from East Muskegon Little League to hold a tag sale on City streets.**

**ROLL VOTE: Ayes: Wierengo, Carter, Davis, Gawron, Shepherd, Spataro, and Warmington**

**Nays: None**

***MOTION PASSES***

**Motion by Commissioner Spataro, second by Commissioner Carter to waive the fee for a Peddler License for East Muskegon Little League.**

**ROLL VOTE: Ayes: Carter, Davis, Gawron, Shepherd, Spataro, Warmington, and Wierengo**

**Nays: None**

***MOTION PASSES***

**ANY OTHER BUSINESS:** Mayor Warmington recognized the Muskegon Big Reds and the Muskegon Catholic Central Crusaders.

**PUBLIC PARTICIPATION:** Various comments were heard from the public.

**ADJOURNMENT:** The City Commission Meeting adjourned at 7:15 p.m.

Respectfully submitted,

Linda Potter, CMC
Acting City Clerk